2021-22 SESSION

SENATE
THIRD READING PACKET

TUESDAY, JANUARY 18, 2022

JONAS AUSTIN
Director

OFFICE OF SENATE FLOOR ANALYSES
651-1520

SENATE THIRD READING PACKET

Attached are analyses of bills on the Daily File for Tuesday, January 18, 2022.

Note	Measure	Author	Location
	SB 34	Umberg	Senate Bills - Third Reading File
	SB 49	Umberg	Senate Bills - Third Reading File
	SB 53	Leyva	Senate Bills - Third Reading File
RA	SB 54	Allen	Senate Bills - Third Reading File
	SB 225	Wiener	Senate Bills - Third Reading File
	SB 325	Bradford	Senate Bills - Third Reading File
	SB 444	Hertzberg	Senate Bills - Third Reading File
	SB 450	Hertzberg	Senate Bills - Third Reading File
	SB 502	Allen	Senate Bills - Third Reading File
	SB 542	Limón	Senate Bills - Third Reading File
	SB 543	Limón	Senate Bills - Third Reading File
	SB 656	Eggman	Senate Bills - Third Reading File
	SB 746	Skinner	Senate Bills - Third Reading File
	SB 748	Portantino	Senate Bills - Third Reading File
	SB 785	Glazer	Senate Bills - Third Reading File
	SCA 2	Allen	Senate Bills - Third Reading File
	SCA 5	Glazer	Senate Bills - Third Reading File
	SCR 53	McGuire	Senate Bills - Third Reading File
	SCR 63	Hurtado	Senate Bills - Third Reading File
	SR 63	Skinner	Senate Bills - Third Reading File
+	AB 666	Quirk-Silva	Assembly Bills - Third Reading File
	AB 1568	Committee on Emergency Management	Assembly Bills - Third Reading File

\+ ADDS
RA Revised Analysis
* Analysis pending

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THIRD READING

Bill No: SB 34
Author: Umberg (D)
Amended: 5/20/21
Vote: 27 - Urgency

SENATE EDUCATION COMMITTEE: 4-2, 3/24/21
AYES: Leyva, Cortese, Glazer, Pan
NOES: Ochoa Bogh, Dahle
NO VOTE RECORDED: McGuire

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/20/21
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Bates, Jones

SUBJECT: Libraries: student success cards

SOURCE: Santa Ana Unified School District

DIGEST: This bill, an urgency measure, requires the California Department of Education (CDE) to administer a competitive grant program to award one-time grant funding to local educational agencies, library districts, and public libraries for the purpose of providing every public school student with a student success card.

ANALYSIS:

Existing law:

1) Provides the following definitions:

    a) "Public library" means a library, or two or more libraries, that is operated by a single public jurisdiction and that serves its residents free of charge.

    b) "School library" means an organized collection of printed and audiovisual materials that satisfies specified criteria. (Education Code § 18710)

2) Establishes within CDE a California State Library division, whose chief is to be a technically trained librarian known as the "State Librarian." (EC § 19301, § 19302)

3) Requires the State Librarian to employ a consultant to provide technical assistance to public libraries in the development and enhancement of library services to children and youth. (EC § 19320.5)

4) Requires the State Librarian to establish the Reading Initiative Program to, among other things, develop a list of recommended books that supplement the state-recommended English language arts curriculum framework and develop a method for recognizing students who participate in the program. (EC § 19336)

This bill:

Grant Program

1) Requires CDE to develop and implement a competitive grant program to award one-time grant funding to local educational agencies (LEAs), library districts, and public libraries for the purpose of providing every public school student enrolled in the LEA with a student success card.

2) Requires a LEA, library district, or public library that applies for grant funding to submit an application to CDE in a form and by a date established by CDE.

3) Requires each grant application to include a plan describing how the LEA, library districts, and public libraries will work together to ensure each student has a student success card, and how long each memorandum of agreement or memorandum of understanding (MOA/MOU) will be in place.

4) Requires CDE to base the award amount on the duration of each MOA/MOU, and any other criteria established by CDE.

5) Requires the grant recipients to enter into a MOA/MOU.

MOA/MOU

6) Requires a MOA/MOU to include, but is not limited to, all of the following:

    a) Provisions ensuring the privacy of student information, consistent with applicable state and federal law.

b) A stipulation for training opportunities for LEA teachers by library staff and for a sufficient time allotted for library staff to visit schools to educate students and to build and strengthen local partnerships.

c) A provision allowing the replacement of lost, stolen, or damaged student success cards at no cost to students.

d) Provisions for the role of credentialed teacher librarian.

e) A provision for how long the memorandum of agreement or memorandum of understanding shall be in place, including a recommendation that the duration of memorandums of agreement or memorandums of understanding be five years.

f) A provision detailing how the anticipated costs for the duration of the MOA/MOU will be shared between the two entities.

g) A provision detailing how the funding would be shared between the two entities.

7) Authorizes a MOA/MOU to include, but is not limited to, any of the following:

a) A provision allowing students access to all or some library resources, which may include but are not limited to research and homework databases, web-based live homework help, learning resources, downloadable eBooks, audiobooks, music and magazines, video streaming, or tools or technology lending.

b) A provision limiting the total number of borrowed physical materials to a specified number at a given time.

c) A policy for assessing overdue fines for materials checked out with a student success card.

d) A provision to provide a brief annual presentation by library staff at an all-school assembly or parent meeting to educate parents and guardians about the resources available at public libraries.

8) Authorizes a LEA with a similar MOA/MOU or memorandum of understanding in existence, as of the effective date of this bill, with a public library, library district or similar library authority to retain and continue to operate under that MOA/MOU, and provides that those LEAs do not need a new MOA/MOU to be eligible for grant funding.

9) Provides that a MOA/MOU may be renewed by the LEA and library district or public library.

10) Authorizes both parties to review a MOA/MOU annually to incorporate suggestions and lessons learned.

Student Success Card

11) Requires a student success card issued to a student to use as the student's library account number the student's school-issued identification number, or the student's statewide student identifier if the LEA and library district or public library determine it is necessary and agree to its use.

12) Authorizes a parent or guardian to opt their student out of enrollment for a student success card.

State Library and Local Library Districts

13) Requires the California State Library to make available sample language for MOA/MOUs that may be used by LEAs, library districts, and public libraries.

14) Requires a library district or public library, by January 1, 2028, upon the expiration of each initial MOA/MOU, to report the following statistics to the California State Library and the Legislature:

    a) The increase in the number of student success cards issued from the beginning of the initial MOA/MOU period to the end of the initial MOA/MOU period.

    b) Any increase in the use of library books or eBooks during the initial MOA/MOU period.

    c) Any measurable increases to the use of other library resources during the initial MOA/MOU period.

Information to and Communication with Students

15) Requires the LEA, library district, or public library, and authorizes more than one of these entities, to print and disseminate information to students and families at the beginning of each school year about the resources available through a student success card and how a parent may opt out.

16) Requires the LEA, library district, or public library, upon non-renewal of a MOA/MOU, to communicate with students within 60 days, regarding how a

student may continue to use a student success card in the absence of an active MOA/MOU.

Miscellaneous

17) Provides that this bill does not usurp school or county office of education library positions, programs, or funding.

18) Defines LEA to include a school district, county office of education, or charter school.

19) Includes an urgency clause to enhance and facilitate distance learning.

20) Provides that the implementation of the grant program is contingent upon an appropriation in the annual Budget Act or other measure.

Comments

Need for the bill. According to the author, "In the midst of this pandemic, the science remains the same: with research showing that reading actually aids in brain development, especially in a child's first five years of life. The United States Bureau of Labor Statistics found that in 2018, parents with children under the age of 18 only spent 6-7 minutes per day doing activities related to their children's education, and 2-3 minutes reading to, and with, their children. This unfortunately shows that in today's busy society, a library card is still out of reach for many children. Moreover, a December 2016 Pew Research Center poll found that a large majority of American adults believed that false and made-up news has caused a great deal of confusion about the basic facts of current events. Providing California students with library cards will reinforce the mission of public libraries in California. By providing free and easy access to information, ideas, books, and technology, SB 34 will ensure that students are thrive during the pandemic and help ensure they are college ready after graduation."

Details for the MOA/MOU. This bill establishes general parameters but leaves the details to be determined by each MOA/MOU. For example, the following questions should be answered in each MOA/MOU:

1) What is a student success card? Is it a school-issued student identification card? Is it a library card? Is it a special library card that is only for students?

2) Does the library or the school issue the card? Do students have to go to the library to pick up their student success card?

3) If it's a card that is issued by the library, is a parental signature required? Will the library require proof of residency in the library's jurisdiction?

4) Which student identification number will be used as the student's library account number?

5) How will students access library materials? Will library materials be transported to school campuses, will digital access to materials be provided to students, or will students be required to physically go into a local library to access material (or a combination thereof)?

6) Will late fees be assessed for overdue materials?

7) How will costs of the program be covered?

Pandemic's effects on early literacy. According to a March 2021 report by Policy Analysis for California Education (PACE), students' development of oral reading fluency (ORF) "largely stopped in spring 2020 following the onset of the COVID-19 pandemic. In fall 2020, students' gains in reading were stronger and similar to prepandemic rates. However, fall gains were insufficient to recoup spring losses; overall, students' ORF in second and third grade is approximately 30 percent behind expectations. We also observe inequitable impact: students at lower achieving schools are falling farther behind." The report cautions that "gaps in ORF that emerge now may lead to gaps in other subjects over time if problems in students' ORF interfere with content learning in later grades. And new gaps may emerge: for example, with enrollments down in preschool and kindergarten programs this year, it is possible that incoming students in 2021–22 will start behind." The report recommends:

1) Substantial resources should be allocated to support literacy development in the early grades. Even greater resources need to be shared with low- achieving districts, which often serve a disproportionate number of low-income students.

2) In addition to targeted funding, it will be important to identify the practices that accelerate learning for students who have fallen behind, and to build policy and support structures that help to enact these practices at scale. [https://edpolicyinca.org/publications/changing-patterns-growth-oral-reading-fluency-during-covid-19-pandemic]

Existing local programs. This bill is generally modelled upon existing partnerships between school districts and local libraries. Two examples within California include:

1) In 2016, the Los Angeles Unified School District (LAUSD) entered into a MOA with the City of Los Angeles Board of Library Commissioners to provide every student with a student success card. According to LAUSD's website, each students has a free Student Success Card from the Los Angeles Public Library, with free access to books and all online resources, including music, movies and one-on-one tutoring. There are no fines or fees for overdue materials.

2) In January 2021, the Santa Ana Public Library and the Santa Ana Unified School District partnered to provide a Student Success Library Card to every student in the school district. According to the City of Santa Ana's website, student ID cards can be used as Student Success Library Cards. Students can check out up to five books at a time from the Main Library or Newhope Library. Students have access to the library's online databases, e-books, e-audiobooks, video streaming, and e-magazines. Additionally, students can check out DVDs and CDs. These Student Success Library Cards will not incur overdue fees, will have a grace allowance of up to five lost or damaged books, and will not expire until the student graduates from high school or turns 19 years of age.

State Library resources for schools. The State Library's California K-12 Online Content Project offers free access to online educational content that is aligned with the state curricular standards. This library database contains an organized collection of information that indexes edited, published, often scholarly material that is collected for an educational use. Importantly, library databases contain information that has been vetted and is trustworthy. [https://www.library.ca.gov/services/to-public/k-12-online-content-project/]

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, while the development of the grant program would be contingent upon an appropriation, this bill could result in one-time General Fund cost pressure ranging from the millions to low tens of millions of dollars for the state to fund it. A precise amount would depend on the size and number of the grants to be awarded.

Additionally, the CDE estimates General Fund costs of approximately $172,000 and one position to administer the program, while the California State Library indicates General Fund costs of $378,000 and three positions for various administrative activities needed to support the CDE, LEAs, and libraries.

SUPPORT: (Verified 1/11/22)

Santa Ana Unified School District (source)
California Federation of Teachers
California Library Association

OPPOSITION: (Verified 1/11/22)

None received

Prepared by: Lynn Lorber / ED. / (916) 651-4105
1/11/22 15:40:28

****** END ******

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THIRD READING

Bill No: SB 49
Author: Umberg (D), et al.
Amended: 5/11/21
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 14-0, 3/22/21
AYES: Roth, Melendez, Archuleta, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 5/6/21
AYES: McGuire, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/20/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SUBJECT: Income taxes: credits: California Fair Fees Tax Credit

SOURCE: Author

DIGEST: This bill allows credit against those taxes for each taxable year beginning on or after January 1, 2021, and before January 1, 2026, for eligible costs paid or incurred by a taxpayer that meets certain criteria, including if the taxpayer ceased business operations temporarily for at minimum 30 consecutive days during the taxable year as a results of an emergency order, as defined.

ANALYSIS:

Existing law:

1) Establishes the Personal Income Tax Law. (Revenue & Taxation Code (RTC) § 17001 *et seq*.)

2) Establishes the Corporation Tax Law. (RTC § 23001 *et seq.*)

3) Establishes that the Personal Income Tax Law and Corporation Tax Law allow various credits against the taxes imposed by those laws. (RTC §§§§ 17001, 17034, 23001, 23036(c))

4) Requires that any bill introduced on or after January 1, 2020, that would authorize certain tax expenditures, as defined, or tax exemptions contain, among other things, specific goals, purposes, and objectives that the tax expenditure or exemption will achieve, detailed performance indicators, and data collection requirements. (RTC § 41)

5) Requires that $ 2.075 billion in economic relief and support to small businesses be provided beginning in early 2021, establishes the California Small Business COVID-19 Relief Grant Program within the California Office of the Small Business Advocate (OSBA) to assist small businesses affected by COVID-19 through administration of grants, and requires OSBA to provide grants to qualified small businesses, as defined, in accordance with specified criteria, including geographic distribution based on COVID-19 restrictions, industry sectors most impacted by the pandemic, and underserved small businesses. (Government Code (GC) § 12100.80 *et seq.*)

6) Excludes recent OSBA grant allocations from being included in gross income tax calculations. (GC § 12100.80 *et seq.*)

This bill allows credit against those taxes for each taxable year beginning on or after January 1, 2021, and before January 1, 2026, for eligible costs paid or incurred by a taxpayer that meets certain criteria, including if the taxpayer ceased business operations temporarily for at minimum 30 consecutive days during the taxable year as a results of an emergency order, as defined.

Background

General Business Fees. California requires certain taxes for businesses to do business in the state. For instance, Limited Liability Companies (LLCs), Limited Liability Partnerships (LLPs), and Limited Partnerships (LPs) are common entities that are required to pay an annual franchise tax of $800 annually for the privilege of operating in this state and the benefits that come with shielding their personal assets from corporate liability. Corporations and LLCs can also have a corporate tax around 8.84% for net taxable income. For some small business owners, these costs are not insignificant in normal times, let alone during a pandemic.

State Actions Taken to Support Small Businesses During the COVID-19 Pandemic. In response to the COVID-19 pandemic, the state began taking action to support small businesses in several ways, including tax credits and tax relief. Related to tax credits and tax relief, the California state government took the following actions: 1) the Legislature passed and Governor Newsom signed AB 1577 (Burke, Chapter 39, Statutes of 2020), which allows small businesses to exclude PPP loans from state taxes; 2) SB 1447 (Bradford, Caballero, Cervantes, Chapter 41, Statutes of 2020), which created a Main Street hiring tax credit that authorized a $100 million hiring tax credit program for qualified small businesses; 3) the Governor provided a 90-day extension to small businesses in state and local taxes and an extension of all licensing deadlines and requirements for several industries; 4) the Governor waived the $800 minimum franchise tax for new businesses in their first year of business creation; 5) the Governor authorized sales tax relief by providing a 12-month interest-free payment plan for up to $50,000 of sales and use tax liability through the California Department of Tax and Fee Administration (CDTFA).

The state has also taken the following actions related to small business grants and programs since the start of the COVID-19 pandemic. First, Governor Newsom provided $125 million in small business loans. Originally, the California Infrastructure Economic Development Bank (IBank) provided $100 million in loan guarantees for small businesses that may not have been eligible for federal relief. Then, in November 2020 Governor Newsom announced the California Rebuilding Fund (the Fund), a public-private partnership that drives capital from private, philanthropic and public sector resources – including a $25 million anchor commitment and $50 million guarantee allocation from the California Infrastructure and Economic Development Bank (IBank) – to Community Development Financial Institutions (CDFIs). Second, the Governor added $12.5 million to the Fund in late November 2020 so that it could be fully capitalized, saying this money will "help the 3rd party administrator of the fund raise $125 million to make more low-interest loans to small businesses with less access to loans from traditional banking institutions." Third, the state secured $30 billion in Federal Small Business Relief. California secured an SBA disaster declaration in March 2020 to make the Economic Injury Disaster Loans (EIDL) program available for California small businesses and private non-profit organizations. Fourth, the state provided micro-grants to immigrant social entrepreneurs, allocating $10 million in the 2020-21 California budget for Social Entrepreneurs for Economic Development (SEED) to provide micro-grants to immigrant social entrepreneurs. Fifth, the state provided $500 million via the OSBA in November 2020 for small businesses impacted by the pandemic and the health and safety restrictions. Funds were awarded in early 2021 via CDFIs to distribute relief

through grants of up to $25,000 to underserved micro and small businesses throughout the state. An additional almost $2.1 billion was added for small business grants of up to $25,000 with the passage of SB 87 (Caballero, Chapter 7, Statutes of 2021) in February 2021, with provisions that specified the recent OSBA grants would not be included in overall gross income tax calculations.

Comments

After amendments taken in early March 2021, The California State Association of Counties, Urban Counties of California, Rural County Representatives of California, League of California Cities, and California Association of Environmental Health Administrators are neutral to this bill, stating "The current version of the bill removes provisions that would have had a negative impact on local government revenue, while providing financial relief to businesses that have been impacted by COVID-19 stay-at-home orders."

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee, "The Franchise Tax Board (FTB) indicates that, because of the uncertainly related to (1) number of future emergency orders, (2) their duration, and (3) the extent to which businesses would have to close as a result, this bill's revenue impact cannot be determined. However, the department estimates that for every $1 million in credits generated, about half would be used in the year they were generated. Any remaining credits would be used during the following seven years. FTB's implementation costs have yet to be determined."

SUPPORT: (Verified 1/13/22)

California Chamber of Commerce
California Restaurant Association
Garden Grove Chamber of Commerce

OPPOSITION: (Verified 1/13/22)

None received

ARGUMENTS IN SUPPORT: California Chamber of Commerce writes in support, "Small businesses are the cornerstone of California's economy. They have shouldered a tremendous burden to retain their employees and continue operating despite shutdowns, capacity limitations, and indoor operation restrictions. Despite the fact, the licensees covered under SB 49 were shutdown much of the last year,

they still owed state and local fees and taxes that are typically required for businesses to operate. SB 49 will restore fairness under the law and provide a small amount of relief for struggling licensees."

California Restaurant Association writes in support, "Annual local and state fees that restaurants pay are in the thousands – some larger restaurants pay tens of thousands per year to local and state agencies. These dollars today could help a restaurant hang on to some of its employees or pay the rent, but there's also the principle of the matter – it's just wrong for government agencies to fully charge for services that are going largely unused, and we appreciate your leadership to help small businesses who are struggling in unprecedented ways."

Garden Grove Chamber of Commerce writes in support: "Small businesses are the cornerstone of California's economy. They have shouldered a tremendous burden to retain their employees and continue operating despite shutdowns, capacity limitations, and indoor operation restrictions. Despite the fact the licensees covered under SB 49 were shutdown much of the last year, they still owed state and local fees and taxes that are typically required for businesses to operate. SB 49 will restore fairness under the law and provide a small amount of relief for struggling licensees."

Prepared by: Dana Shaker / B., P. & E.D. /
1/13/22 16:46:01

****** END ******

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THIRD READING

Bill No: SB 53
Author: Leyva (D), et al.
Amended: 5/20/21
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 3/16/21
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 4/27/21
AYES: Bradford, Ochoa Bogh, Skinner, Wiener
NO VOTE RECORDED: Kamlager

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/20/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SUBJECT: Unsolicited images

SOURCE: Bumble

DIGEST: This bill provides a cause of action against a person that knowingly sends a sexually explicit image that the person knows, or reasonably should know, is unsolicited; and provides for both civil and criminal penalties for violations of this bill.

ANALYSIS:

Existing law:

1) Provides that every person who willfully and lewdly, either exposes his person, or the private parts thereof, in any public place, or in any place where there are present other persons to be offended or annoyed thereby; or procures, counsels, or assists any person so to expose himself or take part in any model artist exhibition, or to make any other exhibition of himself to public view, or the view of any number of persons, such as is offensive to decency, or is adapted

to excite to vicious or lewd thoughts or acts, is guilty of a misdemeanor. (Pen. Code § 314.)

2) Creates a private right of action against a person who intentionally distributes a photograph or recorded image of another that exposes that person's intimate body parts, as defined, or shows the other person engaged in specified sexual acts, without that person's consent, knowing that the other person had a reasonable expectation that the material would remain private, if specified conditions are met. (Civ. Code § 1708.85(a)-(c).)

3) Provides an individual who appears, as a result of digitization, to be giving a performance they did not actually perform or to be performing in an altered depiction a cause of action against a person who does either of the following:

   a) Creates and intentionally discloses sexually explicit material and the person knows or reasonably should have known the depicted individual in that material did not consent to its creation or disclosure; or

   b) Intentionally discloses sexually explicit material that the person did not create and the person knows the depicted individual in that material did not consent to the creation of the sexually explicit material. (Civ. Code § 1708.86.)

This bill:

1) Establishes a private cause of action against a person who knowingly sends an image by electronic means depicting a person engaging in an act of sexual intercourse, sodomy, oral copulation, sexual penetration, or masturbation or depicting the exposed genitals or anus of any person, that the person knows, or reasonably should know, is unsolicited.

2) Defines, for purposes of the civil cause of action, an "unsolicited" image as an image the recipient has not requested, has not consented to its transmittal, or has expressly forbidden. An image includes a moving visual image.

3) Makes available to a prevailing plaintiff that suffers harm as a result of receiving the unsolicited image economic and noneconomic damages proximately caused by the sending of the image, including damages for emotional distress

4) Makes available the following series of remedies to a plaintiff that suffers harm as a result of receiving an unsolicited image that the plaintiff expressly forbade:

a) Economic and noneconomic damages proximately caused by the sending of the image, including damages for emotional distress;

b) An award of statutory damages, in lieu of the above, of a sum of not less than $1,500 but not more than $30,000;

c) Punitive damages;

d) Reasonable attorney's fees and costs; and

e) Any other available relief, including injunctive relief.

5) Clarifies that these remedies are cumulative to other available remedies.

6) Provides that it is a criminal infraction for a person to knowingly send an unsolicited image by electronic means, directed to another person, depicting a person engaging in an act of sexual intercourse, sodomy, oral copulation, sexual penetration, or masturbation or depicting the exposed genitals or anus of any person.

7) Makes a violation punishable by a fine not to exceed $250 for a first offense, and by a fine not to exceed $500 for a second or subsequent offense.

8) Provides that, notwithstanding the above, a person under 18 years of age shall be given a written warning for a first violation. Any subsequent violation is an infraction, punishable by a fine not to exceed $250.

9) Defines, for purposes of the criminal infraction, an "unsolicited" image as an image the recipient has expressly notified the sender that its transmittal is forbidden. An image includes a moving visual image.

10) Provides that it does not preclude prosecution under any other law.

11) Provides that this bill does not apply to any the following:

a) An Internet service provider, mobile data provider, or operator of an online or mobile application, to the extent that the entity is transmitting, routing, or providing connections for electronic communications initiated by or at the direction of another person;

b) Any service that transmits images or audiovisual works, including, without limitation, an on-demand, subscription, or advertising-supported service; or

c) A health care provider transmitting an image for a legitimate medical purpose.

Background

Executive Summary

This bill takes aim at the growing incidence of individuals sending unsolicited, sexually explicit images and videos to others. This practice, sometimes referred to as "cyber flashing," can happen on social media, dating applications, or even through an unprotected AirDrop between cell phones. Although there are no boundaries on who is targeted with such images, the most common recipients of such unwanted images are young women.

This bill provides an individual a specific cause of action and robust remedies against any person who knowingly sends an image that the person knows, or reasonably should know, is unsolicited. An image is considered unsolicited if the recipient has not requested the image, has not consented to its transmittal, or has expressly forbidden its transmittal. This bill provides for economic and noneconomic damages, and additional remedies for more egregious violations, including a statutory penalty anywhere from $1,500 to $30,000. This bill also makes more egregious violations a criminal infraction punishable by increasing fines. However, minors are subject to only a warning for their first violation.

This bill is sponsored by Bumble and is supported by Feminist Majority and the California Women's Law Center. There is no known opposition.

Comments

According to the author:

> Technological advancements have allowed users to interact with one another through various social media platforms, dating applications, and private messaging. In modern online communications, perpetrators are easily and legally able to sexually harass users with lewd images and videos of themselves.
>
> With the growing accessibility and relevance of technology as a mode of communication, it has become easier for people to send unsolicited sexually explicit material of themselves. By making the electronic transmission of unsolicited lewd material of the sender punishable by fine and subject to civil remedies, California can prevent technology users from experiencing digital

forms of sexual harassment and can help foster a safe and healthy technology community.

The Weaponization of Explicit Images

The Legislature has dealt with a variety of issues involving the creation, posting, and sending of sexually explicit material to the detriment of victims and their privacy and mental wellbeing.

First, it addressed the growing scourge of so-called "revenge porn." California first addressed this problem directly in 2013. SB 255 (Cannella, Chapter 466, Statutes of 2013) made it unlawful in California for any person who photographs or records by any means the image of the intimate body part or parts of another identifiable person, under circumstances where the parties agree or understand that the image shall remain private, to subsequently distribute the image taken, if there was intent to cause serious emotional distress and the depicted person suffers serious emotional distress. A person who commits this crime is guilty of a disorderly conduct misdemeanor. (Pen. Code Sec. 947(j)(4)(A).)

The following year, AB 2643 (Wieckowski, Chapter 859, Statutes of 2014) was enacted into law, adding Section 1708.85 to the Civil Code. It created a private right of action against a person who intentionally distributes a photograph or recorded image of another that exposes that person's intimate body parts, as defined, or shows the other person engaged in specified sexual acts, without the other person's consent, knowing that the other person had a reasonable expectation that the material would remain private, if specified conditions are met.

Recently, the Legislature took aim at growing concerns associated with what are called "deepfakes," a term drawn from "deep learning" plus "fake." There are various manifestations, but essentially all involve the digital manipulation of audiovisual material to falsely depict an individual engaging in certain conduct. AB 602 (Berman, Chapter 491, Statutes of 2019) provided a cause of action for the nonconsensual disclosure of sexually explicit material depicting individuals in realistic digitized performances. It holds liable those creating and disclosing the material when they *knew or reasonably should have known* the individual depicted did not provide consent. Additionally, the cause of action can be brought against a person who intentionally discloses the material if they *knew* the individual did not consent, a slightly higher standard. A prevailing plaintiff who suffers harm as a result of a violation of AB 602 may recover a variety of damages, including either economic and noneconomic damages or statutory penalties ranging from $1,500 to $30,000. Punitive damages, attorneys' fees, and injunctive relief are also available.

This bill addresses a new trend of individuals sending sexually explicit material to others without the recipient's consent. A Pew Research Center survey studying online harassment found that approximately 30 percent of respondents had reported someone had sent them explicit images they did not ask for.[1] However, the practice overwhelmingly targets younger women. The survey found 53 percent of female respondents ages 18 and 29 had received such unsolicited images. Not insignificant, 37 percent of men in the same age range reported the same. Another survey, this one conducted by YouGov, found that 41 percent of women ages 18 to 36 had received at least one unwanted picture of a penis.[2] These unwanted images are sent through text, on dating sites and apps, social media, and, reportedly, using AirDrop between iPhones on public transportation.[3]

Combatting the Transmittal of Unsolicited Images

Following the model of other statutes discussed above, the bill addresses the issue by providing harmed individuals with a right of action against senders of such images. The cause of action lies against a person who knowingly sends an image that the person knows or reasonably should know is unsolicited by electronic means depicting a person engaging in an act of sexual intercourse, sodomy, oral copulation, sexual penetration, or masturbation or depicting the exposed genitals or anus of any person. An image is unsolicited if the recipient has not requested it, did not consent to its transmittal, or expressly forbade its transmittal.

Recipients harmed by the receipt of such images are entitled to recover economic and noneconomic damages. For more egregious violations, where the plaintiff has expressly forbidden the sender from sending such images, an injured plaintiff is entitled to instead collect a statutory penalty of at least $1,500 and up to $30,000. Such a plaintiff can further seek punitive damages, reasonable attorney's fees and costs, and any other available relief, including injunctive relief.

This standard ensures that the egregious violators are provided a strong deterrent or face the possibility of robust civil liability. To avoid application in other unintended situations, the bill builds in a reasonableness standard while still centering ultimate liability on the consent of the recipient. Individuals, and in particular the many young women affected by this scourge, should feel safe interacting with others online, and this bill sends a clear signal that this aggressive

[1] Maeve Duggan, *Online Harassment 2017* (July 2017) Pew Research Center, https://www.pewresearch.org/internet/2017/07/11/online-harassment-2017/ (as of Feb. 25, 2021).
[2] Anna North, *One state has banned unsolicited dick pics. Will it fix the problem?* (September 3, 2019) Vox, https://www.vox.com/policy-and-politics/2019/9/3/20847447/unsolicited-dick-pics-texas-law-harassment.
[3] *Ibid.*

and nonconsensual behavior, which so many have come to consider an inevitable reality, is unacceptable.

Fines and Fees: Infractions

California has three categories of crimes: felonies, misdemeanors and infractions. Infractions, unlike misdemeanors and felonies, cannot be punished with a term of imprisonment and persons charged with an infraction is not entitled to a jury trial or court-appointed attorney. (Pen. Code § 19.6.) Infractions are punishable with statutorily authorized fines, which varies depending on the offense. The statutory default for a non-vehicle code infraction is a fine not to exceed $250. (Pen. Code § 19.8, subd. (b).) Each county superior court issues a penalty schedule for existing infractions which determine the fine of each infraction issued in that county pursuant to the limits authorized in statute. (Pen. Code § 1269b.)

When a statute specifies a fine, the total amount is greatly increased by the existing penalties and assessments added to each fine. Specifically, penalty assessments and additional fees include state penalty assessments, county penalty assessments, state court construction penalty assessments, county and state DNA Identification Fund penalty fund assessments, EMS penalty assessments, among others as provided by applicable Government Code and Penal Code sections. Penalty assessments will add between $22 to $27 for every $10, or part of $10, for every fine imposed and collected by the courts. (Uniform Bail and Penalty Schedules 2021 Edition, Judicial Council of California, p. iii, https://www.courts.ca.gov/documents/UBPS-2021-Final.pdf.) The addition of these fees increase the total amount of the fine to three to four times the base fine.

This bill provides that a first offense is punishable by a fine of $250 and a second offense is punishable by a fine of $750.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee, unknown, potentially-significant workload cost pressures to the courts to adjudicate alleged violations of this measure. While the superior courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to increase the amount appropriated to backfill for trial court operations. For illustrative purposes, the Governor's proposed 2021-2022 Budget would appropriate $118.3 million from the General Fund to backfill continued reduction in fine and fee revenue for trial court operations. (General Fund*)

*Trial Court Trust Fund

SUPPORT: (Verified 1/11/22)

Bumble (source)
California Police Chiefs Association
California State Sheriffs' Association
California Statewide Law Enforcement Association
California Women's Law Center
Feminist Majority Foundation
Internet Association
Leda Health
Nancy E. O'Malley, Alameda County District Attorney
Peace Officers Research Association of California
Riverside Sheriffs' Association
Students Against Sexual Assault
The Purple Campaign

OPPOSITION: (Verified 1/11/22)

California Public Defenders Association

ARGUMENTS IN SUPPORT: The California Women's Law Center states, "Technological advancements have allowed users to interact with one another through various social media platforms, dating applications, and private messaging. In modern online communications, perpetrators are easily and legally able to sexually harass users with lewd images and videos." It contends the bill will "help prevent technology-based sexual harassment by making it unlawful to send unsolicited sexually explicit material by electronic means."

ARGUMENTS IN OPPOSITION: The California Public Defenders Association writes, "Although well intentioned, SB 53 goes too far. We are living in a digital age. It is mainstream for people to engage in on-line dating. Communicating and becoming acquainted through texting, email, and other digital means is more common now than ever before, especially in light of the COVID-19 pandemic. As written, SB 53 would be easy to violate. It seeks to punish what some might reasonably interpret as innocuous conduct. Further, instances of misreading the proverbial room in the digital age are all too common."

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
1/11/22 15:38:40

****** END ******

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THIRD READING

Bill No: SB 54
Author: Allen (D), Stern (D) and Wiener (D), et al.
Amended: 2/25/21
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-1, 4/26/21
AYES: Allen, Gonzalez, Skinner, Stern, Wieckowski
NOES: Bates
NO VOTE RECORDED: Dahle

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Plastic Pollution Producer Responsibility Act

SOURCE: Author

DIGEST: This bill prohibits producers of single-use, disposable packaging or single-use, disposal food service ware from offering for sale, selling, distributing, or importing in or into the state those products manufactured after January 1, 2032, unless it is recyclable or compostable.

ANALYSIS:

Existing law:

1) Establishes, under the Integrated Waste Management Act of 1989 (IWMA), a state recycling goal of 75% of solid waste generated to be diverted from landfill disposal through source reduction, recycling, and composting. Requires each state agency and each large state facility to divert at least 50% of all solid waste through source reduction, recycling, and composting activities. IWMA also requires a state agency and large stage facility, for each office building of the state agency or large state facility, to provide adequate receptacles, signage, education, and staffing, and arrange for recycling services, as specified. (PRC §§ 41780.01, 42921, 42924.5)

2) Prohibits a state food service facility from dispensing prepared food using a type of food service packaging unless the packaging is on a specified list maintained by CalRecycle and has been determined to be reusable, recyclable, or compostable. (PRC §§ 42370 et seq.)

3) Requires "full service restaurants" to only provide single-use plastic straws upon request. (PRC §42271)

This bill, the Plastic Pollution Producer Responsibility Act, prohibits producers of single-use, disposable packaging or single-use, disposable food service ware products from offering for sale, selling, distributing, or importing in or into the state those packaging or products unless they are recyclable or compostable. Applies this prohibition to packaging or products that are manufactured on or after January 1, 2032.

Background

1) *Solid waste in California.* For over three decades, CalRecycle has been tasked with reducing disposal of municipal solid waste and promoting recycling in California through the IWMA. Under IWMA, the state has established a statewide 75 percent source reduction, recycling, and composting goal by 2020 and over the years the Legislature has enacted various laws relating to increasing the amount of waste that is diverted from landfills. According to CalRecycle's State of Disposal and Recycling in for Calendar Year 2019, published February 12, 2021, 42.2 million tons of material were disposed into landfills in 2019.

   According to CalRecycle's report, an estimated 28.9 million tons of waste were recycled or diverted in California in 2019, resulting in a statewide recycling rate of 37%, down from 40% in 2018, and a peak of 50% in 2014. Based on these trends, it is unlikely that the state will meet its diversion goals.

2) *Market challenges for recyclable materials.* The U.S. has not developed significant markets for recyclable content materials, including plastic and mixed paper. Historically, China was the largest importer of recyclable materials. In California, approximately one third of recyclable material is exported; and, until recently, 85 percent of the state's recyclable mixed paper has been exported to China. China used to be where the world sent their recyclable material, but beginning in 2017, the county began significantly restricting the types of materials and levels of contamination that would be accepted. However,

effective January 1 of this year, China has announced that it would no longer be accepting all waste imports. Before this year's blanket waste ban, China accepted 32 types of scraps for recycling and reuse and limited contamination levels of those materials to 0.5 percent. The initial ban left waste-exporting counties such as the U.S. scrambling to find alternative destinations, including Southeast Asian nations like Thailand, Vietnam, and Indonesia, which quickly became overwhelmed by the volume of refuse received. Soon after, those counties began to impose their own bans and restrictions on waste imports. Without a global market to send these "recyclable" materials, the contents of many recycling bins are being sent to landfills.

Further, many types of packaging and products add to the complex recycling issue by being a combination of materials such as aluminum layered with different plastics to make baby and pet-food pouches. These "hybrid" items are difficult to recycle, if at all.

3) *The cost of plastic pollution*. Nearly every piece of plastic begins as a fossil fuel. New plastic, known as "virgin" material, is less expensive than recycled plastic and weak oil prices have widened the gap. The economic slowdown of the COVID-19 pandemic has punctured demand for oil, which, in turn has cut the price of new plastic. Since COVID-19, even beverage bottles made of recycled plastic, the most commonly recycled plastic item, have become less viable since the recycled plastic to make them is 83% to 93% more expensive than new bottle-grade plastic, according to the report. Since 1950, the world has created 6.3 billion tons of plastic waste, 91% of which has never been recycled, according to *The Plastic Pandemic,* a Reuters Report. Most is hard to recycle.

Environmental costs. Plastic, most of which does not decompose, is a significant driver of climate change. The manufacture of four plastic bottles alone releases the equivalent greenhouse gas emissions of driving one mile in a car, according to the World Economic Forum. The United States burns six times more plastic than it recycles, according to research in April 2019 by Jan Dell, a chemical engineer and former vice chair of the U.S. Federal climate committee.

According to the report, *Plastic & Climate: The Hidden Costs of a Plastic Planet*, greenhouse gases are emitted at each stage of the plastic lifecycle: 1) fossil fuel extraction and transport, 2) plastic refining and manufacture, 3) managing plastic waste, and 4) its ongoing impact to oceans, waterways, and landscape. According to the report, greenhouse gas emissions from the plastic

lifecycle threaten the ability of the global community to meet carbon emission targets. In 2019, the production and incineration of plastic will have added more than 850 million metric tons of greenhouse gases into the atmosphere, which is equal to the emissions from 189 five-hundred megawatt coal power plants.

Plastic is primarily landfilled, recycled, or incinerated – each of which produces varying amounts of greenhouse gas emissions. Landfilling emits the least greenhouse gas emissions on an absolute level, although it presents significant other risks. Recycling has a moderate emissions profile but displaces new virgin plastic on the market, making it advantageous from an emissions perspective. Incineration leads to extremely high emissions and is the primary driver of emissions for plastic waste management. Further, plastic packaging represents about 40% of plastic demand. It is estimated that in 2015, incineration of plastic packaging totaled 16 million metric tons of carbon dioxide equivalents.

Some, however, argue that other packaging products can cause more emissions than plastics; because plastic is light, it is indispensable for the world's consumers and can help reduce emissions. Some say that it is upon the governments to improve waste management infrastructure.

Health costs. In addition to environmental impacts, there is increasing concern on the impacts that plastic has on human health. According to the report *Plastic & Health: The Hidden Cost of a Plastic Planet*, plastic poses distinct risks to human health at every stage of its lifecycle. This includes the extraction and transport of fossil feedstocks for plastic; the refining and production of plastic resins and additives; consumer products and packaging; toxic releases from plastic waste management; fragmenting and microplastics; additional exposure to plastic additives as plastic degrades; and ongoing environmental exposures by contaminating and accumulating in food chain through agricultural soils, terrestrial and aquatic food chains, and water supply.

The report recognizes, however, that there are gaps in knowledge that prevent researchers from being able to fully evaluate the health impacts of plastic. These include not knowing exactly what chemicals are in plastic and its production processes; limited research into the impacts and movement of plastic and microplastics through terrestrial environments, marine ecosystems, and food chains; and limited understanding of the impacts of microfibers and other plastic microparticles that are increasingly being documented in human

tissues.

4) *California Recycling and Plastic Pollution Reduction Act of 2020*. In December 2019, a ballot initiative, the California Recycling and Plastic Pollution Reduction Act of 2020, was filed with the California Attorney General's office. If approved by the voters, the initiative would require CalRecycle , in consultation with other agencies, to adopt regulations that reduce the use of single-use plastic packaging and foodware, including:

   - Requiring producers to ensure that single-use plastic packaging and foodware is recyclable, reusable, refillable, or compostable by 2030;
   - Requiring producers to reduce or eliminate single-use plastic packaging or foodware that CalRecycle determines is unnecessary for product or food item delivery;
   - Require producers to reduce the amount of single-use packaging and foodware sold in California by at last 25 percent by 2030;
   - Requiring producers to use recycled content and renewable materials in the production of single-use plastic packaging and foodware;
   - Establishing "mechanisms for convenient consumer access to recycling," including take-back programs and deposits;
   - Establishing and enforcing labeling standards to support the sorting of discarded single-use plastic packaging and foodware; and
   - Prohibiting food vendors from distributing expanded polystyrene food service containers.

   The ballot initiative would also enact a fee, the California Plastic Pollution Reduction Fee, on single-use plastic packaging and foodware, to be determined by CalRecycle. Revenue from the fee would be distributed to CalRecyle, the Natural Resources Agency, and local governments. In order to be placed on the ballot, a certain number of verified voter signatures must be collected. The initiative is currently in the process of signature verification.

Comments

1) *Purpose of Bill.* According to the author, "Every day, single-use packaging and food serviceware such as forks, spoons, cups, and lids generate tons of non-recyclable and non-compostable waste with impacts on public health, the natural environment, and city and county budgets. Prior to 2017, exporting material overseas had allowed cities and counties to keep it out of landfills and even generate revenue to help local government budgets. Since then, however,

cities and counties have struggled to manage the mounting waste. A survey released this year by the League of California Cities found more than seven out of 10 cities anticipate having to increase waste collection rates by as much as 20 percent to cover the cost of managing the additional waste.

"The European Union and other major purchasers of consumer goods are implementing comprehensive frameworks for producers to share responsibility for reducing waste and designing packaging and products to be reusable, recyclable, and/or compostable. As the world's fifth-largest economy, California must take the lead on finding a solutions to the growing plastic pollution crisis.

"SB 54 will ensure California is on the forefront of reducing pollution and the ratepayer costs associated with single-use, disposable packaging and food serviceware. The bill will set waste-reduction and recycling goals and establish a framework for packaging producers to keep the most problematic disposable items out of our environment. These actions will help local governments save millions of dollars in disposal costs."

2) *Scope of bill is unclear*. The title of the Act is the "Plastic Pollution Producer Responsibility Act," however, the prohibition would apply to all material types that are not recyclable or compostable.

3) *The return of single-use during a pandemic.* The COVID-19 pandemic has significantly altered people's lives. To curb community spread of COVID-19, indoor dining stopped for almost a year, leading to many restaurants only providing takeout or delivery. This led to the increased distribution of single-use utensils and to-go containers. Those in the plastics industry began touting the necessity of single-use plastic as a safety issue. For over a year now, grocery stores stopped allowing customers to bring in their own reusable bags, instead automatically providing each customer with new paper or plastic bags. People also turned to the convenience and safety of online shopping, with companies such as Amazon offering 2-day (or less) shipping. Almost anything can be delivered to a person's doorstep with a click of a button, each time with its own packaging – either a cardboard box or plastic-like shipping pouch. As the entire world continues to navigate through the pandemic, it should be done in a sustainable manner – making sure that addressing one problem does not create another.

4) *Senate Bill 54, take two*. In 2019, identical bills Senate Bill 54 (Allen, 2019) and Assembly Bill 1080 (Gonzalez, 2019) were introduced. Similar to this bill, those bills were aimed at reducing the amount of materials that end up in our landfills. The bills had three main components:

   - Required producers of single-use packaging or priority single-use products to (1) source reduce the packaging and priority products to the maximum extent possible, (2) ensure that the packaging and priority products manufactured on or after January 1, 2032, that are sold, distributed, or imported into the state are recyclable or compostable, and (3) ensure that the packaging or priority products are compostable or recyclable.
   - Required producers of such products to meet certain recycling rates.
   - Required CalRecycle to adopt regulations to implement these requirements and to achieve, by 2032, a statewide 75% reduction of the waste generated from single-use packaging and priority single-use products through source reduction, recycling, or composting.

   Stakeholder concerns with prior bill. To the extent that this bill, as it develops and might incorporate similar provisions, the author will likely encounter similar concerns from the 2019 version.

5) *Fill in the blank.* This bill, in its current version, lays out a general restriction on packaging and food service ware. More specificity is needed for it to become an implementable bill. To achieve the goals of this proposal and give stakeholders enough direction to know what would be required of them if this bill is enacted, the author will need to consider, at a minimum, all of the following:

   - *CalRecycle's role*. Clear parameters of authority under the legislation are necessary for the benefit of both stakeholders and CalRecycle.
   - *Definition of*: producer, single-use, disposable, packaging, food service ware, and recyclable. Clear definitions are necessary to know who and what will be subject to the bill's provisions.
   - *Realistic timeframes*. Whether the scope is all material or just plastic, the author shall ensure that realistic timeframes, given the scope of the bill, are incorporated.
   - *Market availability*. As pointed out by stakeholder groups, recycling depends on markets and the lack of those reliable end markets for recyclable materials makes recycling more challenging.

- *Enforcement*. What enforcement mechanisms will be used? If through fines, how much are the fines? Will fines be imposed based on time of noncompliance? Will extent of noncompliance be a factor? Assuming that CalRecycle will be the enforcement agency, as it was with SB 54 (2019), clear direction will have to be given to the department on enforcement.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT: (Verified 1/14/22)

350 Bay Area Action
350 Sacramento
350 Silicon Valley
Active San Gabriel Valley
Azul
California Alliance of Nurses for Healthy Environments
California Catholic Conference
California League of Conservation Voters
CALPIRG
CALPIRG Students
Center for Biological Diversity
City of Carlsbad
City of El Segundo
City of Pleasanton
City of Santa Monica
City of Thousand Oaks
Elders Climate Action, Norcal and Socal Chapters
Environment California
Environmental Working Group
Friends Committee on Legislation of California
Heal the Bay
Indivisible CA Statestrong
Los Angeles County Democratic Party
Northern California Recycling Association
Plastic Oceans International
Plastic Pollution Coalition, a Project of Earth Island Institute
Save Our Shores
Seventh Generation Advisors
Sierra Club California
Silicon Valley Democratic Club
South Bay Cities Council of Governments

The 5 Gyres Institute
The Center for Oceanic Awareness, Research, and Education
Tomra North America, Inc.
Trinity Respecting Earth and Environment
Upstream
Wholly H2o
Wishtoyo Chumash Foundation
Zero Waste USA

OPPOSE: (Verified 1/14/22)

American Forest & Paper Association
California Food Producers
Californians for Recycling and the Environment

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1/14/22 13:56:01

****** END ******

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THIRD READING

Bill No: SB 225
Author: Wiener (D)
Amended: 1/3/22
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-0, 1/10/22
AYES: Roth, Archuleta, Dodd, Eggman, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Melendez, Bates, Becker, Hurtado, Jones

SUBJECT: Vending machines

SOURCE: Author

DIGEST: This bill requires a person who owns a vending machine to post their telephone number, email address, or both, on a vending machine, in addition to the requirements under current law to post their name and address.

ANALYSIS: Existing federal law specifies that vending machine operators subject to Section 403(q)(5)(H)(viii) of the Federal Food, Drug, and Cosmetic Act, or a vending machine operator that voluntarily registers to be subject to the requirements, must provide the following contact information on vending machines selling covered vending machine food: the vending machine operator's name, telephone number, and mailing address or email address. (21 CFR 101.8(e))

Existing state law:

1) Requires every person who owns a vending machine to have their name and address affixed in a place where it may be seen by anyone using the machine. A violation of this requirement is a misdemeanor punishable by imprisonment in the county jail for up to six months, by a fine of up to $1,000, or by both, for each violation. (Business and Professions Code §§ 17570 and 17572)

2) Requires each vending machine to have a sign indicating the owner’s name, address, and telephone number posted in a prominent place. (Health and Safety Code §§ 114145)

This bill:

1) Requires that, in addition to posting their name and address, a person who owns a vending machine must also post their telephone number, email address, or both on the machine in a conspicuous location.

2) States that violation of these provisions shall not be classified as a misdemeanor and that the potential punishments for violation of this section shall not apply to these new provisions.

Background

Vending Machine Definitions and Regulatory Standards. A vending machine is classified as a mechanical device which is operated by the insertion of a coin or item representative of a value of five cents or more in order to dispense a product, service, or exchange of value. In the State of California, all vending machines are required to be constructed and maintained in accordance with the standards for health, safety, and performance set by NSF International (NSF) and the American National Standards Institute (ANSI). NSF is an independent, international organization which develops public health standards and provides auditing and certification services. ANSI is a private, non-profit organization which administers and organizes the United States voluntary standards and conformity assessment system. These two organizations collaborate to produce an annual American National Standard for vending machines (most recent publication: *NSF/ANSI 25-2021: Vending Machines for Food and Beverages*).

Vending Machine Owner Contact Information. Presently, the only contact information required to be displayed on a vending machine in California is the machine owner's name and address according to the Business and Professions Code. However, the Health and Safety Code requires that vending machines display the owner's name, address, and telephone number. SB 225 proposes updates to the Business & Professions Code to require the addition of either the vending machine's telephone number or an email address (or both). This bill does not specify whether the owner of the machine must post their professional, personal, or office contact information, therefore it is left to the discretion of the machine owner regarding which form of contact information should be displayed on the machine.

The proposed changes regarding the listing of owner contact information on vending machines may be useful for vending machine consumers, facility owners, construction or maintenance workers, and others who may wish to contact a vending machine's owner. However, it is important to note that SB 225 does

specify that failure to list an owner's email or telephone number on a machine is exempt from classification as a misdemeanor. Therefore, the penalties associated with failure to list a vending machine owner's name and address do not apply if a machine owner does not list their telephone number or email address.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 1/13/22)

None received

OPPOSITION: (Verified 1/13/22)

None received

Prepared by: Hannah Frye / B., P. & E.D. /
1/13/22 13:52:33

****** END ******

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THIRD READING

Bill No: SB 325
Author: Bradford (D)
Amended: 3/10/21
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 1/11/22
AYES: Bradford, Kamlager, Skinner, Wiener
NO VOTE RECORDED: Ochoa Bogh

SUBJECT: Criminal gangs: shared gang databases

SOURCE: Author

DIGEST: This bill adds a member to the Gang Database Technical Advisory Committee that is an attorney with substantial professional experience in contesting an individual's designation as a gang member in a shared gang database.

ANALYSIS:

Existing law:

1) Defines "gang database" to mean any database accessed by a law enforcement agency that designates a person as a gang member or associate, or includes or points to information, including, but not limited to, fact-based or uncorroborated information, that reflects a designation of that person as a gang member or associate. (Pen. Code, § 186.34, subd. (a)(2).)

2) Defines "shared gang database" to mean a gang database that is accessed by an agency or person outside the agency that created the records that populate the database. (Pen. Code, § 186.34, subd. (a)(4).)

3) Makes the Department of Justice (DOJ) responsible for administering and overseeing the CalGang database, and provides that commencing January 1, 2018, the CalGang Executive Board will no longer administer or oversee the CalGang database. (Pen. Code, § 186.36, subds. (a)-(b).)

4) Requires, commencing February 15, 2018, and annually on February 15 thereafter, DOJ to publish an annual report on the CalGang database. (Pen. Code, § 186.36, subd. (p).)

5) States that DOJ shall be responsible for overseeing shared gang database system discipline and conformity with all applicable state and federal regulations, statutes, and guidelines and specifies methods that DOJ may use to enforce a violation. (Pen. Code, § 186.36, subds. (t) - (u).)

6) Requires DOJ to establish the Gang Database Technical Advisory Committee (committee) and specifies that the committee appointees shall have the following characteristics (Pen. Code, § 186.36, subds. (c)-(d):

   a) Substantial prior knowledge of issues related to gang intervention, suppression, or prevention efforts;

   b) Decision-making authority for, or direct access to those who have decision-making authority for, the agency or organization he or she represents; and,

   c) A willingness to serve on the committee and a commitment to contribute to the committee's work.

7) Requires DOJ, with the advice of the committee, no later than January 1, 2020, to promulgate regulations to provide for periodic audits of each CalGang node and user agency to ensure the accuracy, reliability, and proper use of the CalGang database. DOJ shall mandate the purge of any information for which a user agency cannot establish adequate support. (Pen. Code, § 186.36, subd. (n).)

8) Provides that the regulations issued by DOJ shall, at minimum, ensure the following (Pen. Code, § 186.36, subd. (k)):

   a) The system integrity of a shared gang database;

   b) All law enforcement agency and criminal justice agency personnel who access a shared gang database undergo comprehensive and standardized training on the use of shared gang databases and related policies and procedures;

   c) Proper criteria are established for supervisory reviews of all database entries and regular reviews of records entered into a shared gang database;

d) Reasonable measures are taken to locate equipment related to the operation of a shared gang database in a secure area in order to preclude access by unauthorized personnel;

e) Law enforcement agencies and criminal justice agencies notify the department of any missing equipment that could potentially compromise a shared gang database;

f) Personnel authorized to access a shared gang database are limited to sworn law enforcement personnel, nonsworn law enforcement support personnel, or noncriminal justice technical or maintenance personnel, including information technology and information security staff and contract employees, who have been subject to character or security clearance and who have received approved training;

g) Any records contained in a shared gang database are not disclosed for employment or military screening purposes;

h) Any records contained in a shared gang database are not disclosed for purposes of enforcing federal immigration law, unless required by state or federal statute or regulation; and,

i) The committee does not discuss or access individual records contained in a shared gang database.

9) Requires DOJ, with the advice of the committee, to develop and implement standardized periodic training for everyone with access to the CalGang database. (Pen. Code § 186.36, subd. (m).)

10) Requires the membership of the committee to be as follows (Pen. Code, § 186.36, subd. (e):

a) The Attorney General, or their designee;

b) The President of the California District Attorneys Association, or their designee;

c) The President of the California Public Defenders Association, or their designee;

d) A representative of organizations that specialize in gang violence intervention, appointed by the Senate Committee on Rules;

e) A representative of organizations that provide immigration services, appointed by the Senate Committee on Rules;

f) The President of the California Gang Investigators Association, or their designee;

g) A representative of community organizations that specialize in civil or human rights, appointed by the Speaker of the Assembly;

h) A person who has person experience with a shared gang database as someone who is or was impacted by gang labeling, appointed by the Speaker of the Assembly;

i) The chairperson of the California Gang Node Advisory Committee, or their designee;

j) The President of the California Police Chiefs Association, or their designee; and,

k) The President of the California State Sheriffs' Association, or their designee.

This bill adds an attorney with substantial professional experience in contesting an individual's designation as a gang member in a shared gang database, appointed by the Senate Committee on Rules, to the committee membership.

Comments

According to the author:

> The CalGang database is used by law enforcement agencies across the state to store the names of over 45,000 people suspected of being active gang members or possibly associating with them. Although intended to be used as a resource for law enforcement to solve crime and protect public safety, the database has not been without controversy. In 2016, a state audit found that the database had inadequate oversight which resulted in unreliable information that potentially violated individuals' privacy rights.
>
> In 2020, the Los Angeles Police Department announced its own moratorium on all entries into the database. Among reasons cited for the moratorium, LAPD stated that "based on recent audits and ongoing complaint investigations, the accuracy of the database has been called

into question." LAPD found that officers had been accused of falsifying information in order to add people to the database. This improper use of the database has resulted in questionable entries and the inclusion of individuals with no gang affiliation, including children.

The CalGang database allows for an individual to request their removal from the database after receiving notice from a local law enforcement agency. Between October 2019 and September 2020, 40 requests for removal were made to law enforcement agencies, and only 10 were granted. Unfortunately, many individuals often choose not to pursue removal as it may be costly or time-consuming.

It is imperative that representation on the CalGang database technical advisory committee includes individuals with expertise on contesting invalid additions to the database. Including this representation will help ensure the integrity of the database, as well as strengthen community trust in law enforcement, and protect individuals and communities at risk of being inappropriately labelled as gang-affiliated.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 1/13/22)

California Public Defenders Association

OPPOSITION: (Verified 1/13/22)

Riverside Sheriffs' Association

ARGUMENTS IN SUPPORT: According to the California Public Defenders Association:

SB 325 will amend California Penal Code section 186.36. Specifically, it will require the Senate Committee on Rules to appoint an attorney – who specializes in removing individuals from shared gang databases – to the gang database technical advisory committee. The gang database technical advisory committee responsible for making suggestions to the DOJ regarding rules that govern the use of shared gang databases.

Created by Assembly Bill 90, the committee was formed to make gang documentation less unfair. As created, however, the committee had more law-enforcement members than non-law enforcement members. Sadly, in the year following AB 90's enactment, many of the law enforcement

members of the committee refused to compromise on any policing policies during the rule-making meetings. Consequently, this inhibited the body's ability to make any changes that were geared toward fairness and many unfair documentation practices were left in place. SB 325 will increase the likelihood that the committee will be able to create policies that promote, both, effective policing and respect for community members.

ARGUMENTS IN OPPOSITION: According to the Riverside Sheriffs' Association:

As with many other recently enacted bills dealing with criminal justice reform efforts, SB 325 appears to mirror a similar approach by advocating that criminal defense and/or other anti-law enforcement attorneys be placed in positions where they can use their expertise to help further erode laws and policies what have been implemented to hold offenders accountable and to protect the public. We believe that this approach is inconsistent with law enforcement's efforts to improve public safety.

Lastly, we believe that there is the potential for the unintended consequence of tied votes by the GDTAC [Gang Database Technical Advisory Committee] which could hamper its ability to accomplish its statutorily mandated duties. SB 325 increases the number of board members from eleven to twelve. By doing so, SB 325 greatly increases the likelihood of tied votes by the GDTAC which would prevent the committee from completing its work.

Prepared by: Stella Choe / PUB. S. /
1/13/22 13:52:34

****** END ******

SENATE RULES COMMITTEE SB 444
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SB 444
Author: Hertzberg (D)
Amended: 5/20/21
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 3/25/21
AYES: McGuire, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/20/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SUBJECT: Personal income tax: exclusions from gross income

SOURCE: Author

DIGEST: This bill provides a personal income tax exclusion for all education awards provided under the "California for All Education Award Program."

ANALYSIS:

Existing law:

1) Allows various income tax credits and deductions, as well as sales and use tax exemptions. The Legislature enacts such tax incentives to either compensate taxpayers for incurring certain expenses, such as child adoption, or to induce certain behavior, such as charitable giving. The Legislature uses tax incentives to encourage taxpayers to do something that but for the tax credit, they would otherwise not do.

2) States that gross income includes all income from whatever source derived, including compensation for services, business income, gains from property, interest, dividends, rents, and royalties, and educational awards unless specifically excluded. Various income exclusions are allowed in current law and must be specifically provided for in statute.

This bill:

1) Excludes any national services educational award, as defined, received by a taxpayer or any educational award received by a taxpayer due to the taxpayer's participation in the California for All Education Award program from gross income for taxable years 2021 through 2031.

2) States legislative intent to comply with Section 41 of the Revenue and Taxation Code.

Background

AmeriCorps. AmeriCorps is a volunteer federal program established in 1993 under the National Community Service Trust Act. The program is funded primarily through the federal government, foundations and other donors. The program recruits volunteers to help meet critical needs in comminutes through volunteerism in education, public safety, health care and environmental protection, and more. Volunteers in this program come from all ages and backgrounds but share one common aspiration, a desire to dedicate their time and talent to serve communities through the collaboration of non-profits, schools, public agencies, and other organizations. AmeriCorps engages approximately 75,000 volunteers in more than 21,000 locations across the country.

Education Award. To reward members for their service and incentivize others to join, AmeriCorps members have the opportunity to earn an "AmeriCorps Education Award." These funds are awarded to members who complete a minimum of 1,700 service hours in the program. Members can earn both a federal $6,345 Segal AmeriCorps Education Award and a $3,655 California for All Education Award for a total amount of $10,000. Members can use the education awards to pay for higher education expenses or to pay back student loan debt. In 2020, AmeriCorps programs provided access to nearly $26.8M in education awards for 7,146 individuals who completed their service in California.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, "The Franchise Tax Board (FTB) indicates that this bill would result in General Fund revenue losses of $600,000 in 2021-22, $400,000 in 2022-23, and $400,000 in 2023-24. FTB's implementation costs have yet to be determined."

SUPPORT: (Verified 1/11/22)

California AmeriCorps Alliance
California Family Resource Association
Child Abuse Prevention Center
Child Abuse Prevention Council of Sacramento
Children Now
Improve Your Tomorrow
Prevent Child Abuse California

OPPOSITION: (Verified 1/11/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "AmeriCorps members tackle some of our state's most pressing challenges through service and volunteering. Disaster relief, the opioid crisis, food insecurity, and environmental stewardship are just a few areas where AmeriCorps volunteers make lasting differences in our communities. In return for the incredible service they provide, volunteers are eligible for a modest scholarship to further their own educational achievement once their service concludes. These awards are currently treated like salaries for purposes of tax law, and are thus subject to state income tax. SB 444 ensures volunteers receive the full benefit they are entitled to by exempting AmeriCorps education awards from state income tax."

Prepared by: Jessica Deitchman / GOV. & F. / (916) 651-4119
1/13/22 16:50:15

****** END ******

Office of Senate Floor Analyses
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THIRD READING

Bill No: SB 450
Author: Hertzberg (D)
Amended: 3/10/21
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 14-0, 3/23/21
AYES: Dodd, Nielsen, Allen, Becker, Borgeas, Bradford, Glazer, Hueso, Jones, Kamlager, Melendez, Portantino, Rubio, Wilk
NO VOTE RECORDED: Archuleta

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/20/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SUBJECT: Fire protection: fire districts: funding: working group: report

SOURCE: California Professional Firefighters

DIGEST: This bill requires the State Board of Fire Services (Board), within the Office of the State Fire Marshal (SFM), to convene a working group to discuss and make recommendations on the most efficient mechanisms and structure to administer the Special District Fire Response Fund (SDFR Fund), as specified.

ANALYSIS:

Existing law:

1) Establishes the Office of the SFM, within the Department of Forestry and Fire Protection (CAL FIRE), to, among other things, foster, promote, and develop ways and means of protecting life and property against fire and panic.

2) Establishes the Board, within the Office of the SFM, as specified, and requires the Board to, among other things, make full and complete studies, recommendations, and reports to the Governor and the Legislature for the purpose of recommending the establishment of minimum standards with respect to fire protection, as specified.

3) Establishes the SDFR Fund as a subaccount within the California Fire Response Fund to be appropriated by the Legislature for the purpose of funding fire suppression staffing in underfunded special districts that provide fire protection services, as specified.

4) Specifies that funds in the California Fire Response Fund are subject to appropriation by the Legislature according to a specified methodology.

5) Allocates 20% of the above described moneys to CAL FIRE to fund fire suppression staffing, and 80% to the SDFR Fund, a subaccount, for districts that provide fire protection services in accordance with specified criteria.

This bill:

1) Requires the Board, on or before February 15, 2022, to convene a working group to discuss and make recommendations on the most efficient mechanisms and structure to administer the SDFR Fund, as specified.

2) Provides that the working group shall include, but not be limited to, representatives from fire and emergency response organizations, as specified.

3) Requires the working group to hold its first meeting no later than March 2, 2022. At the first meeting, the working group shall determine a schedule to have six additional meetings completed no later than May 1, 2022.

4) Requires the working group to evaluate and provide recommendations, as specified. Requires that the recommendations developed pursuant to this bill be completed and delivered to the Legislature and Department of Finance (DOF) no later than June 1, 2022, as specified.

5) Provides that it is the intent of the Legislature in seeking guidance from experts from the firefighting community pursuant to this bill to get information on the most appropriate methods to identify and provide funding to underfunded fire districts, as specified.

6) Includes a sunset date of January 1, 2026.

Background

Purpose of this bill. According to the author's office, "last November at the ballot box, voters overwhelmingly approved Proposition 19, which significantly changed Constitutional rules for property tax assessment transfers in order to correct unfair tax loopholes, provide housing relief for millions of seniors and working families,

and create record homeownership opportunities for renters and new homeowners statewide as tens of thousands of homes will become available for the first time in decades. Most importantly, the measure generates desperately needed revenue for fire protection and emergency response in the state's most underfunded areas. SB 450 creates a working group to seamlessly implement the fire prevention funding provisions of Proposition 19 and thereby increase our state's fire response and prevention capacity."

Proposition 19. In November 2020, the California voters approved Proposition 19 by a vote of 51.1%-49.9%. The proposition was placed on the ballot by ACA 11 (Mullin, Resolutions Chapter 31, Statutes of 2020). The "Home Protection for Seniors, Severely Disabled, Families, Wildfire and Natural Disasters Act" allows for certain property tax base year value transfers for replacement properties without regard to the replacement property's location or value; limits or repeals the parent-child, grandparent-grandchild exclusion from change in ownership; directs the DOF to determine any state-accrued revenues and savings resulting from these changes; and allocates 75% of that amount for fire suppression staffing and 15% to reimburse eligible local agencies that incur a net revenue loss from this measure's provisions.

According to the Legislative Analyst's Office analysis of Proposition 19, the "measure allows more people to buy and sell homes without facing an increased property tax bill. Because of this, the measure probably would increase the number of homes sold each year. This would increase money going to the state and local governments from a number of other taxes collected on the sale of a home. These increases could be in the tens of millions of dollars per year. The measure says most of this increase in state tax revenue would have to be spent on fire protection."

State Board of Fire Services. The Board was established by AB 3080 (Hoge, Chapter 332, Statutes of 1996), succeeding the State Fire Advisory Board. The Board consists of a total of 17 members. Four of the members are Ex-Officio voting members that include the SFM, the Chief Deputy Director of CAL FIRE (who is not the SFM), the Director of the Office of Emergency Services (OES), and the Chairperson of the California Fire Fighter Joint Apprenticeship Program. The Governor is required to appoint the remaining 13 members from various organizations and areas of expertise, as specified.

According to the Board's Internet website, the Board "provides a forum for addressing fire protection and prevention issues of statewide concern; develops technical and performance standards for training of fire service personnel;

accredits curriculum; establishes policy for the certification system for the California Fire Service; advises the State Fire Marshal on dissemination of regulations; and sits as an appeals board on the application of the California State Fire Marshal regulations."

Special District Fire Response Fund. Under the assumption that Proposition 19's changes would increase income tax revenues related to additional sales of property, Proposition 19 created the California Fire Response Fund and the SDFR Fund, within the California Fire Response Fund. The State Controller is required to transfer 75% of those moneys to the California Fire Response Fund, and 80% of that amount is to be allocated to the SDFR.

Proposition 19 requires that the SDFR Fund be appropriated to special districts that provide fire protection services as follows: 50% of the amount to be used to fund fire suppression staffing in underfunded special districts that provide fire protection services, as specified; 25% to be used to fund fire suppression staffing in special districts that provide fire protection services and are underfunded due to a disproportionately low share of property tax revenue, as specified; and, 25% to be used to fund fire suppression staffing in underfunded special districts that provide fire protection services and employe full-time or full-time-equivalent station-based personnel, as specified.

Further, the California Constitution requires that, in determining whether a special district that provides fire protection services is underfunded, the Legislature shall take into account the following factors, in order of priority: the degree to which the special district's property tax revenue is insufficient to sustain adequate fire suppression, as specified; whether the special district, upon formation, received a property tax allocation in accordance with existing law; and, geographic diversity.

This bill requires the Board to convene a working group to discuss and make recommendations on the most efficient mechanisms and structure to administer the SDFR Fund. The working group shall include, but not be limited to, representatives from all of the following organizations: California Professional Firefighters; California Fire Chiefs Association; Fire Districts Association of California; California Metropolitan Fire Chiefs Association; CAL FIRE; and, OES. This bill specifies how the working group shall evaluate and provide recommendations, and includes a sunset date of January 1, 2026.

Related/Prior Legislation

SB 539 (Hertzberg, 2021) enacts two new sections of property tax law to assist implementation of Proposition 19 (2020). (Pending on the Senate Floor)

SB 817 (Senate Governmental Organization Committee, 2021) authorizes specified members of the Board to assign a designee to serve as their proxy on the Board. (Pending in the Assembly Emergency Management Committee)

ACA 11 (Mullin, Resolutions Chapter 31, Statutes of 2020) placed the Home Protection for Seniors, Severely Disabled Families, Wildfire and Natural Disasters Act on the November 2020 general election ballot.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, unknown, potentially significant cost pressures in the low hundreds of thousands of dollars for the Board to convene the working group and provide recommendations on the administration of the SDFR Fund.

SUPPORT: (Verified 1/11/22)

California Professional Firefighters (source)
California Fire Chiefs Association
Fire Districts Association of California

OPPOSITION: (Verified 1/11/22)

None received

ARGUMENTS IN SUPPORT: The California Professional Firefighters write that the "funding for local governments that will be generated by Proposition 19 is expected to be significant and will also result in additional revenue for the state that will be directed toward providing much-needed funding for fire districts. These districts have been historically under-funded, failing to receive or generate sufficient tax revenue to provide fire prevention and suppression in their communities. As fire seasons become longer and more dangerous this work has become more critical than ever. The Special Districts Fire Response Fund was created by Proposition 19 to capture the revenue generated by the measure's provisions, but more preparatory work must be done to ensure that these funds are equitably administered and distributed in the areas of greatest need in compliance with the requirements of Proposition 19. SB 450 directs the State Board of Fire Services to convene a working group of fire service experts to examine and make recommendations regarding the administration of this fund."

Prepared by: Brian Duke / G.O. / (916) 651-1530
1/11/22 14:56:36

****** END ******

Office of Senate Floor Analyses
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THIRD READING

Bill No: SB 502
Author: Allen (D)
Amended: 3/3/21
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-0, 3/15/21
AYES: Allen, Gonzalez, Skinner, Stern, Wieckowski
NO VOTE RECORDED: Bates, Dahle

SENATE APPROPRIATIONS COMMITTEE: 5-1, 5/20/21
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Jones
NO VOTE RECORDED: Bates

SUBJECT: Hazardous materials: green chemistry: consumer products

SOURCE: Author

DIGEST: This bill proposes a number of updates to California's Safer Consumer Products (green chemistry program), in line with perceived shortcomings from its first ten years with regards to the speed of the program to filling existing data gaps.

ANALYSIS:

Existing law:

Under AB 1879 (Feuer, Chapter 559, Statutes of 2008): (Health and Safety Code (HSC) §25252 et seq.)

1) Establishes the Safer Consumer Products (SCP) Program within the Department of Toxic Substances Control (DTSC), whereby the department is required to adopt regulations to establish a process to identify and prioritize chemicals or chemical ingredients in products that may be considered a "chemical of concern," in accordance with a review process.

2) Grants DTSC authority to establish and promulgate regulations which:

a) Include an interagency consultative process that includes public participation.

b) Include a prioritization and identification process that includes a consideration of specified factors (e.g., chemical volume, exposure potential, potential effects on sensitive subpopulations).

c) Develop criteria for evaluating chemicals and alternatives, as specified.

3) Directs DTSC to adopt regulations which reference and use, to the maximum extent feasible, available information from other nations, governments, and authoritative bodies, so as to minimize costs and maximize benefits for the state's economy.

4) Authorizes a person providing information pursuant to this article to identify a portion of the information submitted to DTSC as a trade secret, with procedures and details, as specified.

Under AB 289 (Chan, Chapter 699, Statutes of 2006): (HSC §57018 et seq.)

5) Permits the California Environmental Protection Agency (CalEPA) to coordinate requests from the state Air Resources Board, DTSC, Integrated Waste Management Board (now the Department of Resources Recycling and Recovery or CalRecycle), the Office of Environmental Health Hazard Assessment, the State Water Resources Control Board, and the US EPA to chemical manufacturers.

6) Allows the above agencies to inquire from manufacturers regarding their chemicals':

a) Analytical test methods for detection;

b) Concentration in humans as compared to concentration in the product, and their concentration in an alcohol and water mixture; and

c) Fate and transport in the environment.

7) Does not include enforcement provisions for the above requests.

This bill:

1) Updates definitions related to green chemistry.

2) States that it is the policy goal of the state to ensure the safety of consumer products sold in California through timely administrative and legislative action on consumer products and chemicals of concern in those products, particularly those products that may have disproportionate impacts on sensitive populations.

3) Permits DTSC to proceed directly to issuing a regulatory response based on existing alternatives analyses (AAs) published in a:

   a) Scientifically peer reviewed report or other literature;

   b) Report of the United States National Academies;

   c) Report by an international, federal, state, or local agency that implements laws governing chemicals; and

   d) And/or conducted, developed, submitted, prepared for, or reviewed and accepted by an international, federal, state, or local agency for compliance or other regulatory purposes.

4) Requires DTSC to provide a public comment period on the proposal to rely on the studies or evaluations, which may be combined with the proposal to list a chemical-product combination as a priority product.

5) Allows DTSC to augment the study or evaluation with additional information as part of the proposal if it does not address one or more of the following factors:

   a) Public health and environmental protection (i.e. the speed with which the regulation will address adverse impacts, chemicals of concern in replacements, end-users ability to act upon the response, and ecological impacts on sensitive resources or populations);

   b) Private economic interests of responsible entities (i.e. existing federal or California regulatory requirements, costs to responsible entities as compared to other responses, and practicality of compliance to regulation);

   c) Government interest in efficiency and cost containment (i.e. the management and clean-up costs by the product's continued sale, DTSC's administrative burden in regulating, and the ease of enforcement).

6) Requires DTSC to, following the public comment period, publish a summary of its determination, including whether the department plans to proceed to

regulatory responses. If regulatory responses are planned, the summary shall not be judicially reviewable until regulatory responses are finalized.

7) Requires DTSC to amend the California Code of Regulations to allow a person to petition the department for a regulatory response pursuant with these changes.

8) Removes informal dispute resolution and subsequent administrative appeal procedures as long as DTSC provides public notice of the proposed regulation and opportunity for public comment prior to adoption.

9) Clarifies and strengthens enforcement of DTSC's ability to request data on a priority product:

   a) From product manufacturers, as it pertains to: (i) ingredient, concentration, and functional use; (ii) use of the product by sensitive populations; and (iii) sales of the product;

   b) On the identity and contact information of the chemical manufacturer, should the product manufacturer be unable to provide such data;

      i) DTSC may issue an independent information request to a supplier or chemical manufacturer for information the product manufacturer certifies it does not have access to, as well as for the identity and contact information of other suppliers or chemical manufacturers, as necessary.

   c) For any product category or subcategory in a previous or upcoming Priority Product Work Plan;

   d) With the authority to collect fines up to $50,000 per day from noncompliant entities;

      i) After a 30 day response period, or, if the department determines that a longer time is needed, no longer than 120 days. If the entity is in communication with the department and is working in good faith to fulfill the department's request, up to an additional 60 days may be granted beyond the 120 days.

      ii) A product manufacturer, chemical manufacturer, or supplier may raise trade secret claims in accordance with procedures and details, as specified.

10) Requires DTSC to, in their three-year Priority Product Work Plan development:

    a) Include information DTSC currently has regarding their chemicals of concern;

    b) Identify additional information DTSC must acquire through internal testing or data call-in;

    c) Plan for how they will collect the above data in a timely manner;

    d) Provide timelines for, with at least five product (sub-) categories, collecting all necessary data and proceeding through all stages of the Safer Consumer Product (SCP) program framework;

    e) Will be held to a seven-year timeline for the above; and

    f) Must, in determining what additional data is needed, consider the likely substitutions that could serve the same function in the product as the to-be-regulated chemical.

Background

1) *Principles of green chemistry.* Green chemistry is the design of chemical products and processes that reduce or eliminate the generation of hazardous substances. It is protective of consumers' health and the environment, and creates new business opportunities for the development and use of products that perform vital functions without undue health impacts.

2) *Public Health Institute Report*. In October of 2018, the Public Health Institute released a report, *California's Green Chemistry Initiative at Age 10: An Evaluation of its Progress and Promise*, evaluating the Green Chemistry program in California. The report noted that while the Green Chemistry program is an innovative program with the potential to drive the market for safer chemicals and products, and has many of the attributes of a successful chemicals policy, it has failed to achieve its full potential in several ways. According to the report, the pace of implementation of the SCP program has been slow and DTSC has unclear authority to collect necessary information on chemicals in products. California's overall efforts and investment have not been sufficient to foster robust research and development of safer product chemistry. The SCP's Candidate Chemical List needs to be updated over time to capture chemicals with Hazard Traits consistent with breast cancer-causing chemicals and other potential health threats.

3) *Establishing the initial regulations was deliberative.* When California's Green Chemistry program was enacted, no other state had a comparable comprehensive chemicals policy in place. By setting the precedent, California was tasked with creating a new program based on rigorous science to evaluate tens of thousands of chemicals in tens of thousands of consumer product applications – all from scratch. DTSC had to develop ideas, collect reliable information, and implement new approaches, all without a dedicated funding source to support the program, and within existing resources.

   The regulations establishing the SCP program were made operative on October 1, 2013. In the time between the passing of AB 1879 and SB 509 (Simitian, Chapter 560) in 2008 and that date, DTSC worked to develop those regulations, and has only since then been able to execute the SCP framework as it applies to chemicals of concern. Since the regulations went into effect, some of the SCP progress DTSC has accomplished includes issuing two priority product work plans as well as one draft, adopting three priority product-chemical combinations, proposing eight more, and releasing an alternatives analysis guideline.

Comments

1) *Purpose of Bill.* According to the author, "SB 502 updates California's Green Chemistry program in order to protect consumers from toxic chemicals in their daily lives … Unfortunately, after twelve years, not a single chemical has made it through the third stage of the SCP framework. The SCP program has been slow and data gaps hinder informed decision-making … The Public Health Institute issued a report outlining strategies to improve the program. Based on that report, SB 502 improves accountability and transparency, creates streamlining processes, and gives DTSC authority to collect product ingredient data … Without changes to improve implementation, the consumer health benefits of the Safer Consumer Products program will not be realized. The adjustments made by SB 502 will ensure DTSC has the tools they need to efficiently identify and address unsafe chemical ingredients in everyday products."

2) *Expanding data call-in authority.* The data call-in authority granted by AB 289 predated the SCP program, and lacks enforcement mechanisms. The current authorities DTSC has are not able to provide the extent of information or level of transparency needed to accomplish the SCP program goals. There have been reports that DTSC tests products in-house to determine their compositions. If manufacturers share their ingredient lists with DTSC upon request, the

department would not have to use state resources to determine what chemicals the product contains. In order to accomplish the SCP goals of protecting sensitive populations, requiring any existing data on use by sensitive populations and sales is a reasonable request.

3) *Using existing alternatives analyses*. SB 502 permits DTSC to use alternatives analyses (AAs) from other sources. While using existing AAs can save resources, it is essential to ensure the reports are of sufficiently high quality. The Organization for Economic Cooperation and Development published *Current Landscape of Alternatives Assessment Practice: A Meta-Review* in 2013. This document covers 24 different advisories performing AAs under different regulatory frameworks, and is a useful resource to consider what existing governmental, academic, and industry standards would result in suitable AAs to be considered under SB 502.

   The provision allowing existing AAs to be used in SB 502 states that, regardless of source, any proposal of using an existing AA can still be amended to address any relevant factors, such as practical capacity of and cost to responsible entities to comply with the regulation. Given that these factors and more must be addressed, there appears to be a sufficiently high standard of quality for any existing AA used by DTSC to proceed immediately to regulatory response.

4) *Accelerating regulatory action*. SB 502 makes attempts, based on the Public Health Institute's recent Green Chemistry Initiative report, to decrease the time from listing of a priority product to an eventual regulatory response. This bill accomplishes this by removing the informal dispute resolution and administrative appeal processes regarding product listing decisions, and through imposing seven-year work plan timelines on DTSC. While public comment periods will still exist for each regulatory decision, these windows will become more essential for stakeholders to have their voices heard.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

- Cost pressure in the low hundreds of thousands of dollars (special fund) one-time for the DTSC to use the newly granted authorities of this bill. DTSC notes that these potential costs would likely be offset by potential savings.

- Minor and absorbable costs for DTSC to implement the Priority Product Work Plan requirements. DTSC notes that the three-year timeframe for these

requirements to take effect would allow the department to minimize or absorb associated costs.

SUPPORT: (Verified 1/5/22)

Breast Cancer Prevention Partners
Clean Water Action
Environmental Working Group
National Stewardship Action Council
Natural Resources Defense Council

OPPOSITION: (Verified 1/5/22)

None received

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1/5/22 14:16:20

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THIRD READING

Bill No: SB 542
Author: Limón (D), et al.
Amended: 5/25/21
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 14-0, 4/13/21
AYES: Gonzalez, Bates, Allen, Archuleta, Becker, Cortese, Dodd, Melendez, Min, Newman, Rubio, Skinner, Umberg, Wilk
NO VOTE RECORDED: Dahle, McGuire, Wieckowski

SENATE GOVERNANCE & FIN. COMMITTEE: 4-1, 5/6/21
AYES: McGuire, Durazo, Hertzberg, Wiener
NOES: Nielsen

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/20/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SUBJECT: Sales and use taxes on medium- or heavy-duty zero-emission trucks

SOURCE: Author

DIGEST: This bill enacts a state-only (3.9375%) sales and use tax exemption for purchases of qualified new medium- or heavy-duty zero-emission trucks.

ANALYSIS:

Existing law:

1) Imposes the sales tax on every retailer "engaged in business in this state" that sells tangible personal property, and requires them to register with the California Department of Tax and Fee Administration (CDTFA), as well as collect and remit appropriate tax at purchase and remit the amount to CDFTA.

2) Provides that the sales tax applies whenever a retail sale occurs, which is generally any sale other than one for resale in the regular course of business.

3) Provides that unless the purchaser pays the sales tax to the retailer, he or she is liable for the use tax, which the law imposes on any person consuming tangible personal property in the state, and requires the purchaser to remit use tax to CDTFA.

4) Sets the current sales and use tax rate at 7.25%., and additionally permits cities, counties, and specified special districts to increase the sales and use tax rate applicable within their jurisdictions.

5) Provides that 3.9375% of sales tax revenue is deposited into the General Fund for statewide use, where the remaining 3.3125% of sales tax revenue is deposited into specified local revenue sources.

6) Directs the California Air Resources Board (CARB) to administer the Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project (HVIP) created by the California Alternative and Renewable Fuel, Vehicle Technology, Clean Air, and Carbon Reduction Act of 2007, including issuing vouchers to subsidize the purchase of eligible hybrid and zero-emission trucks and buses.

7) Provides a state general fund-only sales and use tax exemption for zero-emission transit buses sold to local public agencies eligible for the California HVIP (AB 784, Mullin, Chapter 684, Statutes of 2019).

This bill:

1) Enacts a state-only (3.9375%) sales and use tax exemption for the purchase of a "qualified vehicle" defined as both:

   a) A truck model that is eligible for the California HVIP.

   b) A truck with a gross vehicle weight rating of more than eight thousand five hundred (8,500) pounds and that is a zero-emission vehicle.

2) States that the exemption applies when purchasers have received an HVIP voucher until January 1, 2025, but does not after that date.

3) Specifies that the exemption applies only to the state General Fund component of the sales and use tax rate, and does not apply to other parts of the rate that generate revenue for local purposes.

4) Commences for purchases made on or after the enactment date of this bill, and ends on January 1, 2027.

5) Includes provisions indicating legislative intent to apply the requirements of Revenue and Taxation Code Section 41, which requires CDTFA to submit a report to legislature on the use of the tax exemption by January 1, 2023.

Background

Executive Order N-79-20. In Executive Order N-79-20 Governor Newsom established a goal that 100% of medium and heavy-duty vehicles be ZEVs by 2045. Supporting this are several programs at the California Air Resources Board (ARB), including the Advanced Clean Truck regulation that requires an increasing percentage of MHD trucks sold to be ZEV beginning in 2024, the Hybrid and Zero-Emission Truck and Bus Voucher Incentive Program (HVIP) which provides vouchers to subsidize the purchase of ZEV trucks and busses so to reduce their price to an amount roughly equal to their diesel equivalents, and a rule expected later this year to require fleets to purchase ZEVs.

Comments

1) *State, not local.* In recent years, most new sales and use tax exemptions have included only the state share of the sales tax, such as equipment used in research and manufacturing, and equipment and fuel used in agriculture. SB 542 continues this trend by allowing its exemption only against the State General Fund portion of the Sales and Use Tax. As a result, the measure should not affect local revenues. Reducing VLF revenues generally triggers an enhanced backfill for local agencies under Proposition 30 (2012).

2) *HVIP.* ARB administers the HVIP created by the California Alternative and Renewable Fuel, Vehicle Technology, Clean Air, and Carbon Reduction Act of 2007 (AB 118, Nunez, Chapter 750, Statutes of 2007). HVIP is funded through the Greenhouse Gas Reduction Fund (GGRF), which derives revenues from auction proceeds under the state's "Cap and Trade" program authorized by the Global Warming Solutions Act. HVIP provides vouchers on a first-come, first-served basis based on the availability of GGRF funds to any fleet owner or operator, including commercial operators, local governments, and non-profit agencies, to replace current vehicle fleets with hybrid and zero-emission vehicles in the hopes of providing clean air benefits. Under HVIP, manufacturers apply to CARB to determine that the vehicles they produce meet clean air targets. If CARB certifies the engine, CARB lists vehicles with those engines on its website as qualifying for vouchers. CARB calculates voucher amounts based on the "incremental amount," or the price difference between an HVIP-eligible vehicle and one that runs on conventional fuel. SB 542 ensures

that its tax benefit is confined to true ZEV by limiting its sales and use tax exemption to only those vehicles that are eligible for HVIP.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, "The California Department of Tax and Fee Administration (CDTFA) originally estimated that this bill would result in a General Fund sale tax revenue loss of $16.8 million in 2022. Amendments to the bill would lower the revenue loss, potentially by several million dollars. CDTFA's administrative costs would be minor and absorbable. Costs to the California Air Resources Board would be minor and absorbable as well."

SUPPORT: (Verified 1/11/22)

350 Silicon Valley
Advanced Energy Economy
Amply Power
BYD
California Electric Transportation Coalition
California Hydrogen Coalition
California Municipal Utilities Association
California New Car Dealers Association
California Trucking Association
California Waste Haulers Association
CALSTART
Ceres
Chanje Energy
Coalition for Clean Air
E2 Environmental Entrepreneurs
Elders Climate Action, NorCal and SoCal Chapters
EVgo
FLO
Lightning eMotors
Motiv Power Systems
Natural Resources Defense Council
Sacramento Municipal Utility District
Southern California Edison
The Lion Electric
Truck & Engine Manufacturers Association
UPS

Volvo Group North America
Western States Trucking Association
Xos Trucks

OPPOSITION: (Verified 1/11/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "SB 542 would establish sales tax and DMV fee parity between medium- and heavy-duty (MHD) zero-emission trucks and their diesel or gasoline equivalent. California has set ambitious goals to transition MHD trucks to zero-emission in the next 15 to 25 years. Governor Newsom's Executive Order N-79-20 set a goal for California that 100 percent of MHD trucks would be zero emission by 2045. On June 25, 2020, the California Air Resources Board (CARB) adopted the Advanced Clean Trucks Regulation (ACT Rule), which sets sales targets across all truck classes for manufacturers to meet starting in 2024 and increasing every year after. CARB is also developing the Advanced Clean Fleet Regulation (ACF Rule) that will require owners of MHD trucks to purchase ZE trucks to replace their conventional gas trucks. Zero-emission MDH trucks are substantially more expensive than conventional diesel trucks. For example, the purchaser of an electric Class 8 truck could pay as much as $18,000 more in taxes and fees when compared to its diesel equivalent. Emissions from MHD vehicles make up a significant proportion of harmful air pollution in California, despite making up just 7 percent of vehicles on the road. Heavy-duty trucks are responsible for about 35 percent of total statewide NOx emissions. According to the American Lung Association, more than 90 percent of Californians live in counties affected by unhealthy air during certain parts of the year. SB 542 will ensure that the taxes and DMV fees associated with purchasing zero emission MHD trucks are equivalent to their diesel and gasoline counterparts. By using existing CARB program definitions of qualifying zero-emission vehicles, CARB can easily determine the internal combustion engine equivalent and will share this information with truck dealerships and the DMV so these vehicles pay the sales tax and DMV fee based on the cost of a comparable conventionally fueled truck. SB 542 will create an important tax and fee incentive

to meet California's goal of 100 percent zero-emission MHD trucks by 2045, and to accomplish the state's greenhouse gas reduction targets."

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1/11/22 15:28:43

****** END ******

SENATE RULES COMMITTEE SB 543
Office of Senate Floor Analyses
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THIRD READING

Bill No: SB 543
Author: Limón (D), et al.
Amended: 5/20/21
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 13-0, 3/9/21
AYES: Dodd, Nielsen, Allen, Archuleta, Borgeas, Bradford, Glazer, Hueso, Jones, Melendez, Portantino, Rubio, Wilk
NO VOTE RECORDED: Becker

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/20/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SUBJECT: State agencies: nonprofit liaison

SOURCE: CalNonprofits

DIGEST: This bill requires a state agency that significantly regulates or impacts nonprofit corporations to designate a person to serve as a nonprofit liaison, as specified.

ANALYSIS:

Existing law:

1) Requires a state agency that significantly regulates small business or that significantly impacts small business to designate at least one person to serve as a small business liaison. Requires the agency to utilize existing personnel and resources to perform the duties of small business liaison.

2) Requires a state agency that significantly regulates small business or that significantly impacts small business to widely publicize the position of small business liaison in appropriate agency publications and by prominently displaying the name and contact information of the small business liaison on the agency's internet website.

3) Prohibits the small business liaison from advocating for or against the adoption, amendment, or repeal of any regulation or intervene in any pending investigation or enforcement action.

This bill:

1) Requires a state agency that significantly regulates or significantly impacts nonprofit corporations to designate at least one person to serve as a nonprofit liaison if the use of existing personnel and resources allows for performance of the duties of the nonprofit liaison.

2) Specifies that a state agency does not include the Department of Justice (DOJ).

3) Requires a state agency to advertise the existence of its designated nonprofit liaison by displaying the nonprofit liaison's name and contact information on the state agency's internet website.

4) Specifies that a nonprofit liaison shall be responsible for all of the following:

   a) Responding to complaints from nonprofit corporations about the state agency.

   b) Providing technical assistance to nonprofit corporations to help them comply with the state agency's regulations.

   c) Reporting nonprofit corporation concerns and recommendations to the agency head, as specified.

   d) Developing and sharing innovative procurement and contracting practices to increase opportunities for nonprofit corporations.

5) Prohibits a nonprofit liaison from advocating for or against the adoption, amendment, or repeal of a regulation, or from intervening in a pending investigation or enforcement action.

6) Defines a "nonprofit corporation" to mean either a nonprofit mutual benefit corporation or a nonprofit public benefit corporation, as specified.

Background

Nonprofits in California. Nonprofit organizations rank as the fourth largest industry in California by employment, with nearly one million people employed in the sector throughout the state, contributing approximately 15% of California's gross state product. Additionally, nonprofits bring in approximately $40 billion in

revenue to California from out-of-state sources. The author argues that strong government-nonprofit partnerships support a vibrant services supply chain, workforce, and economy – similar to small businesses in the state.

This bill requires each state agency that significantly regulates or significantly impacts nonprofit organizations – except for the DOJ – to designate at least one person to serve as a nonprofit liaison, if the use of existing personnel and resources allows for performance of the duties of the nonprofit liaison.

The position of nonprofit liaison mirrors that of the existing small business liaison. The nonprofit liaison will be responsible for responding to complaints from nonprofits about the state agency, providing technical assistance to nonprofit corporations to help them comply with the state agency's regulations, reporting nonprofit corporation concerns and recommendations to the agency head, and developing and sharing innovative procurement and contracting practices to increase opportunities for nonprofits. Some examples of state agencies that utilize a small business liaison include the Natural Resources Agency, Workforce Development Board, Public Utilities Commission, Department of Transportation, and Department of Consumer Affairs.

Similar to the position of small business liaison, this bill includes a provision prohibiting the nonprofit liaison from advocating for or against the adoption, amendment, or repeal of a regulation, or from intervening in a pending investigation or enforcement action.

Comments

Purpose of the bill. According to the author's office, "whether it is homelessness, natural disasters, or our current public health crisis, the nonprofit sector has touched the lives of every Californian. SB 543 will ensure that the nonprofit sector has the necessary state support to provide critical services to our communities."

Related/Prior Legislation

SB 784 (Glazer, 2021) authorizes a nonprofit entity that provides supportive services pursuant to a contract with the state, during a state of war emergency or a state of emergency, to adjust the method in which it provides those services so long as the purpose of the contract is served. (Pending in the Assembly Emergency Management Committee)

AB 1548 (Gabriel, Chapter 734, Statutes of 2019) established the California State Nonprofit Security Grant Program to improve the physical security of nonprofit

organizations that are at high risk of terrorist attack due to ideology, beliefs, or mission.

SB 1436 (Figueroa, Chapter 234, Statutes of 2006) re-established the position of the Small Business Liaison which was eliminated when all the code sections related to the California Trade, Commerce, and Technology Agency were eliminated in 2003.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, unknown, likely absorbable fiscal impact to state agencies that are able to utilize existing personnel and resources to designate and perform the duties of the nonprofit liaison.

SUPPORT: (Verified 1/11/22)

CalNonprofits (source)

OPPOSITION: (Verified 1/11/22)

None received

ARGUMENTS IN SUPPORT: CalNonprofits writes in support of the bill stating that, "[n]onprofits, like small businesses, provide jobs and keep resources in their communities, strengthening local economies. Current law requires state agencies that regulate or impact small businesses to have a designated liaison, but there is no comparable requirement for state agencies to have a designated nonprofit liaison. Strong government-nonprofit partnerships support a vibrant services supply chain, workforce, and economy. The current pandemic, with increased need for contract flexibility and demands for nonprofit services, highlights the need for strong government-nonprofit partnerships."

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1/11/22 14:59:43

****** END ******

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THIRD READING

Bill No: SB 656
Author: Eggman (D)
Amended: 4/13/21
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 5/6/21
AYES: McGuire, Nielsen, Durazo, Hertzberg, Wiener

SUBJECT: Stockton-East Water District: water rates

SOURCE: Stockton-East Water District

DIGEST: This bill removes Stockton-East Water District's rate caps for water rates and assessments.

ANALYSIS:

Existing law:

1) Caps property tax rates at 1% of assessed value (which only changes upon new construction or when ownership changes) and requires 2/3 voter approval for special taxes; as a result local governments turned to general taxes to avoid the higher voter threshold (Proposition 13, 1978).

2) Requires majority voter approval of general taxes, local agencies imposed assessments that were more closely tied to the benefit that an individual property owner receives (Proposition 62, 1986).

3) Imposes voter approval requirements for most "property-related fees"—any levy other than an *ad valorem* tax, a special tax, or an assessment imposed by an agency on a parcel or on a person as an incident of property ownership, including a user fee or charge for a property-related service (Proposition 218, 1996).

4) Requires that fees or charges for property related services cannot exceed the proportional cost of providing service to the parcel and must be used only for

the purposes for which they were collected. Property-related fees must also only fund services actually used by or immediately available to the property owner, not based on potential or future use.

5) Prohibits local governments from imposing fees or charges for general governmental services—including fire, police, ambulance, or library services—if the service is available to the public at large in substantially the same manner as it is to property owners.

6) Exempts water, sewer, and refuse collection services from Proposition 218's voter-approval requirements, but these charges must meet all other procedural and substantive requirements in Proposition 218.

7) Specifies that the definition of taxes that require voter approval to include any tax, charge, or exaction a local government imposes (Proposition 26, 2010). Importantly, the measure provided some key exceptions, including for charges that are no more than the reasonable costs of providing a service and that bear a "fair or reasonable" relationship to the benefit the payor receives.

8) Creates the Stockton-East Water District (Stockton-East) as a water conservation district responsible for providing water for both agricultural and urban uses.

9) Requires the District board to hold a public hearing each spring to consider the necessity, amount, and rate of a municipal groundwater assessment, an agricultural groundwater assessment, a domestic groundwater assessment, and charges for surface water to the extent such charges are not controlled by contract or agreement. Following the hearing, and prior to April 15, the board may adopt an ordinance to determine, levy, and assess these fees and charges.

10) Capped the assessments and charges for the District as follows in 1979:

    a) Domestic groundwater assessment rate: $10 per domestic use unit as established by the board;

    b) Stream-delivered (or surface) water rate: $7.60 per acre-foot of water;

    c) Agricultural groundwater assessment rate: $1.16 per acre-foot of water; and

    d) Municipal groundwater assessment rate: $3 per acre-foot of water.

11) Allowed a one-time 20% increase for groundwater assessments and surface water charges.

12) Allows an annual inflation factor based on the federal Consumer Price Index.

13) Permits voters to remove the rate cap after a successful election by District voters to approve a contract for new supplemental water or approve bonds to finance a distribution system for new supplemental water.

14) Allows post-1979 rates to be subject to referendum, provided that a referendum does not affect any bond issuances.

This bill:

1) Allows Stockton-East to exceed their surface water rate and groundwater assessment caps, so long as they do so in accordance with existing law, most notably Propositions 26 and 218.

2) Repeals the ability for District voters to remove the rate caps if a majority approve contracts or bonds for supplemental water to conform to the rate caps' removal.

3) Makes various technical changes to the District act.

Background

Stockton-East is a water conservation district responsible for providing surface water for both agricultural and urban uses, and supplies wholesale treated surface water, which is sold to Stockton area customers by the California Water Service Company, the City of Stockton, and the County of San Joaquin. Initially formed under the Water Conservation District Law of 1931 in 1948, the Legislature has made various changes to the District's act over time. It serves an area with over 350,000 residents and over 143,000 acres in San Joaquin County.

The District has been working to remove the agricultural rate cap for decades. In 2002, Stockton-East put Measure P on the San Joaquin County ballot, which would have issued $6 million in bonds to fund various supplemental water projects, and removed the cap. According to Stockton-East, "The Urban Contractors requested that Measure P be removed from the ballot. Stockton East representatives met with representatives of the Urban Contractors (including the Mayor of Stockton) and negotiated an agreement for compensation to Stockton East in return for removing the ballot [measure]."

Comments

1) *Purpose of the bill*. According to the author, "In order to meet our SGMA [Sustainable Groundwater Management Act] goals, and bring severely overdrafted ground water basins up to sustainable levels, it is imperative that we use every tool available. The Central Valley has the highest concentration of high-priority basins in the state, and with the state entering what appears to be another drought period, it is vital that the Eastern San Joaquin Groundwater Basin achieve sustainability in a timely manner. By making surface water and groundwater prices competitive, we can incentivize a transition away from a reliance on a limited groundwater supply to readily available surface water."

2) *Raising the roof*. For over four decades, Stockton-East's rates have been capped by inflation. The District's groundwater rates have consistently remained at, or near, the cap. The District has intentionally kept its surface water rate increases below inflation to encourage its customers to use less groundwater. SB 656 removes this cap, and instead allows the District to increase rates as existing law allows, provided that they meet Proposition 26 and 218 requirements. Since the surface water rates meet Proposition 218's definition of charges for property related services, the Constitution allows customers to protest any increases they allege do not meet its requirements, but because they are water rates, these increases would not require voter approval. Furthermore, since the groundwater assessments are assessments strictly for the use of groundwater, Stockton-East is not required to go through the Proposition 218 voter approval or protest requirements, only meet Proposition 26's reasonableness requirements. If customers wanted to challenge these rates, existing law gives them the power to challenge in court or on the ballot through initiative or referendum. SB 656 does not change these processes in any way, just removes the cap that has prevented significant rate increases over the last four decades.

3) *Sure, but will it work?* According to Stockton-East, the additional rate flexibility SB 656 provides will help the District encourage greater surface water usage over groundwater. Stockton-East has kept its surface water rates below the inflation-adjusted cap because it wants to encourage its customers to use surface water instead of relying on groundwater. However, the District finds itself in need of additional revenue to provide current services and meet new challenges like SGMA. Without the ability to increase groundwater rates, the District will have to increase its surface water rates, which will make surface water a less attractive option to customers. However, according to some of the District's largest urban contractors, this strategy is only as

successful as the District's ability to secure sufficient surface water, which will be difficult to secure if California continues to confront drought conditions. If there is not enough surface water to go around, these urban contractors will have to use just as much groundwater, and pay higher prices, without the ability to shift to surface water. How does removing the rate cap affect the District's ability to effectively manage its limited groundwater and surface water supplies?

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 1/11/22)

Stockton-East Water District (source)
County of San Joaquin

OPPOSITION: (Verified 1/11/22)

None received

Prepared by: Jonathan Peterson / GOV. & F. / (916) 651-4119
1/11/22 15:12:07

****** END ******

SENATE RULES COMMITTEE SB 746
Office of Senate Floor Analyses
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THIRD READING

Bill No: SB 746
Author: Skinner (D)
Amended: 5/20/21
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-1, 4/6/21
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Stern, Wieckowski, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/20/21
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Bates, Jones

SUBJECT: California Consumer Privacy Act of 2018: personal information: political purpose

SOURCE: Author

DIGEST: This bill requires businesses to disclose whether they use the personal information of consumers for political purposes, as defined, to consumers, upon request, and annually to the Attorney General or the California Privacy Protection Agency.

ANALYSIS:

Existing law:

1) Establishes the CCPA, which grants consumers certain rights with regard to their personal information, including enhanced notice, access, and disclosure; the right to deletion; the right to restrict the sale of information; and protection from discrimination for exercising these rights. It places attendant obligations on businesses to respect those rights. (Civ. Code § 1798.100 et seq.)

2) Grants a consumer the right to request that a business that collects personal information about the consumer disclose to the consumer specified information, including the specific pieces of personal information it has collected about that consumer and the business or commercial purpose for collecting or selling personal information. (Civ. Code § 1798.110.)

3) Provides consumers the right to request that a business that sells the consumer's personal information, or that discloses it for a business purpose, disclose to the consumer specified information. (Civ. Code § 1798.115.)

4) Provides a consumer the right, at any time, to direct a business that sells personal information about the consumer to third parties not to sell the consumer's personal information. It requires such a business to provide notice to consumers, as specified, that this information may be sold and that consumers have the right to opt out of the sale of their personal information. (Civ. Code § 1798.120.)

5) Prohibits a business from discriminating against a consumer because the consumer exercised any of the consumer's rights under the CCPA. (Civ. Code § 1798.125(a)(1).)

6) Defines "personal information" as information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household. The CCPA provides a nonexclusive series of categories of information deemed to be personal information, including identifiers, biometric information, and geolocation data. (Civ. Code § 1798.140(o)(1).)

7) Establishes the CPRA, which amends the CCPA and creates the PPA, which is charged with implementing these privacy laws, promulgating regulations, and carrying out enforcement actions. (Civ. Code § 798.100 et seq.; Proposition 24 (2020).)

8) Permits amendment of the CPRA by a majority vote of each house of the Legislature and the signature of the Governor provided such amendments are consistent with and further the purpose and intent of this act as set forth therein. (Proposition 24 § 25 (2020).)

This bill:

1) Grants consumers the right to request that a business that collects personal information about the consumer disclose to the consumer whether or not the business uses that personal information for a political purpose. Upon receiving such a request, the business, if applicable, must disclose the following information:

    a) the name of any candidate or committee for which the consumer's personal information was used for a political purpose;
    b) the title of any ballot measure for which the consumer's personal information was used for a political purpose; and
    c) if the consumer's personal information was used to support or oppose the candidate, committee, or measure.

2) Amends relevant portions of the CCPA and CPRA to facilitate such requests for information.

3) Defines "political purpose" to mean activity undertaken by a business with the actual knowledge, or at the direction, of one or more of the officers of the business for the purpose of influencing, or attempting to influence, the action of the voters for or against the nomination or election of a candidate or the qualification or passage of a ballot measure. Commercial transactions on behalf of another person, including political advertisements, are explicitly excluded from this definition.

4) Requires a business that engages in such activities to annually disclose to the Attorney General or the PPA, as provided, all of the following:

    a) the name of any candidate or committee for which personal information was used for a political purpose;
    b) the title of any ballot measure for which personal information was used for a political purpose; and
    c) if personal information was used to support or oppose the candidate, committee, or measure.

5) States the Legislature finds and declares that the bill furthers the purposes and intent of the CPRA.

Background

The California Consumer Privacy Act of 2018 (CCPA) grants consumers certain rights with regard to their personal information, including enhanced notice, access, and disclosure; the right to deletion; the right to restrict the sale of information; and protection from discrimination for exercising these rights. (Civ. Code § 1798.100 et seq.) It places attendant obligations on businesses to respect those rights. Recently, voters approved Proposition 24, which established the California Privacy Rights Act of 2020 (CPRA). The CPRA amends the CCPA, limits further amendment, and creates the California Privacy Protection Agency (PPA).

In recent years, worries about the influence social media and other online platforms has had on the democratic process have escalated, from the Cambridge Analytica scandal, to viral "fake news," to allegations of tilted search results on ballot measures. This bill addresses one facet of the issue, the situation where a business uses personal information it has collected in order to influence, or attempt to influence, the action of consumers for or against certain political candidates or ballot measures. This bill grants consumers the right to request these businesses disclose such activity in detail. Businesses will also be required to disclose this information, annually, to the Attorney General or the PPA, as provided. This bill is author sponsored. It is supported by Californians for Consumer Privacy, Consumer Watchdog, and Common Sense. It is opposed by the California Chamber of Commerce, TechNet, and the Internet Association.

Comments

According to the author:

> Under current law, the only way a business can legally influence an election is by making a cash or in-kind campaign contribution to a candidate or political committee, or by making independent expenditures, and both actions must be disclosed to the public. Although the Constitution guarantees a business the right to influence an election, the Supreme Court has also held that there is ample reason to require public disclosure of such influence. Accordingly, California has extensive reporting requirements for both monetary and nonmonetary contributions to political campaigns. However, recent technological advancements have made it possible for digital companies to individually influence voter behavior in ways that do not have to be publicly disclosed.

> Just like with other types of media, voters should have the right to know if they're being purposely presented with information designed to influence how they vote. SB 746 addresses this new gap in political reporting requirements and restores public trust in online content by allowing voters to know if they are being manipulated in partisan ways. Specifically, SB 746 promotes Internet transparency by requiring online platforms that use personal information to directly target voters on behalf of a candidate or ballot measure to disclose that activity to voters if they request it. Taking this step is critical to ensuring that evolving technological capabilities do not interfere with our Constitutional right to free and fair elections.

Bringing more transparency to elections. In addition to relevant federal laws, California regulates monetary and in-kind contributions to political campaigns and requires a degree of transparency, pursuant to the Political Reform Act. (Gov. Code § 81000 et seq.) Recently, AB 249 (Mullin, Ch. 546, Stats. 2017) reformed the Political Reform Act and enacted the California Disclose Act. AB 249 overhauled California's campaign finance disclosure laws. It required disclosures regarding top contributors and required disclosure statements in connection with political advertisements in various media. The California Disclose Act also refined what expenditures for "political purposes" meant. It provides that a payment is made for a political purpose when it is made by certain entities, including candidates or committees, or when it is made "[f]or purposes of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure." (Gov. Code § 82025.)

The stated purpose of the California Disclose Act is twofold:

- "For voters to make an informed choice in the political marketplace, political advertisements should not intentionally deceive voters about the identity of who or what interest is trying to persuade them how to vote."
- "Disclosing who or what interest paid for a political advertisement will help voters be able to better evaluate the arguments to which they are being subjected during political campaigns and therefore make more informed voting decisions."

Given the rapid changes to the "political marketplace," this bill helps build upon these protections and further these same purposes by empowering consumers with

the right to request that businesses that collect personal information disclose whether they use that information for political purposes.

Businesses that use the personal information collected for political purposes are required to identify, upon request, the name of the candidate or committee for which the information was used, the title of any relevant ballot measures, and whether the information was used to support or oppose. For greater transparency, such businesses are also required to disclose this information annually to the Attorney General and, once formed and up and running, the PPA.
The bill is prompted by concerns that larger technology companies have the means to influence elections without much regulatory oversight and without our knowledge. The author points to reports that Google was providing skewed search results in connection with a proposition they did not support. As reported by Politico:

> Google searches for seven of the state's 12 ballot proposals have surfaced campaign arguments from the state voter guide instead of neutral "snippets," said former cybersecurity executive Tom Kemp. He said those search results could sway voters who rely on those first impressions to understand what the measures do, on subjects ranging from stem cell research to commercial property taxes.
>
> His findings about Google — a de-facto roadmap for voters making their way through lengthy ballots — suggest that algorithms can turn even neutral sources into biased ones, a problem that could extend well beyond the nation's tech capital.
> . . .
> In one California example, a Google search of "Prop 24" on Thursday turned up this description of a November data privacy initiative from the state's voter guide: "CON Proposition 24 reduces your privacy rights in California. Proposition 24 allows 'pay for privacy' schemes, makes workers wait years to learn what confidential …"[1]

In addition, it has been previously reported that Facebook was "quietly conducting experiments on how the company's actions can affect the voting behavior of its users."[2] Concerns have been raised about the lack of transparency with the relevant

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[1] Katy Murphy, *Google algorithms blamed for giving California voters a biased look at ballot initiatives* (October 29, 2020) Politico, **https://www.politico.com/states/california/story/2020/10/29/google-algorithms-blamed-for-giving-california-voters-a-biased-look-at-ballot-initiatives-1332651** [as of Mar. 25, 2021].
[2] Micah L. Sifry, *Facebook Wants You to Vote on Tuesday. Here's How It*

Facebook tool, "raising questions about its use and Facebook's ability to influence elections."

This bill's provisions enable consumers to reveal hidden political influence and empowers them to make more informed political decisions. The United States Supreme Court has highlighted such principles in upholding similar disclosure laws, indicating that "providing the electorate with information" and "deterring actual corruption and avoiding any appearance thereof" are important state interests that support disclosure requirements. (*McConnell v. FEC* (2003) 540 U.S. 93, 196.)

In ruling on the campaign disclosure laws before it in *McConnell v. FEC* (2003) 540 U.S. 93, 201, the United States Supreme Court specifically asserted that the "disclosure requirements are constitutional because they d[o] not prevent anyone from speaking" and upheld disclosure requirements regarding a broader set of "electioneering communications." (internal quotation marks omitted.) This bill does not prevent businesses from using personal information for political purposes, and does not even apply to situations where a business uses the information to carry out a commercial transaction on behalf of another, such as political advertisements. The bill simply lifts the veil and provides greater transparency so that the state's greater political marketplace provides access to better information.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee:

- The Department of Justice reports that this measure would result in workload costs of about $157,000 for 1.0 Associate Governmental Program Analyst (AGPA) for the one year of responsibility until duties are transferred to the California Privacy Protection Agency. (Special fund*, General Fund)

- It is presumed that the California Privacy Protection Agency would have the same workload requirements as the DOJ resulting from this measure. (Special fund*)

*Consumer Privacy Fund

Messed With Your Feed in 2012 (October 31, 2014) Mother Jones, **https://www.motherjones.com/politics/2014/10/can-voting-facebook-button-improve-voter-turnout/** [as of Mar 25, 2021].

SUPPORT: (Verified 1/5/22)

Californians for Consumer Privacy
Common Sense
Consumer Watchdog
Courage California
Electronic Frontier Foundation
Greenlining Institute
Media Alliance
Oakland Privacy
Privacy Rights Clearinghouse

OPPOSITION: (Verified 1/5/22)

American Property Casualty Insurance Association
California Chamber of Commerce
Insights Association
Internet Association
TechNet

ARGUMENTS IN SUPPORT: Writing in support, Common Sense argues: "While the Constitution guarantees a business the right to influence an election, the United States Supreme Court has also held that there is ample reason to require public disclosure of such influence. California has extensive reporting requirements for both monetary and nonmonetary contributions to political campaigns, many of which were adopted through Political Reform Act and subsequent regulations adopted by the Fair Political Practices Commission. While this has historically covered the manner with which a business can influence an election, recent technological advancements have made it possible for online platforms to influence voter behavior in specialized ways that are not currently required to be publicly disclosed. . . . SB 746 restores public trust in online content by allowing voters to know if they are being manipulated in partisan ways. California must ensure that evolving technological capabilities do not interfere with our Constitutional right to free and fair elections."

ARGUMENTS IN OPPOSITION: A coalition in opposition, led by the California Chamber of Commerce, argues that the bill is premature and overbroad. These groups write: "SB 746 requires businesses to disclose to consumers whether or not the businesses uses personal information for a political purpose, and if so, to disclose various details about the use of information. However, the term "political purpose" as used in the bill is vague and overbroad because it captures wholly non-

partisan situations and fails to deploy a clear, specific intent standard. By repurposing a concept from election law without sufficient consideration for this new context, SB 746 deploys an ambiguous consent standard lacking limitations."

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
1/5/22 15:49:40

****** END ******

Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SB 748
Author: Portantino (D)
Amended: 1/3/22
Vote: 27 - Urgency

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 4/6/21
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/20/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SUBJECT: Trespass: private universities

SOURCE: Association of Independent California Colleges and Universities

DIGEST: This bill expands the types of institutions covered in existing provisions of law that prohibit students or employees who have been suspended or dismissed and certain persons who have been directed to leave a school campus or facility from re-entering the school campus or facility to include private nonprofit colleges and universities.

Senate Floor Amendments of 1/3/22 add an urgency clause.

ANALYSIS:

Existing law:

1) States that every student or employee who, after a hearing, has been suspended or dismissed from a community college, a state university, the university, or a public or private school for disrupting the orderly operation of the campus or facility of the institution, and as a condition of the suspension or dismissal has been denied access to the campus or facility, or both, of the institution for the period of the suspension or in the case of dismissal for a period not to exceed one year; who has been properly served; and who willfully and knowingly enters upon the campus or facility of the institution to which they have been

denied access, without the express written permission of the chief administrative officer of the campus or facility, is guilty of a misdemeanor. (Pen. Code, § 626.2.)

2) Provides that, whenever there is reasonable cause to believe that a person has willfully disrupted the orderly operation or a campus or facility, the chief administrative officer of a campus or other facility of a community college, a state university, the university, or a school, or an officer or employee designated by the chief administrative officer to maintain order on such campus or facility, may notify the person that consent to remain on the campus or other facility has been withdraw. (Pen. Code, § 626.4, subd. (a).)

3) States that any person who has been notified that consent to remain on the campus or facility has been withdrawn, who has not had such consent reinstated, and who willfully and knowingly enters or remains upon such campus or facility during the period of time for which consent has been withdrawn is guilty of a misdemeanor. (Pen. Code, § 626.4, subd. (d).)

4) States if a person who is not a student, officer or employee of a college or university and who is not required by his or her employment to be on the campus or any other facility owned, operated, or controlled by the governing board of that college or university, enters a campus or facility, and it reasonably appears to the chief administrative officer of the campus or facility, or to an officer or employee designated by the chief administrative officer to maintain order on the campus or facility, that the person is committing any act likely to interfere with the peaceful conduct of the activities of the campus or facility, or has entered the campus or facility for the purpose of committing any such act, the chief administrative officer or his or her designee may direct the person to leave the campus or facility. (Pen. Code, § 626.6, subd. (a).)

5) States that when a person is directed to leave, the person shall be informed that if they reenter the campus or facility within 7 days, they will be guilty of a misdemeanor. (Pen. Code, § 626.6, subd. (c).)

6) Punishes a person who violates the above provisions as follows:

    a) Upon a first conviction, be a fine of up to $500, by imprisonment in the county jail for a period of not more than 6 months, or by both the fine and imprisonment;

    b) If the defendant has been previously convicted of this section or other specified crimes committed in the building or grounds of a college or

university, by imprisonment in a county jail for a period of not less than 10 days or more than six months, or by both that imprisonment and a fine not exceeding $500, and shall not be released until they have served not less than 10 days.

c) If the defendant has been previously convicted two or more times of the above offenses, by imprisonment in a county jail for a period of not less than 90 days or more than six months, or by both that imprisonment and a fine not exceeding $500, and shall not be released until the defendant has served not less than 90 days. (Pen. Code, §§ 626.2; 626.4, subd. (f); 626.6, subd. (a).)

7) Contains the following definitions:

a) "University" means the University of California, and includes any affiliated institution thereof and any campus or facility owned, operated, or controlled by the Regents of the University of California.

b) "State university" means any California state university, and includes any campus or facility owned, operated, or controlled by the Trustees of the California State University.

c) "Community college" means any public community college established pursuant to the Education Code.

d) "School" means any public or private elementary school, junior high school, four-year high school, senior high school, adult school or any branch thereof, opportunity school, continuation high school, regional occupational center, evening high school, or technical school or any public right-of-way situated immediately adjacent to school property or any other place if a teacher and one or more pupils are required to be at that place in connection with assigned school activities. (Pen. Code, § 626, subd. (a).)

This bill:

1) Adds an independent institution of higher education to the types of schools to existing provisions of law that prohibit students or employees who have been suspended or dismissed and certain persons who have been directed to leave from re-entering the school campus or facility.

2) Defines "independent institutions of higher education" to mean "nonpublic higher education institutions that grant undergraduate degrees, graduate degrees, or both, and that are formed as nonprofit corporations in this state and

are accredited by an agency recognized by the United States Department of Education.

3) Deletes the existing penalties which establishes graduated penalties including minimum mandatory terms for imprisonment and instead provides that these provisions are punishable by a fine not exceeding $500, by imprisonment in county jail for a period not to exceed 6 months, or by both that fine and imprisonment.

4) Contains an urgency clause.

Comments

According to the author of this bill:

> Currently, private nonprofit colleges and universities attempt to utilize California Penal Code Section 602, regarding trespassing on private property. This effort generally includes the use of no trespassing letters to indicate consent has been withdrawn for an individual to be on campus.
>
> In recent years, some district attorney offices have expressed reservations about issuing trespass on the strength of these letters and the applicability of Penal Code Section 602 to private, non-profit colleges and universities. Further, trespassing letters meant to serve as continuing notice of a revocation of the right to occupy private property have become ineffective in many campus communities due to the lack of clear legal guidance on enforcement.
>
> The lack of an effective enforcement tool means that individuals who have been advised that permission to use the campus has been revoked simply return to campus, often engaging in the same behavior that caused their permission to be revoked, until they are asked to leave. They leave, only to return again, and again. Repeat offenders learn that they are able to return to these campuses with little concern about consequences, engaging in behavior that diminishes or threatens the safety and well-being of university students, faculty, and staff.
>
> SB 748 recognizes that private, nonprofit colleges and universities have a responsibility to ensure the physical safety of their campus community. They face similar public safety challenges as their public higher education counterparts, and SB 748 assists private nonprofit

colleges and universities by expanding Penal Code 626, which applies to public colleges and universities, and public and private K-12 schools to include California's private, nonprofit higher education sector.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee, unknown, potentially-significant workload cost pressures to the courts to adjudicate charges brought against prohibited persons who re-enter a campus or facility of an independent institution of higher learning. While the superior courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to increase the amount appropriated to backfill for trial court operations. The Governor's proposed 2021-2022 budget would appropriate $118.3 million from the General Fund to backfill continued reduction in fine and fee revenue for trial court operations. (General Fund*)

*Trial Court Trust Fund

SUPPORT: (Verified 12/15/21)

Association of Independent California Colleges & Universities (source)
California Association of Christian Colleges and Universities
California Baptist University
California Coalition of School Safety Professionals
California College and University Police Chiefs Association
California District Attorneys Association
California Institute of Technology
Chapman University
Claremont McKenna College
Equal Rights Advocates
La Sierra University
Los Angeles School Police Officers Association
Palos Verdes Police Officers Association
Riverside Sheriffs' Association
Santa Ana Police Officers Association
Santa Clara University
Simpson University
Stanford University
The Claremont Colleges
University of San Diego

OPPOSITION: (Verified 12/15/21)

None received

Prepared by: Stella Choe / PUB. S. / 1/5/22 15:49:41

****** END ******

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SB 785
Author: Glazer (D), et al.
Amended: 4/8/21
Vote: 21

SENATE EDUCATION COMMITTEE: 6-0, 3/24/21
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, Pan
NO VOTE RECORDED: McGuire

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/20/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SUBJECT: Public postsecondary education: California Promise program: California State University students

SOURCE: Author

DIGEST: This bill requires at least 5% of each incoming class to participate in the California Promise program at each campus of the California State University (CSU); and requires that at least 70% of those participants be low-income students, first-generation students, or students from underrepresented communities.

ANALYSIS:

Existing law:

1) Establishes the California Promise program for the purposes of supporting CSU students in earning a baccalaureate degree within four academic years of the student's first year of enrollment, or for transfer students, within two academic years of the student's first year of enrollment to the campus.

2) Requires the Trustees of the CSU to:

   a) Develop and implement a California Promise program, beginning the 2017-18 academic year, at a minimum of eight campuses for non-transfer students

and a minimum of 15 campuses (20 campuses by 2018-19) for qualifying transfer students. These campuses enter into a pledge with a first-time freshman or with a qualifying transfer student to support the student in obtaining a baccalaureate degree within a total of four academic years.

b) Submit a report to legislative policy and fiscal committees by January 1, 2021, that includes the number of students participating in the program in total, the total number of students who graduated in four academic years for students who entered as first-time freshman and two academic years for California Community College transfer students, and a summary description of significant differences in the implementation of the California Promise program at each campus.

c) Submit recommendations to the appropriate policy and fiscal committees of the Legislature, by March 15, 2017, regarding potential financial incentives that could benefit students who participate in the California Promise program.

3) Requires support provided by a CSU campus for a California Promise program student to include, but not necessarily be limited to, both of the following:

a) Priority registration in coursework provided that a student does not qualify for priority registration under another policy or program, as specified.

b) Academic advisement that includes monitoring academic progress.

4) Requires a student, in order to qualify for the program to:

a) Be a California resident for purposes of in-state tuition eligibility.

b) Commit to completing at least 30 semester units or the quarter equivalent per academic year, including summer term units, as specified.

5) Requires a campus to guarantee participation in the program to, at a minimum, any student who is a low-income student, as defined, a student who has graduated from a high school located in a community that is underrepresented in college attendance, a first-generation college student or a transfer student who successfully completes his or her associate degree for transfer at a community college.

6) Establishes that, as a condition of continued participation in a California Promise program, a student may be required to demonstrate both of the following:

   a) Completion of at least 30 semester units, or the quarter equivalent, in each prior academic year.

   b) Attainment of a grade point average in excess of a standard established by the campus.

7) Sunsets the program on January 1, 2026. (Education Code § 67430 et. seq.)

This bill:

1) Requires, commencing with the 2022-23 academic year, at least 5% of each incoming class at each participating campus of the CSU to participate in the California Promise program. This bill also requires that at least 70% of those participants be either low-income students, first-generation students, or students from communities that are underrepresented in postsecondary education.

2) Makes other technical changes.

Comments

1) *Need for the bill*. According to the author, "The CSU awards nearly half of California's bachelor's degrees, with more than half of CSU students being students of color. While system-wide graduation rates are improving, more can be done to increase rates of California students receiving their bachelor's degrees within four years. The system continues to struggle with graduation gaps for underrepresented students, and the system's graduation rates still lag behind those of similar universities nationwide." The author further asserts, "Currently, 13 CSUs have the four-year pledge (Promise) program and 21 campuses have the two-year pledge (Promise) program. However, only CSU, Sacramento, Long Beach, and Humboldt have robust enrollment of students. In a review of campus home pages, there is little attention paid to the California Promise Program. On average, it takes six clicks from the campus home page to get the California Promise program. This lack of publicity impedes students from taking advantage of graduating in a timely manner."

2) *California Promise programs at CSU.* Existing law, established by SB 412 (Glazer, Chapter 436, Statutes of 2016), required the Trustees of the CSU to

develop and implement a California Promise program at a minimum of eight campuses for non-transfer students and a minimum of 20 campuses for qualifying transfer students. These campuses enter into a pledge with a first-time freshman or with a qualifying transfer student to support the student in obtaining a baccalaureate degree within four academic years or within two for transfer students. Students who commit to enter either the four-year or two-year pledge are given priority registration and are provided with routine and thorough academic advisement. It appears that 20 of the 23 CSU campuses have a promise program with 11,306 undergraduates enrolled from fall 2017 to spring 2019. The number of new undergraduates enrolled in programs varies by campus. For example, in fall 2019 CSU, San Luis Obispo enrolled five new students whereas CSU, Sacramento enrolled 2,842 new participants into the program. This bill calls upon each campus to direct a portion of its incoming class into the program each year. This bill also sets a new threshold for enrolling students into the program who are low-income, underrepresented or first in their families to attend college.

3) *Other systemwide efforts to promote timely degree completion at CSU*. To address its low graduation rates, CSU launched the "Graduation Initiative 2025," in 2015. Through this initiative, CSU has set a goal to increase six- and four-year graduation rates for first-time freshmen to 70 percent and 40 percent, respectively, by 2025. The Graduation Initiative also seeks to increase graduation rates for transfer students. It also aims to address the achievement gap by eliminating differences in graduation rates for several groups of students, including those who are low-income and first-generation. The strategies employed by the campuses to achieve these goals include hiring faculty, offering of additional course sections, hiring academic advisors, and investing in student support programs and services. Notably, state funding for the CSU Graduation Initiative has increased over time. The Budget Act of 2019 provided $45 million ongoing General Fund and $30 million one-time funding to support the Graduation Initiative. The California Promise Program is independent of the Graduation Initiative 2025, although presumably some activities overlap.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, the CSU estimates annual General Fund costs of approximately $6.4 million and 82.5 additional outreach and advising staff to comply with this bill's requirements. This estimate assumes a salary of approximately $52,000 and 50% benefits for both outreach and advising

staff. Salaries could vary by campus location and does not include any subsequent year increases in salary or benefit costs.

SUPPORT: (Verified 1/11/22)

National Association of Social Workers

OPPOSITION: (Verified 1/11/22)

None received

Prepared by: Olgalilia Ramirez / ED. / (916) 651-4105
1/11/22 15:24:51

****** END ******

SENATE RULES COMMITTEE SCA 2
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SCA 2
Author: Allen (D) and Wiener (D)
Introduced: 12/7/20
Vote: 27

SENATE HOUSING COMMITTEE: 9-0, 4/29/21
AYES: Wiener, Bates, Caballero, Cortese, McGuire, Ochoa Bogh, Skinner, Umberg, Wieckowski

SENATE ELECTIONS AND CONSTITUTIONAL AMENDMENTS COMMITTEE: 5-0, 6/28/21
AYES: Glazer, Nielsen, Hertzberg, Leyva, Newman

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

SUBJECT: Public housing projects

SOURCE: California Association of Realtors
California Housing Consortium
California Rural Legal Assistance Foundation
California YIMBY
Merritt Community Capital Corporation
Western Center on Law & Poverty

DIGEST: This constitutional amendment repeals Article 34 of the California Constitution, which requires majority approval by the voters of a city or county for the development, construction, or acquisition of a publicly funded affordable housing project.

ANALYSIS:

Existing law, under Article 34 of the California Constitution:

1) Requires majority approval by the voters of a city or county for the development, construction, or acquisition of a publicly funded "low-rent housing project."

2) Provides that the term "low-rent housing project," as defined in Section 1 of Article 34 does not apply to any development composed of urban or rural dwellings, apartments, or other living accommodations that meets any of the following:

   a) The development is privately owned housing, receiving no property tax exemption, as specified, and not more than 49% of the dwellings, apartments, or other living accommodations of the development may be occupied by persons of low income.

   b) The development is privately owned housing, is not exempt from property taxes by reason of any public ownership, and is not financed with direct long-term financing from a public body.

   c) The development is intended for owner-occupancy rather than for rental-occupancy.

   d) The development consists of newly constructed, privately owned, one-to-four family dwellings not located on adjoining sites.

   e) The development consists of existing dwelling units leased by the state public body from the private owner of these dwelling units.

   f) The development consists of the rehabilitation, reconstruction, improvement or addition to, or replacement of, dwelling units of a previously existing low-rent housing project.

   g) The development consists of the acquisition, rehabilitation, reconstruction, improvement, or any combination thereof, of a rental housing development which, prior to the date of the transaction to acquire, rehabilitate, reconstruct, improve, or any combination thereof, was subject to a contract for federal or state public body assistance for the purpose of providing affordable housing for low-income households and maintains, or enters into,

a contract for federal or state public body assistance for the purpose of providing affordable housing for low-income households.

This constitutional amendment repeals Article 34 of the California Constitution.

Comments

1) *Author's statement.* "California has only 22 affordable and available rentals for every 100 extremely low-income households. A majority of California renters spend more than 30% of their income on housing (nearly one-third spend more than half). Too many people are one missed paycheck away from homelessness. Article 34 was created in response to the Federal Housing Act of 1949, part of President Truman's Fair Deal to help lower-income post-war families move into better living situations. Society had very different attitudes about race, ethnicity, class, and poverty 70 years ago. There were far less tools for residents to alter or block plans for new housing—no California Environmental Quality Act, Brown Act, or Coastal Act, and far fewer lawsuits. California's voters have made it clear they want leaders to do better by those struggling to afford housing—supporting ballot measures dedicating hundreds of millions in taxpayer dollars to tackling the housing and homelessness crises. The state owes it to all taxpayers to use the money as efficiently as possible. SCA 2 will give voters an opportunity to eliminate an obstacle enshrined in the California Constitution in a bygone era, which undermines elected officials' ability to address California's acute housing and homelessness challenges."

2) *Article 34 history.* Article 34 was added to the California Constitution in 1950 on the heels of the passage of the federal Housing Act of 1949. The Housing Act of 1949 banned explicit racial segregation in public housing, which left cities scrambling to find alternative ways to separate communities of color from white neighborhoods. The real estate industry, unable to stop the passage of the Housing Act of 1949 at the federal level, sought to slow and stop its implementation at the state and local level.

   The enactment of Article 34 grew out of a controversy surrounding a low-income housing project in Eureka, California. The local Housing Authority had applied for federal funding to cover the costs of planning and surveys for a low-income public housing development. After the application for funding was submitted, the City Clerk received a signed petition from more than 15% of the city electorate, requesting any city council approval of the loan application be submitted to the voters for approval. A lawsuit made its way to the California

Supreme Court, holding that the power of referendum applies only to legislative acts, not acts that are executive or administrative. Since the acts were administrative and not legislative, the people could not use a referendum to change the city government's decisions, and the court had no jurisdiction.

Given that the citizens of Eureka could not make decisions around low-income housing developments in their community, they joined forces with the California Real Estate Association (known today as the California Association of Realtors) to enact Article 34 on the November 1950 ballot. According to the argument supporting the initiative, a vote in favor of adding Article 34 to the California Constitution was a vote for the right to say yes or no when a community was considering a low-income housing project. Supporters argued the need for community control was necessary because of tax waivers, and other forms of community assistance that a public housing project required.

Campaign materials and internal documents produced by the California Real Estate Association, the organization behind the ballot measure enacting Article 34 indicate that the constitutional change was more than just giving a voters a say in the approval of housing projects. According to the *Los Angeles Times,* an internal newsletter from the California Real Estate Association legislative committee Chairman stated:

> "If you value your property, if you hold liberty dear, if you believe in the dignity of the individual, if you love this land of the free and the home of the brave, if you desire to stop the enemy of socialism that is gnawing at the vitals of America from within, the ballot box is your weapon, the one and only means by which our great Republic will be preserved and improved."

3) *Practical impacts on housing development.* Article 34 requires that voter approval be obtained before any "state public body" develops, constructs or acquires a "low rent housing project." Cities, counties, housing authorities and agencies are all "state public bodies" for purposes of Article 34. As a result, if any of those entities participates in development of a "low rent housing project" and that participation rises to the level of development, construction, or acquisition of the project by the agency, approval by the local electorate is required for the project.

   Local agencies usually seek general authority from the electorate to develop low income housing prior to the identification of a specific project. For example, a typical Article 34 election might authorize construction of 500 low

income units anywhere in the city or county's jurisdiction, including its housing authority or other state public bodies. Not all low- and moderate-income housing is a "low rent housing project." To clarify the requirements of Article 34, the Legislature clarified in statute that specified projects would not require voter approval, such as projects in which less than 49% of the units are occupied by low-income families; ad privately owned housing that does not receive public financing; and owner-occupied developments.

Jurisdictions that do not comply with Article 34 requirements are not eligible for state funds.

4) *Prior attempts at repeal*. In 1971, *James v. Valtierra* tested the constitutionality of Article 34. After low-income housing proposals were defeated by referenda in San Jose and San Mateo County, a group of black and Mexican-American persons who were eligible for low-income housing in these communities filed suit alleging Article 34 violated the federal Constitution's Supremacy Clause, Privileges and Immunities Clause, and Equal Protection Clause. The US Supreme Court found that Article 34 did not rest on "distinctions based on race" because a referendum was required on any low-income project when the project was within the guidelines set forth in the article, not just projects which were to be occupied by racial minorities. The appellees also argued that Article 34 denied equal protection to low-income households because they were singled out for a mandatory referendum. The Court disagreed with this argument as well by pointing out that a referendum is a democratic decision-making procedure and that California has a long history of using the referendum process to influence or make public policy.

   In 1974, Assemblymember Willie Brown authored a bill in the Legislature, which placed the repeal of Article 34 on the ballot as Proposition 15. That measure was defeated. In 1977, Assemblymember Brown authored a modification of Article 34, which placed Proposition 4 on the 1980 ballot. Again this was defeated. The most recent attempt at repeal took place in 1993 as Proposition 168, this time with the support of the California Association of Realtors, which failed passage on a 60% vote.

   Presently, no other state constitution requires voter approval for public housing.

5) *November 2022 Ballot.* If this constitutional amendment passes the Legislature, the authors intend to put the amendment on the November 2022 ballot.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

According to the Senate Appropriations Committee:

- One-time Secretary of State costs in the range of $546,000 to $728,000 (General Fund), likely in 2022-23, for printing and mailing costs to place the measure on the ballot in a statewide election. Actual costs may be higher or lower, depending on the length of required elements and the overall size of the ballot.

SUPPORT: (Verified 1/5/22)

California Association of Realtors (co-source)
California Housing Consortium (co-source)
California Rural Legal Assistance Foundation (co-source)
California YIMBY (co-source)
Merritt Community Capital Corporation (co-source)
Western Center on Law & Poverty (co-source)
Abundant Housing LA
Activesgv, a Project of Community Partners
AIDS Healthcare Foundation
American Planning Association, California Chapter
California Housing Partnership Corporation
Chan Zuckerberg Initiative
City of Pasadena
City of Pleasanton
City of Santa Monica
East Bay for Everyone
East Bay Housing Organizations
Eden Housing
Facebook, INC.
Health Officers Association of California
Housing Action Coalition
Inner City Law Center
League of Women Voters of California
Long Beach YIMBY
Los Angeles County Democratic Party
Los Angeles Homeless Services Authority
Mountain View YIMBY
North Bay Leadership Council
Northern Neighbors
Path
Peninsula for Everyone

People for Housing - Orange County
Public Advocates
San Fernando Valley YIMBY
San Francisco Bay Area Rapid Transit District
Santa Cruz YIMBY
Silicon Valley @ Home
Silicon Valley Leadership Group
South Bay YIMBY
Southern California Association of Governments
Streets for People Bay Area
The Santa Monica Democratic Club
Urban Environmentalists
YIMBY Action
Zillow Group

OPPOSITION: (Verified 1/5/22)

None received

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
1/5/22 15:49:43

****** END ******

SENATE RULES COMMITTEE SCA 5
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SCA 5
Author: Glazer (D), et al.
Amended: 8/26/21
Vote: 27

SENATE EDUCATION COMMITTEE: 6-0, 6/9/21
AYES: Leyva, Ochoa Bogh, Cortese, Glazer, McGuire, Pan
NO VOTE RECORDED: Dahle

SENATE ELECTIONS & C.A. COMMITTEE: 5-0, 6/28/21
AYES: Glazer, Nielsen, Hertzberg, Leyva, Newman

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

SUBJECT: University of California: regents: student members

SOURCE: Author

DIGEST: This constitutional amendment modifies Article IX of the State Constitution to require, rather than authorize, the University of California (UC) Board of Regents to appoint two students enrolled at a UC campus to the UC Board of Regents.

ANALYSIS:

Existing law:

1) Establishes, in the California Constitution, the UC, a public trust to be administered by the Regents of the UC and grants the Regents full powers of organization and government, subject only to such legislative control as may be necessary to insure security of its funds, compliance with the terms of its endowments, statutory requirements around competitive bidding and contracts, sales of property and the purchase of materials, goods and services. (Article IX, Section (9)(a) of the California Constitution)

2) Establishes, in the California Constitution, the requirements for appointment and terms to be served by a member of the Regents of the UC. The Constitution specifically requires that members of the board be composed of 7 ex officio member of which include; the Governor, the Lieutenant Governor, the Speaker of the Assembly, the Superintendent of Public Instruction, the president and the vice president of the alumni association of the university, and the acting president of the university and 18 appointive members. The Constitution also provides that the Senate, a majority of the membership concurring, approve any Regent appointee made by the Governor. (Article IX, Section (9)(a) and (b)(1) of the California Constitution)

3) Authorizes the UC Regents to appoint student or faculty and establishes procedures for their appointment. Specifically it, authorizes the members of the board to appoint either a member of the faculty at a campus of the university or of another institution of higher education, or a person enrolled as a student at a campus of the university, or both, as members of the board serving for no less than one year with all rights of participation. The Constitution also provides that the board appointed student or faculty serve for not less than one year commencing on July 1. (Article IX, Section (9)(c) of the California Constitution)

This constitutional amendment proposes to place before the voters a change to the California Constitution to modify the membership of the Board of Regents of the UC. Specifically, this constitutional amendment:

1) Requires, rather than authorizes, the UC Regents to appoint two students enrolled at a UC campus to serve as members of the UC Board of Regents.

2) Continues to require the length of service for an appointed student or faculty representative be no less than one year with all rights of participation.

3) Makes other technical and non-substantive changes.

Comments

1) *Need for the bill.* According to the author, "SCA 5 would increase the voting rights of the student members of the University of California (UC) Board of Regents by allowing the existing non-voting student regent to receive voting power, thereby giving both students voting rights. This would only take into effect if approved by the voters of California.

"Currently, two students serve on the UC Board of Regents. However, only one has voting power. When a student is appointed to the board, they serve a year as a non-voting member of the board, and at the completion of that year then become the voting student regent. This bill would vest both students with a vote at the board.

"The student population is much more diverse than it was when the first student was added in 1975, and it is critical that these diverse voices, which represent so many varying perspectives, are held at Regent meetings. Without the right to vote, the non-voting trustee cannot participate in a meaningful way on the committees of the board of regents.

"Student voices are among the most important factors in setting education policy. SCA 5 will allow an additional student regent to serve a one-year term as a full voting member of the Board and would allow this student to represent UC's 285,000 students as a voting member."

2) *Increases the Number of Voting Members.* The California Constitution requires the UC Board of Regents to be composed of seven ex officio members and 18 appointive members (25 voting members total). The California Constitution also authorizes the members of the board to appoint either a member of the faculty at a campus of the university or of another institution of higher education, or a person enrolled as a student at a campus of the university, or both, as members of the board serving for no less than one year with all rights of participation (potentially two additional voting members - one student, one faculty member).

   On the UC Board of Regents, there is currently a student regent who is a voting member. If SCA 5 is approved by voters, one additional student would be appointed to the UC Board of Regents with voting rights and both student regents would be required to be appointed following the measure's passage. This would increase the total number of required voting members of the UC Board of Regents.

3) *Constitutional amendment requirements*. As a proposed Constitutional amendment, this measure would not go into effect unless approved by the majority of voters at a statewide election. This proposal requires a 2/3 vote of each house of the Legislature in order to be submitted to the voters. It does not require approval by the Governor.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee:

- This measure would result in one-time General Fund costs to the Secretary of State (SOS) in the range of $546,000 to $728,000, likely in 2021-22, for printing and mailing costs to place the measure on the ballot in a statewide election. Actual costs may be higher or lower, depending on the length of required elements and the overall size of the ballot.

- The UC indicates that any costs resulting from this measure would be minor and absorbable within existing resources.

SUPPORT: (Verified 1/11/22)

Alliance for a Better Community
Associated Students of the University of California
California Nurse-Midwives Association
California Women's Law Center
Coalition of California Welfare Rights Organizations
Council of UC Faculty Associations
Courage California
Dolores Huerta Foundation
Evolve California
John Burton Advocates for Youth
Motivating Individual Leadership for Public Advancement
Naral Pro-Choice California
Northern California College Promise Coalition
The Education Trust - West
University Council-American Federation of Teachers
University of California Student Association
Women's Foundation California

OPPOSITION: (Verified 1/11/22)

None received

Prepared by: Olgalilia Ramirez / ED. / (916) 651-4105
1/11/22 15:28:43

****** END ******

Office of Senate Floor Analyses
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THIRD READING

Bill No: SCR 53
Author: McGuire (D), et al.
Introduced: 6/22/21
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-0, 1/10/22
AYES: Allen, Gonzalez, Skinner, Stern, Wieckowski
NO VOTE RECORDED: Bates, Dahle

SUBJECT: Climate change

SOURCE: Author

DIGEST: This resolution declares that a climate emergency threatens the state, the nation, the planet, the natural world, and all of humanity.

ANALYSIS: Existing law enacts the California Global Warming Solutions Act of 2006 (Health and Safety Code §38500 et seq.), which:

1) Establishes the Air Resources Board (ARB) as the state agency responsible for monitoring and regulating sources emitting greenhouse gases (GHGs).

2) Requires ARB to approve a statewide GHG emissions limit equivalent to the statewide GHG emissions level in 1990 to be achieved by 2020 (AB 32, Nunez, Chapter 488, Statutes of 2006) and to ensure that statewide GHG emissions are reduced to at least 40% below the 1990 level by 2030. (SB 32, Pavley, Chapter 249, Statutes of 2015)

3) Requires ARB to prepare and approve a scoping plan for achieving the maximum technologically feasible and cost-effective reductions in GHG emissions and to update the scoping plan at least once every five years.

4) Requires ARB when adopting regulations, to the extent feasible and in furtherance of achieving the statewide GHG emissions goal, to do the following:

a) Ensure that activities undertaken to comply with the regulations do not disproportionately impact low-income communities.
b) Ensure that activities pursuant to the regulations do not interfere with efforts to achieve and maintain federal and state ambient air quality standards and to reduce toxic air contaminant emissions.
c) Consider overall societal benefits, including reductions in other air pollutants, diversification of energy sources, and other benefits to the economy, environment, and public health.
d) Consider cost-effectiveness of these regulations.

This resolution:

1) States that California has proven to be a leader in adopting policies to address climate change.

2) Acknowledges that the consequences of climate change are causing multiple crises across the globe.

3) Recognizes that 97% of scientists agree that climate change is human induced and warn that the planet's warming should not exceed 1.5 ℃.

4) Finds that the United States has rejoined the Paris Agreement and global emissions must begin to fall by 7.6% each year beginning in 2020 in order to meet the most ambitious goals of the Paris Agreement.

5) Finds that climate change will cause sea level rise, ocean acidification and warming, impact human health, disproportionately impact marginalized communities, all of which have impacts across California and across the globe.

6) Recognizes that California has been profoundly impacted by several natural disasters, made worse by climate change, and the state has already warmed by 3 °F over the past century, which has led to a hotter and drier climate that exacerbates wildfires.

7) Finds that 40 cities and counties in California have already declared climate emergencies as well as many governments and universities globally.

8) States that California has demonstrated a remarkable capacity to protect human health in the face of a crisis during the COVID-19 pandemic, and must apply those lessons to protect communities from climate change.

9) Declares that the State of California must commit to ensuring that its actions remain in alignment with the most current science regarding climate change

and do everything in its power to encourage swift conversion to an ecologically, socially, and financially stable economy.

10) Resolves that the California State Legislature declare that the climate emergency threatens the state, the nation, the planet, the natural world, and all of humanity.

Background

1) *The climate crisis in California.* California is particularly susceptible to the harmful effects of climate change, including an increase in extreme heat events, drought, wildfire, sea level rise, and more. According to the Fourth California Climate Change Assessment, by 2100, the average annual maximum daily temperature is projected to increase by 5.6-8.8 °F, water supply from snowpack is projected to decline by two-thirds, the average area burned in wildfires could increase by 77%, and 31-67% of Southern California beaches may completely erode without large-scale human intervention, all under business as usual and moderate GHG reduction pathways. California is already experiencing the effects of climate change now.

2) *The scientific consensus on climate change.* Over 40 years ago in 1979, scientists from 50 nations met at the First World Climate Conference in Geneva and agreed that climate change was an alarming concern that necessitated urgent action. Since then, through many more global assemblies and meetings, scientists have continued to warn of insufficient progress towards mitigating global climate change.

   The International Panel on Climate Change, an intergovernmental body of the United Nations formed in 1988, is often seen as the leading international body of scientists on climate change. Since their landmark Fifth Assessment Report in 2014 declaring that, to ensure that the most harmful impacts of climate change are avoided, global warming should not surpass 2 °C, their recommendations have only become more urgent. In 2018, they released a special report stating that warming should actually not surpass 1.5 °C. On August 9th, the first installment of the Sixth Assessment Report on Climate Change was released. This report warns that the chances of limiting warming to 1.5-2 °C are slipping out of reach without drastic and immediate global action to transition away from fossil fuels and reduce GHG emissions to zero by around 2050.

3) *The cost of climate change*. Climate change comes with a huge price tag for every government, and California is no exception. The increasing intensity and frequency of the consequences of climate change will continue to burden budgets. California's 2018 wildfires, less than half the size of the 2020 conflagrations, cost $148.5 billion in damages (about two thirds of California's pre-COVID 2020 state budget), with $27.7 billion (19%) in capital losses, $32.2 billion (22%) in health costs and $88.6 billion (59%) in indirect losses with a majority of those far from the actual wildfire footprint. The cost of water and energy is predicted to increase significantly as well, especially in the Western United States. The Natural Resources Defense Council estimates that under a business-as-usual scenario, between the years 2025 and 2100, the cost of providing water to the western states in the United States will increase from $200 billion to $950 billion per year, nearly an estimated 1% of the United States' gross domestic product.

   There is a greater human cost to climate change as well. In addition to capital losses, increased cost of resources, and health costs, the impacts of climate change on mental health, food security, displacement and migration, and more are just coming into the conversation and are still difficult to quantify.

   Of course, taking action to mitigate climate change damages—by reducing emissions, protecting vulnerable communities and assets, and limiting warming—will be costly as well. However, it is important that those costs be compared to the monumental costs of inaction leading to increased warming, more frequent and intense disasters, and greater human health impacts.

4) *Climate change and equity.* The effects of climate change to date have been felt the world over, but the most dire consequences have often struck those least able to defend themselves. This is true both in California and worldwide. Should reaching net zero GHG emissions be delayed and rapid warming allowed to continue, experts predict unprecedented numbers of deaths, ecosystem destruction, and human migration. In a 2019 report on climate change and poverty, the United Nations Human Rights Council states, "Addressing climate change will require a fundamental shift in the global economy, decoupling improvements in economic well-being from fossil fuel emissions… An over-reliance on the private sector could lead to a climate apartheid scenario in which the wealthy pay to escape overheating, hunger, and conflict, while the rest of the world is left to suffer."

Climate change poses the greatest threat to those least responsible for it, including low-income and disadvantaged populations, women, racial minorities, marginalized ethnic groups, and the elderly. When equity is taken into account for GHG emissions reductions, "the combined emissions of the richest one per cent of the global population account for more than twice the poorest 50 per cent. The elite will need to reduce their footprint by a factor of at least 30 to stay in line with the Paris Agreement targets," according the UNEP 2020 Emissions Gap Report.

Comments

1) *Purpose of this resolution.* According to the author, "Experts believe climate change has made California - and the American West - warmer and drier over the last 30 years. Extreme heat is now the top weather-related killer in the US. Western states are more susceptible to extreme drought and larger, more destructive and more frequent wildfires. Our coastal communities are already experiencing early challenges with sea level rise. California's climate has always been variable, but the last couple of decades have been some of the hottest on record here in the Golden State. We know that this crisis is evolving faster than anticipated and communities big and small are starting to witness its damaging impacts.

   "Just last year, the legislature approved over $15 billion in funding to tackle the growing wildfire crisis in this state. We'll be investing in drought response and resiliency, helping communities prepare for extreme heat and sea level rise, advancing more sustainable agriculture practices. This is truly a nation-leading climate agenda. And while we Californians have historically led this nation on emission reduction efforts, now more than ever, we must redouble our focus to combat this growing crisis."

2) *What's in an emergency?* SCR 53 declares that, "the climate emergency threatens the state, the nation, the planet, the natural world, and all of humanity." Given the concordance of such a wide body of scientific evidence supporting this fact, there is little doubt this is true.

   However, the term "climate emergency" does not appear in California statute and merits further consideration. In the 1970 California Emergency Services Act, three conditions or degrees of emergency were established. In particular, a "state of emergency" is, in part, defined as "conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions such as air pollution, fire, flood, storm, epidemic, riot, drought,

cyberterrorism, sudden and severe energy shortage, plant or animal infestation or disease." Most of these conditions have worsened (or are expected to) considerably because of increasing global climate change. Therefore, the use of phrase "climate emergency" appears justified.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 1/12/22)

350 Humboldt
350 Silicon Valley
Elders Climate Action, Norcal and Socal Chapters
Fossil Free California
Marin Clean Energy
Save the Redwoods League
Sonoma Clean Power
The Climate Center

OPPOSITION: (Verified 1/12/22)

None received

Prepared by: Eric Walters / E.Q. / (916) 651-4108
1/13/22 13:52:36

****** END ******

SENATE RULES COMMITTEE SCR 63
Office of Senate Floor Analyses
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THIRD READING

Bill No: SCR 63
Author: Hurtado (D), et al.
Introduced: 1/3/22
Vote: 21

SUBJECT: Rose Ann Vuich Recognition Day

SOURCE: Author

DIGEST: This resolution proclaims January 27, 2022, as Rose Ann Vuich Recognition Day, in recognition of Senator Rose Ann Vuich as the first woman elected to the California State Senate, to honor Senator Vuich's service to the Senate, and to appropriately reflect the Senator's stature and legacy.

ANALYSIS: This resolution makes the following legislative findings:

1) Senator Rose Ann Vuich blazed a trail for women in the California Legislature by being the first woman elected to the State Senate.

2) Senator Vuich was first elected to the Senate in 1976 and served four consecutive terms until 1992.

3) Before election to the Senate, Senator Vuich had distinguished careers as a farmer, President of the Dinuba Chamber of Commerce, a tax accountant, an estate planner, and an office manager.

4) Senator Vuich authored California's Agricultural Export Finance Program, which became a national model.

5) Senator Vuich authored legislation that created the former California Trade and Commerce Agency.

6) Senator Vuich was the only woman in the California Senate for two years and served as the Senate's female conscience by keeping a small porcelain bell to ring whenever a colleague addressed the "gentlemen" of the Senate, as a reminder that a gentlewoman was present in the chambers.

7) The restroom near the Senate Chamber was designated "The Rose Room" in Senator Vuich's honor, as it was installed because at the time there was no women's restroom nearby, and Committee Hearing Room 2040 is known as the Rose Ann Vuich Hearing Room.

This resolution designates January 27, 2022, as Rose Ann Vuich Recognition Day, in recognition of Senator Rose Ann Vuich as the first woman elected to the California State Senate, to honor Senator Vuich's service to the Senate, and to appropriately reflect the Senator's stature and legacy.

Related/Prior Legislation

SR 29 (Romero, 2006) designated Committee Hearing Room 2040 as the Rose Ann Vuich Hearing Room. The resolution was adopted by the Senate.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 1/10/22)

None received

OPPOSITION: (Verified 1/10/22)

None received

Prepared by: Karen Chow / SFA / (916) 651-1520
1/13/22 13:52:39

****** END ******

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THIRD READING

Bill No: SR 63
Author: Skinner (D), Atkins (D), Caballero (D), Durazo (D), Eggman (D), Gonzalez (D), Hurtado (D), Kamlager (D), Leyva (D), Limón (D) and Rubio (D)
Amended: 1/13/22
Vote: Majority

SENATE JUDICIARY COMMITTEE: 7-1, 1/12/22
AYES: Umberg, Gonzalez, Hertzberg, Laird, Stern, Wieckowski, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas, Caballero, Durazo

SUBJECT: Women's Reproductive Health

SOURCE: Author

DIGEST: This resolution marks the 49th anniversary of the U.S. Supreme Court's decision in the case *Roe v. Wade* (1973) 410 U.S. 113, which established a person's right, under the federal constitution, to choose whether or not to carry a pregnancy to term.

ANALYSIS:

Existing federal law:

1) Holds that the federal constitution's implied right to privacy extends to a woman's decision about whether or not to have an abortion. (*Roe v. Wade* (1973) 410 U.S. 113.)

2) Authorizes the government to impose restrictions on abortion as long as those restrictions do not create an undue burden on a woman's right to choose to terminate a pregnancy prior to fetal viability. (*Planned Parenthood of Southeastern Pennsylvania v. Casey* (1992) 505 U.S. 833.)

Existing state law:

1) Holds that the state constitution's express right to privacy extends to a woman's decision about whether or not to have an abortion. *(People v. Belous* (1969) 71 Cal.2d 954.*)*

2) Provides that every woman has the fundamental right to choose to bear a child or to choose to obtain an abortion, with specified exceptions. (Health & Saf. Code § 123462(b).)

3) Prohibits the state from denying or interfering with a woman's fundamental right to choose to bear a child or to choose to obtain an abortion, with specified exceptions. (Health & Saf. Code § 123462(c).)

This resolution:

1) Declares that:

   a) the 49th anniversary of *Roe v. Wade* is an occasion deserving of acknowledgement;
   b) *Roe v. Wade* has been the cornerstone of reproductive freedom for all, allowing every person who can become pregnant in the United States to decide when, if, with whom, and how many children to have, thus enabling people to parent in safe and sustainable communities and facilitating equal participation in economic and social life for all;
   c) *Roe v. Wade* continues to protect the health and freedom of people who can become pregnant throughout the U.S. by providing access to a safe medical procedure that nearly 25 percent of people who can become pregnant will use;
   d) prior to *Roe v. Wade*, lack of access to safe and legal abortions cost pregnant people their health and their lives;
   e) interference with access to safe and legal abortion can lead to the criminalization of pregnancy outcomes and the incarceration of pregnant people;
   f) the central holding of *Roe v. Wade* is currently at risk of being overturned or severely eroded due to the appointment of new justices to the United States Supreme Court who have a record of hostility to the constitutional right to make choices regarding reproductive health;
   g) in the event that *Roe v. Wade* is overturned or gutted, 26 states are poised to ban abortion access, impacting 36 million women and even more people

who could become pregnant, which a study has shown could lead to an enormous increase in out-of-state women of reproductive age whose nearest abortion provider would then be in California;

h) last year was the worst year for abortion access in recent history;
i) abortion service providers continue to face serious, unrelenting attacks and threats of violence for their work; and
j) the State of California strongly supports the constitutional right set forth in the holding of *Roe v. Wade*.

2) Urges the U.S. President and Congress to express their support for safe and legal access to abortion for all who need or choose it, as well as support for access to comprehensive reproductive care.

Background

Roe v. Wade (1973) 410 U.S. 113, is the landmark U.S. Supreme Court decision holding that the implied constitutional right to privacy extends to a woman's decision whether to terminate a pregnancy, while allowing that some state regulation of abortion access could be permissible. The plaintiff in the case was "Jane Roe," an unmarried woman who wanted to end her pregnancy under safe and clinical conditions, but was unable to obtain a legal abortion in Texas because her life was not threatened by the continuation of the pregnancy. Unable to afford travel to another state to obtain an abortion, she challenged the statute making it a crime to perform an abortion unless a woman's life was at stake. She asserted that the Texas law abridged her right of personal privacy.

The U.S. Supreme Court struck down the Texas law, finding for the first time that the constitutional right to privacy is "broad enough to encompass a woman's decision whether or not to terminate her pregnancy." At the same time, the high court also defined two compelling state interests that would satisfy restrictions on a woman's right to choose to terminate a pregnancy: 1) states may regulate the abortion procedure after the first trimester of pregnancy in ways necessary to promote a woman's health; and 2) after the point of fetal viability outside of the womb, a state may, to protect the potential life of the fetus, prohibit abortions unless the procedure is necessary to preserve a woman's life or health.

Ongoing legal challenges to Roe v. Wade

Since it was handed down 49 years ago, *Roe v. Wade* has been one of the most intensely debated U.S. Supreme Court decisions. Its application and continued validity have been contested in the courts frequently and intensely. Most

significantly, in *Planned Parenthood of Southeastern Pennsylvania v. Casey* (1992) 505 U.S. 833, the Court reaffirmed the basic holding of *Roe v. Wade*, yet also permitted states to impose restrictions on abortion during the first trimester as long as those restrictions do not create an undue burden on a woman's right to choose to terminate a pregnancy.

Exactly what constitutes an undue burden remains a point of frequent legal contention, however. For example, under the *Casey* standard, the U.S. Supreme Court upheld a federal statute that restricted so-called "partial birth abortions." (*Gonzales v. Carhart* (2007) 550 U.S. 124.) More recently, the Court applied the same standard to strike down a Texas law that required any facility performing abortions to meet the state requirements for an ambulatory surgical center and also required any doctor performing abortions to have admitting privileges at a hospital within 30 miles. (*Whole Woman's Health v. Hellerstedt* (2016) ___ U.S. ___; 136 S. Ct. 2292). Since, in practice, almost no abortion facility or provider could meet these mandates, the Texas law had the effect of dramatically restricting access to abortion services in the state. Although the Court reaffirmed its *Hellerstedt* ruling two years ago in *June Medical Services, L.L.C. v. Russo* (2020) ___U.S.___ (140 S.Ct. 2103), the outcome in that case relied upon the vote of Justice Ruth Bader Ginsburg, who subsequently passed away, and the concurrence of Chief Justice John Roberts, who joined the majority on the basis of *stare decisis* – the doctrine that courts must ordinarily follow prior precedent – alone.

Meanwhile, as the post-*Roe* jurisprudence has evolved, a minority of the U.S. Supreme Court's justices have at various times indicated their belief that *Roe v. Wade* should be overturned altogether. (*See, e.g., Webster v. Reprod. Health Servs.* (1989) 492 U.S. 490.) With former President Donald Trump's appointment of Justices Neil Gorsuch, Brett Kavanaugh, and Amy Coney Barrett to the high court, it may be that a majority for that view now exists.

Indeed, the U.S. Supreme Court's recent handling of abortion-related cases strongly suggests that if the Court does not opt to explicitly overturn *Roe v. Wade* soon, it will at least dramatically narrow the constitutional right to abortion access that *Roe v. Wade* established. On December 1, 2021, the high court heard oral arguments in *Dobbs v. Jackson Women's Health Organization*. The case involves a challenge to a Mississippi state law that bans abortions after just 15 weeks of pregnancy, well before the stage of fetal viability. Mississippi passed the law in a deliberate invitation to the U.S. Supreme Court's latest crop of justices to overturn *Roe v. Wade,* and Mississippi's Solicitor General expressly called upon the Court to do so in his arguments.

No decision on the matter is expected until early summer 2022. In the meantime, there is considerable speculation over what direction the Court is likely to take. As a possible harbinger of things to come, on December 10, 2021, the Court declined to enjoin a Texas law that effectively bans abortion after just six weeks of pregnancy (before many people are even aware that they are pregnant). (*Whole Woman's Health v. Jackson* (2021) ___U.S.___ [142 S.Ct. 522].)

Likely impacts in California if Roe v. Wade were overturned

Were the U.S. Supreme Court to overturn *Roe v. Wade*, the federal constitution would no longer constrain the federal or state governments from imposing additional restrictions on abortion or even outlawing it entirely.

Within California, access to abortion probably would not be immediately affected by such a ruling since the California Supreme Court has found a right to abortion access in the state constitution's privacy clause. (*People v. Belous* (1969) 71 Cal.2d 954.) However, in the absence of a recognized federal constitutional right to abortion services, California's state constitutional protections would be at risk of preemption in the event that the federal government enacted nationwide restrictions on abortion access. By virtue of the U.S. Constitution's Supremacy Clause, such federal restrictions would trump any state protections.

Even if the federal government did not move to preempt state protections for abortion access, a reversal of *Roe v. Wade* would still have significant practical effects in California. Greater restrictions on access to abortion outside of California would likely lead to a significant influx of people moving or traveling to California to be able to make reproductive choices that would be unavailable to them in their home states. California would probably experience an increase in demand for abortion and other reproductive health services as a result.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 1/13/22)

None received

OPPOSITION: (Verified 1/13/22)

Californians for Life
Right to Life League of Southern California

ARGUMENTS IN SUPPORT: According to the author:

> There is an ongoing relentless attack on reproductive rights across the nation, recently heightened by laws enacted in several states that significantly limit a woman's reproductive choices and greatly undermine the rights assured under *Roe v. Wade*. California has been a beacon for reproductive justice and we are needed now, more than ever to strengthen our leadership nationally to ensure reproductive justice is available to all. According to a report released in October 2021 by the Guttmacher Institute, if the protections under *Roe v. Wade* continue to be overturned or gutted—as they have been in Texas— most legal observers anticipate that 26 states are likely to ban abortion. This would expand the number of out-of-state patients who would find their nearest clinic in California from 46,000 to 1.4 million – a nearly 3,000% increase. It is imperative that the California Legislature take every action within our power to ensure that California continues to live up to our proclamation as a "Reproductive Freedom State."

ARGUMENTS IN OPPOSITION: According to Californians for Life:

> We can work together to reduce infant and maternal mortality rates, but this will not be accomplished through SR 63. […]
>
> We have a dream that we can all work together to make sure women have the resources and support they need when facing the challenges of an unexpected pregnancy, so that abortion becomes unthinkable.
>
> We invite all legislators to share in that dream and join the increasing number of Californians who reject abortion.

According to the Right to Life League of Southern California:

> Guttmacher Institute statistics show that 75% of all women who have an abortion are at or below poverty level. […] The overwhelming majority of abortions are obtained by low-income, minority women who have little or no voice. These are often crisis pregnancies. California offers these women free abortion rather than the support they need to make the choice they may actually prefer – to have their baby. […]

Let us start working together TODAY to fix that by fully funding pro-family legislation, providing the resources mothers need to make the decision they actually want to make, not the one they feel - in a moment of crisis - is their only option.

Prepared by: Timothy Griffiths / JUD. / (916) 651-4113
1/13/22 16:51:42

****** END ******

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THIRD READING

Bill No: AB 666
Author: Quirk-Silva (D), et al.
Amended: 1/11/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 11-0, 6/23/21
AYES: Pan, Melendez, Eggman, Gonzalez, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 77-0, 5/27/21 - See last page for vote

SUBJECT: Substance use disorder workforce development

SOURCE: California Consortium of Addiction Programs and Professionals
California Council of Community Behavioral Health Agencies

DIGEST: This bill requires the Department of Health Care Services, on or before July 1, 2023, to develop a statewide substance use disorder (SUD) workforce needs assessment report that evaluates the current state of the SUD workforce, determines barriers to entry, and assesses the state's systems for regulating and supporting the SUD workforce.

Senate Floor Amendments of 1/11/22 are mostly technical in nature to incorporate technical assistance from the Administration, and permit the newly named Department of Health Care Access and Information to implement provisions of this bill through a contract with the Department of Health Care Services (DHCS).

ANALYSIS:

Existing law:

1) Requires DHCS to license alcoholism or drug abuse recovery or treatment facilities (RTFs) that provide residential non-medical services to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse, and who need alcohol, drug, or alcohol and drug recovery, treatment, or detoxification services. [HSC §11834.01, et seq.]

2) Grants DHCS the authority to implement a program certification procedure for alcohol and other drug treatment recovery services and to develop standards and regulations for the alcohol and other drug treatment recovery services describing the minimal level of service quality required of the service providers to qualify for and obtain state certification. [HSC §11830.1]

3) Grants DHCS sole authority in state government to determine the qualifications, including the appropriate skills, education, training, and experience, of personnel working within alcoholism or drug abuse recovery and treatment programs under DHCS's purview, as specified, and to approve certifying organizations (COs) that register and certify counselors. [HSC §11833]

This bill:

1) Requires DHCS, on or before July 1, 2023, to develop an SUD workforce needs assessment report that evaluates the current state of the SUD workforce, determines barriers to entry, and assesses the state's systems for regulating and supporting the SUD workforce. Requires the report to be submitted to the Legislature and posted on DHCS's website, as specified. Permits DHCS to contract with specified entities to implement these provisions.

2) Permits the Department of Health Care Access and Information, subject to an appropriation from the Legislature for these purposes, to implement an SUD workforce development program that may include the following elements:

    a) Paid tuition for students, as specified;
    b) Stipends to cover costs related to testing, registration, and certification, as specified;
    c) Stipends for portfolio review, as specified;
    d) Tuition reimbursement for undergraduate and graduate students who completed SUD-related coursework;

e) Tuition reimbursement for licensed mental health and medical professionals to complete SUD-specific courses; and,
f) Grants for behavioral health organizations to recruit and retain individuals representing vulnerable populations.

Comments

1) *Author's statement.* According to the author, deaths caused by SUDs in California have spiked in recent years, especially among our state's most vulnerable populations. The social and economic hardships of the COVID-19 pandemic have led nearly 15% of Americans to start or increase the use of substances, leaving clinics and professionals struggling to keep up with the heightened demand for treatment. Furthermore, California's existing SUD workforce fails to reflect the diverse cultural and linguistic backgrounds of our state's population, posing a barrier for many communities to receive appropriate care. This bill would address the shortage and lack of diversity of SUD professionals by providing tuition assistance for students to study behavioral health related fields, allocating fee waivers for tests and certification expenses, and increasing language access to preparatory materials. By combining these with a statewide needs assessment of the current SUD workforce, we can lay the groundwork for a robust workforce and better target future investment in our state's behavioral health infrastructure.

2) *California's Current and Future Behavioral Health Workforce*. While there has not been a comprehensive assessment solely of the SUD workforce needs, a report issued by the Healthforce Center at the University of California in 2018 entitled "California's Current and Future Behavioral Health Workforce" stated that one in six adults suffers from mental illness and one in fourteen children has a serious emotional disturbance. Despite access to public and private insurance coverage for behavioral health services, many Californians with mental illness or SUD do not receive treatment. To increase the likelihood that better coverage for behavioral health services will yield better access to treatment, California needs an adequate supply of behavioral health workers who are distributed equitably across the state and who reflect the demographic characteristics of the state's population. These workers must also possess the skills and credentials necessary to deliver the type of behavioral health care (e.g., prescribing/medication management, counseling) that people need. Key findings of the report include:

a) Ratios of behavioral health professionals to population vary substantially across California's regions, with the lowest ratios in the Inland Empire and San Joaquin Valley;
b) Blacks and Latinos are underrepresented among psychiatrists and psychologists relative to California's population. Latinos are also underrepresented among counselors and clinical social workers;
c) Forty-five percent of psychiatrists and 37% of psychologists are over age 60 years and are likely to retire or reduce their work hours within the next decade;
d) Wages vary widely across behavioral health occupations, as do the settings in which people are employed. SUD counselors have the lowest mean annual earnings while psychiatrists have the highest mean annual earnings;
e) California's behavioral health trainees are not distributed evenly across the state. There are no residency programs for psychiatrists and no educational programs for psychiatric mental health nurse practitioners or psychologists north of Sacramento. There are no doctoral programs in psychology in the Central Coast and San Joaquin Valley regions; and,
f) If current trends continue, California will have 41% fewer psychiatrists than needed and 11% fewer psychologists, licensed marriage and family therapists, licensed professional clinical counselors, and licensed clinical social workers than needed by 2028. Additional behavioral health professionals will be needed to care for Californians with unmet needs for behavioral health services.

3) *SUD counselor certification.* To meet current counselor requirements, individuals must be registered with or certified by a DHCS-approved CO. In order for a CO to issue certification, individuals must meet requirements established in regulations, which include completion of at least 155 hours of formal classroom education, as defined; have documented completion of at least 160 hours of supervised alcohol or other drug program counseling and 2,080 or more hours of work experience; and received a score of at least 70% on an approved exam. Certification is valid for two years and a counselor is required to complete 40 hours of continuing education every two years for renewal. Regulations allow for individuals who are registered with a CO to provide counseling services while working toward completion of certification requirements. Regulations also exempt licensed professionals (such as physicians licensed by the Medical Board of California, psychologists licensed by the Board of Psychology, those licensed by or registered as an intern with the California Board of Behavioral Sciences or the California Board of

Psychology) from certification for providing SUD counseling services at facilities and programs under DHCS's purview.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, DHCS would potentially need to utilize a contractor to complete the assessment, which we estimate would cost about $350k. In terms of creating and implementing the program, the cost for that would be indeterminate, depending on the results of the assessment, which the bill would require DHCS to consider when creating the plan, and the amount of the appropriation, which the bill requires for implementation.

SUPPORT: (Verified 1/10/22)

California Consortium of Addiction Programs and Professionals (co-source)
California Council of Community Behavioral Health Agencies (co-source)
A New PATH
Anaheim Lighthouse
Associated Rehabilitation Program for Women, Inc.
Black Leadership Council
Board of Supervisors of the City and County of San Francisco
California Access Coalition
California Association of Social Rehabilitation Agencies
California Council of Community Behavioral Health Agencies
Casa Palmera
Central Valley Recovery Services, Inc.
Community Social Model Advocates, Inc.
County Behavioral Health Directors Association of California
Elevate Addiction Services
Hathaway Recovery
Opus Health, LLC
Orange County Recovery Collaboration
PRC
San Francisco Department of Public Health
Soroptimist House of Hope, Inc.
Stepping Stone of San Diego
The Purpose of Recovery
The Turning Point Home
Tradition One
Young People in Recovery

OPPOSITION: (Verified 1/10/22)

None received

ARGUMENTS IN SUPPORT: Supporters of this bill, largely SUD service providers, state that about 8% of Californians, or 2.7 million people, met the criteria for SUD diagnosis in the past year and of those, only 1 in 10 received treatment. Additionally, California lags the nation in its percentage of qualified counselors and other addiction treatment providers. There are less than 20,000 SUD certified counselors in California, and fewer than 700 of the nearly 140,000 physicians who hold a California license maintain an addiction specialty certification. Addiction programs have cited the lack of qualified staff as a primary reason that they are unable to expand provision of services to clients. This workforce deficit contributes to California's treatment shortage, which in turn contributes to levels of homelessness in the state. SUDs are increasingly prevalent among California's most vulnerable populations. For example, homelessness is closely intertwined with SUD, with over 60% of the homeless population dependent on alcohol or other drugs. Lesbian, gay, bisexual, transgender, and questioning adolescents are 90% more likely to use substances than their heterosexual peers, leading to increased incidences of behavioral health issues. Despite the crisis, the SUD workforce has been significantly underfunded. While Mental Health Services Act funding may be used for mental health issues, the funding currently is not spent on SUD-specific services. Last year's budget included $50 million in additional funding for mental health workforce development, but no allotment for the SUD workforce. Furthermore, California's existing workforce fails to reflect the diverse linguistic and cultural backgrounds of the state's population struggling with an SUD. According to the 2010 U.S. Census, nearly 40% of Californians are of Hispanic/Latino origin, and 15% are Asian American. California's mental health and SUD workforce remains

ASSEMBLY FLOOR: 77-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Maienschein

Prepared by: Reyes Diaz / HEALTH / (916) 651-4111
1/14/22 16:27:25

****** END ******

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1568
Author: Committee on Emergency Management
Amended: 1/3/22 in Senate
Vote: 27 - Urgency

SENATE GOVERNMENTAL ORG. COMMITTEE: 15-0, 7/6/21
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Borgeas, Bradford, Glazer, Hueso, Jones, Kamlager, Melendez, Portantino, Rubio, Wilk

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 78-0, 6/2/21 - See last page for vote

SUBJECT: California Emergency Services Act: Office of Emergency Services: donations portal

SOURCE: Author

DIGEST: This bill requires the Office of Emergency Services (OES) to establish a statewide donations portal as an entryway for private businesses and nonprofit organizations that are interested in donating services, goods, labor, equipment, resources, or facilities to assist in disaster preparedness, as specified.

Senate Floor Amendments of 1/3/22 require that OES establish a statewide donations portal, as specified, and provide that certain civil liability exemptions apply to private businesses and nonprofit organizations utilizing the donations portal.

ANALYSIS:

Existing law:

1) Establishes, under the California Emergency Services Act (ESA), OES and vests the office with responsibility for the state's emergency and disaster

response services for natural, technological, or human-made disasters and emergencies, as specified.

2) Authorizes OES to establish a statewide registry of private businesses and nonprofit organizations that are interested in donating service, goods, labor, equipment, resources, or dispensaries or other facilities, as specified.

3) Provides that the Legislature finds and declares that the state can only truly be prepared for the next disaster if the public and private sector collaborate, as specified.

4) Provides certain exemptions from civil liability to private businesses and nonprofit organizations included on the statewide registry that voluntarily and without expectation and receipt of compensation donate services, goods, labor, equipment, resources, or dispensaries or other facilities during a declared state of war, state of emergency, or state of local emergency, as provided.

This bill:

1) Requires OES to establish a statewide donations portal, or successor system, as an entryway for private businesses and nonprofit organizations that are interested in donating service, goods, labor, equipment, resources, or dispensaries or other facilities, as specified.

2) Provides that existing exemptions from civil liability apply to private businesses and nonprofit organizations utilizing the donations portal, or successor system, as specified.

3) Includes an urgency clause to take effect immediately.

Comments

Purpose of this bill. According to the author's office, "the COVID-19 pandemic has made it clear that, in order to best prepare and protect the citizens of the state and ensure that we are prepared for and can respond to emergencies, government and the private sector need to work together. The public sector alone is incapable of meeting California's preparedness needs. The private and nonprofit sectors have vast stores of medical supplies, building and construction materials, food, water and other goods, as well as services that would be essential following a catastrophic event."

Further, the author's office states that, "the private sector owns or has access to substantial response and support resources. Community Based Organizations or

Non-Governmental Organizations also provide valuable resources before, during, and after a disaster. These resources can be effective assets before, during and after emergencies. We should make it as easy as possible for the private sector to donate their goods and services to enhance California's disaster preparedness."

Ongoing and complex disasters are the new normal. In recent written testimony provided to the House of Representatives Committee on Appropriations, California's OES Director stated, "the State of California arguably faces the most complex and severe disaster conditions in the nation and these challenges and complexities grow in magnitude each year. In the past decade, California has experienced every conceivable type of natural and manmade disaster including drought, earthquake, flood, catastrophic wildfire, mudslides, dam failure, cyber security attacks, oil spills, natural gas leak, civil unrest, terrorism, and tsunami. However, the COVID-19 pandemic has put our emergency management system to the test."

Emergency Preparedness and Response. OES is responsible for addressing natural, technological, or manmade disasters and emergencies, and preparing the State to prevent, respond to, quickly recover from, and mitigate the effects of both intentional and natural disasters. As part of their overall preparedness mission, OES is required to develop a State Emergency Plan (SEP), State Hazard Mitigation Plan (SHMP), and maintains Standardized Emergency Management System (SEMS) and the Emergency Management Mutual Aid System (EMMA). OES, in coordination with FEMA and local partners, has developed four Catastrophic Plans to augment the SEP.

Office of Private Sector and Non-Governmental Organization. In 2015, OES established the Office of Private Sector and Non-Governmental Organization (NGO) Coordination. This office designs, coordinates, and implements statewide outreach programs to foster relationships with businesses, associations, companies, academia, as well as non-profit and philanthropic organizations. It works within OES to maximize inclusion and effective use of private sector and NGO staff and resources in all phases of emergency management.

Existing law authorizes OES to establish a statewide registry of private businesses and nonprofit organizations that are interested in donating services, goods, labor, equipment, resources, or dispensaries or other facilities, as specified.

This bill instead *requires* OES to establish a statewide donations portal, or successor system, as an entryway for private businesses and nonprofit organizations that are interested in donating services, goods, labor, equipment, resources, or facilities to assist in disaster preparedness.

Related/Prior Legislation

AB 2796 (Nava, Chapter 363, Statutes of 2008) authorized OES to establish a statewide registry of private businesses and nonprofit organizations that are interested in donating services, goods, labor, equipment, resources, or dispensaries or other facilities to further collaboration between the private and public sector.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, OES anticipates costs of approximately $377,275 in the first year and $227,275 ongoing for additional staff time to stand up the database, conduct outreach to private businesses and nonprofit organizations, and maintain the database (General Fund).

SUPPORT: (Verified 1/4/22)

None received

OPPOSITION: (Verified 1/4/22)

None received

ASSEMBLY FLOOR: 78-0, 6/2/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow

Prepared by: Brian Duke / G.O. / (916) 651-1530
1/5/22 15:49:34

****** END ******