2019-20 SESSION

SENATE
THIRD READING PACKET

THURSDAY, JUNE 11, 2020

JONAS AUSTIN
Director

OFFICE OF SENATE FLOOR ANALYSES
651-1520

SENATE THIRD READING PACKET

Attached are analyses of bills on the Daily File for Thursday, June 11, 2020.

Note	Measure	Author	Location
+	SB 794	Jackson	Consent Calendar Second Legislative Day
+	SB 800	Dodd	Consent Calendar Second Legislative Day
	SB 809	Committee on Budget and Fiscal Review	Senate Bills - Third Reading File
+	SB 860	Beall	Senate Bills - Third Reading File
+	SB 864	Wilk	Consent Calendar Second Legislative Day
+	SB 865	Hill	Senate Bills - Third Reading File
+	SB 869	Committee on Governmental Organization	Consent Calendar Second Legislative Day
+	SB 872	Dodd	Senate Bills - Third Reading File
+	SB 898	Wieckowski	Senate Bills - Third Reading File
+	SB 903	Grove	Consent Calendar Second Legislative Day
+	SB 905	Archuleta	Senate Bills - Third Reading File
+	SB 909	Dodd	Consent Calendar Second Legislative Day
+	SB 918	Committee on Governmental Organization	Consent Calendar Second Legislative Day
+	SB 928	Committee on Governance and Finance	Consent Calendar Second Legislative Day
+	SB 929	Committee on Governance and Finance	Consent Calendar Second Legislative Day
+	SB 930	Committee on Governance and Finance	Consent Calendar Second Legislative Day
+	SB 940	Beall	Senate Bills - Third Reading File
+	SB 970	Umberg	Consent Calendar Second Legislative Day
+	SB 972	Skinner	Senate Bills - Third Reading File
+	SB 974	Hurtado	Senate Bills - Third Reading File
+	SB 998	Moorlach	Senate Bills - Third Reading File
+	SB 999	Umberg	Senate Bills - Third Reading File
+	SB 1003	Jones	Consent Calendar Second Legislative Day
+	SB 1029	Pan	Consent Calendar Second Legislative Day
+	SB 1030	Committee on Housing	Senate Bills - Third Reading File
+	SB 1049	Glazer	Senate Bills - Third Reading File
+	SB 1099	Dodd	Senate Bills - Third Reading File
+	SB 1102	Monning	Senate Bills - Third Reading File
+	SB 1105	Umberg	Consent Calendar Second Legislative Day
+	SB 1117	Monning	Special Consent Calendar No.21
+	SB 1123	Chang	Consent Calendar Second Legislative Day
+	SB 1126	Jones	Consent Calendar Second Legislative Day
+	SB 1133	Jackson	Senate Bills - Third Reading File
+	SB 1146	Umberg	Consent Calendar Second Legislative Day
+	SB 1148	Jones	Consent Calendar Second Legislative Day
+	SB 1157	Bradford	Senate Bills - Third Reading File
+	SB 1177	Jones	Consent Calendar Second Legislative Day
+	SB 1181	Committee on Education	Consent Calendar Second Legislative Day
+	SB 1185	Moorlach	Senate Bills - Third Reading File
+	SB 1192	Bradford	Senate Bills - Third Reading File
+	SB 1207	Jackson	Senate Bills - Third Reading File

+ ADDS
RA Revised Analysis
* Analysis pending

Note	Measure	Author	Location
+	SB 1212	Rubio	Consent Calendar Second Legislative Day
+	SB 1231	Monning	Consent Calendar Second Legislative Day
+	SB 1244	Bradford	Senate Bills - Third Reading File
+	SB 1271	Morrell	Senate Bills - Third Reading File
+	SB 1276	Rubio	Consent Calendar Second Legislative Day
+	SB 1285	Nielsen	Consent Calendar Second Legislative Day
+	SB 1290	Durazo	Senate Bills - Third Reading File
+	SB 1291	Committee on Transportation	Consent Calendar Second Legislative Day
+	SB 1305	Roth	Consent Calendar Second Legislative Day
+	SB 1307	Rubio	Consent Calendar Second Legislative Day
+	SB 1347	Galgiani	Senate Bills - Third Reading File
+	SB 1349	Glazer	Senate Bills - Third Reading File
+	SB 1351	Beall	Consent Calendar Second Legislative Day
+	SB 1371	Committee on Judiciary	Consent Calendar Second Legislative Day
+	SB 1373	Bates	Senate Bills - Third Reading File
+	SB 1380	Allen	Senate Bills - Third Reading File
+	SB 1384	Monning	Senate Bills - Third Reading File
+	SB 1386	Moorlach	Special Consent Calendar No.21
+	SB 1441	McGuire	Senate Bills - Third Reading File
+	SB 1447	Bradford	Special Consent Calendar No.21
+	SB 1448	Bradford	Senate Bills - Third Reading File
+	SB 1459	Caballero	Consent Calendar Second Legislative Day
+	SB 1472	Committee on Natural Resources and Water	Senate Bills - Third Reading File
+	SB 1473	Committee on Governance and Finance	Consent Calendar Second Legislative Day
	SCR 61	Skinner	Senate Bills - Third Reading File
+	SCR 77	Glazer	Consent Calendar Second Legislative Day
	SCR 80	Archuleta	Special Consent Calendar No.21
	SCR 82	Grove	Special Consent Calendar No.21
RA	SCR 84	Pan	Special Consent Calendar No.21
+	SCR 86	Hurtado	Consent Calendar Second Legislative Day
	SCR 87	Dahle	Special Consent Calendar No.21
	SCR 88	Galgiani	Special Consent Calendar No.21
+	SJR 14	Archuleta	Consent Calendar Second Legislative Day
	SR 73	Archuleta	Special Consent Calendar No.21
	SR 76	Pan	Special Consent Calendar No.21
	SR 79	Leyva	Special Consent Calendar No.21
+	SR 81	Umberg	Special Consent Calendar No.21
+	SR 82	McGuire	Special Consent Calendar No.21
+	SR 83	Lena Gonzalez	Senate Bills - Third Reading File
+	AB 240	Irwin	Assembly Bills - Third Reading File
+	AB 860	Berman	Assembly Bills - Third Reading File
	AB 1460	Weber	Assembly Bills - Third Reading File
	ACA 14	Gonzalez	Assembly Bills - Third Reading File
	ACR 115	Kamlager	Assembly Bills - Third Reading File
	ACR 153	Luz Rivas	Special Consent Calendar No.20
	ACR 154	Luz Rivas	Special Consent Calendar No.20
	ACR 155	Weber	Special Consent Calendar No.20
RA	ACR 159	Chen	Special Consent Calendar No.20
+	ACR 160	Gloria	Assembly Bills - Third Reading File

+ ADDS
RA Revised Analysis
* Analysis pending

Note	Measure	Author	Location
	ACR 164	Blanca Rubio	Special Consent Calendar No.20
+	ACR 169	Aguiar-Curry	Assembly Bills - Third Reading File
+	ACR 170	Kamlager	Assembly Bills - Third Reading File
+	ACR 176	Reyes	Assembly Bills - Third Reading File
	ACR 178	Blanca Rubio	Assembly Bills - Third Reading File

+ ADDS
RA Revised Analysis
* Analysis pending

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CONSENT

Bill No: SB 794
Author: Jackson (D) and Stern (D), et al.
Amended: 5/26/20
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 13-0, 5/12/20
AYES: Dodd, Wilk, Allen, Archuleta, Bradford, Chang, Galgiani, Hill, Hueso, Nielsen, Portantino, Rubio, Wiener
NO VOTE RECORDED: Borgeas, Glazer, Jones

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Emergency services: telecommunications

SOURCE: Author

DIGEST: This bill expands existing authority granted to counties by authorizing cities and postsecondary institutions that receive state funds to access the contact information of residents, students, and employees for the sole purpose of enrolling individuals in a local government-, university-, or college-operated public emergency warning system and provides for notification of enrollment and a process for opting out.

ANALYSIS:

Existing law:

1) Authorizes counties to enter into an agreement to access the contact information of resident accountholders through the records of a public utility, or other agency as specified, for the sole purpose of enrolling county residents in a county-operated public emergency warning system, as specified.

2) Permits an authorized employee of a county social services department to disclose the name and residential address of elderly or disabled clients to police,

fire, or fire personnel in the event of a public safety emergency that necessitates the possible evacuation of the area in which those elderly or disabled clients reside, as specified.

3) Defines "access and functional needs population" as individuals who have developmental or intellectual disabilities, physical disabilities, chronic conditions, injuries, limited English proficiency or who are non-English speaking, seniors, children, people living in institutionalized settings, or those who are low income, homeless, or transportation disadvantaged, including, but not limited to, those who are dependent on public transit or those who are pregnant.

This bill:

1) Extends to cities the authorization to enter into agreements to access contact information of public utility resident accountholders for the sole purpose of enrolling residents in a local government-operated public emergency warning system, as specified.

2) Authorizes a local government to use its own social services department records or enter into an agreement with a social services department to obtain the contact information for residents from the access and functional needs population and their emergency contacts for the sole purpose of enrolling those persons in a local government operated public emergency warning system.

3) Authorizes the governing bodies of a postsecondary institution that receives state funds to access their own enrollment, registration, and personnel records for the sole purpose of enrolling students and employees in a university- or college-operated public emergency warning system.

4) Requires a local government or the governing body of a postsecondary institution that receives state funds that operates a public emergency warning system pursuant to this bill to include procedures to enable any covered resident, emergency contact, student, or employee to opt out of the public emergency warning system and ensure that the confidentiality of the contact information is protected under reasonable security procedures, as specified.

5) Permits an employee of a county social services department to additionally disclose the telephone number and email address of elderly or disabled individuals receiving services to police, fire, paramedical personnel in the event

of a public safety emergency that necessitates the possible evacuation of the area, as specified.

6) Requires a county social services agency to notify elderly or disabled individuals receiving services, that their information has been disclosed for emergency purposes.

7) Specifies that a public power shutoff is a public safety emergency for purposes of this bill.

8) Defines "contact information" as a person's name, address, telephone number, and email address.

Background

Purpose of the bill. According to the author's office, "many jurisdictions in California rely on their own locally operated telephonic emergency notification systems in order to communicate with residents during an emergency. These systems can send pre-recorded messages to landline telephones located within a defined target area, as well as text and voice alerts to mobile telephones. Given the unique ability to target alerts using physical addresses, locally operated telephonic notification systems are among the most precise emergency notification systems in use today, but because registration of mobile phones was not until recently an automatic process, many jurisdictions struggled to get residents to sign up to receive alerts."

Local Emergency Alert Systems. For generations, emergency alerts have been sent over television and radio broadcasts, but anyone not watching or listening is unable to receive the critical and possibly life-saving information. Today, multiple mechanisms exist at the local level for alerting the public about emergencies and disasters. These systems vary widely in their use of technology, use of public and private resources, and mechanisms for sending alerts. Emergency alert systems can include, but are not limited to, warning sirens, reverse 911 calls, television and radio broadcasts (Emergency Alert System (EAS)), wireless telephone alert broadcasts (Wireless Emergency Alerts (WEA)), and the use of private sector vendors such as Everbridge/Nixle that supply emergency alert calls, texts, and other notifications using contact information supplied by local agencies. Each county can determine what mechanism it will use to send emergency alerts.

SB 821 (Jackson, Chapter 615, Statutes of 2018) authorized counties to enter into an agreement to access the contact information of resident accountholders through the records of a public utility for the sole purpose of enrolling county residents in a county-operated public emergency warning system. This bill expands that authority to cities, and authorizes the governing bodies of a postsecondary institution that receives state funds, including funds for student financial assistance, to access their own enrollment, registration, and personnel records for the sole purpose of enrolling students and employees in a university- or college-operated public emergency warning system.

The expanded authorizations included in this bill are accompanied by requirements that local governments and postsecondary institutions notify enrollees that they have been enrolled in the public emergency warning system including a process to opt out of the warning system and to terminate the local government's access to the contact information. For purposes of this bill, "contact information" means a person's name, address, telephone number, and email address.

Access and functional needs population. Existing law requires each county, upon the next update to its emergency plan, to integrate access and functional needs into its emergency plan by addressing, at a minimum, how the access and functional needs population is served by emergency communications, emergency evacuation for individuals who are dependent on public transportation, and accessible emergency sheltering. This bill requires each county, upon the next update to its emergency plan regarding the integration of access and functional needs to include representatives from the access and functional needs population including, but not limited to, social service agencies, nonprofit organizations, and transportation providers.

Additionally, this bill authorizes local governments to enter into an agreement with a, or use the records of its own, social services department to access the contact information of persons from the access and functional needs population for the sole purpose of enrolling those individuals in a local-government operated public emergency warning system, and includes notification and disenrollment procedures for residents.

Related/Prior Legislation

AB 477 (Cervantes, Chapter 218, Statutes 2019) required counties to include representatives from the access and functional needs population in the next update to their emergency plan.

SB 821 (Jackson, Chapter 615, Statutes of 2018) authorized counties to enter into an agreement to access the contact information of resident accountholders through the records of a public utility, as defined, for the sole purpose of enrolling county residents in a county-operated public emergency warning system.

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

SUPPORT: (Verified 6/3/2020)

AARP California
California Hospital Association
City of Thousand Oaks
Disability Rights California
League of California Cities
Oakland Privacy
Santa Barbara Women's Political Committee
The Utility Reform Network
University of California
Ventura County Board of Supervisors

OPPOSITION: (Verified 6/3/20)

None received

ARGUMENTS IN SUPPORT: The Santa Barbara Women's Political Committee writes that "SB 794 is an important step forward in allowing cities and universities to automatically enroll residents in their emergency alert systems, while allowing them to opt out of receiving the notifications. It also allows local governments to identify residents with access and functional needs for the purpose of sending them specialized emergency alerts."

Prepared by: Brian Duke / G.O. / (916) 651-1530
6/4/20 9:58:08

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

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CONSENT

Bill No: SB 800
Author: Dodd (D) and Rubio (D)
Amended: 3/9/20
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 13-0, 5/12/20
AYES: Dodd, Wilk, Allen, Archuleta, Bradford, Chang, Galgiani, Hill, Hueso, Nielsen, Portantino, Rubio, Wiener
NO VOTE RECORDED: Borgeas, Glazer, Jones

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Horse racing: veterinary medical records: race horse fatalities: equine medication

SOURCE: Author

DIGEST: This bill authorizes veterinarians to make available the entire medical records of racehorses to specified parties involved in horse racing; requires the California Horse Racing Board (CHRB) to publish on a weekly basis all horse fatalities that occur within a licensed facility, as specified; and requires the CHRB to post results of nonconfidential official racehorse drug test samples within five business days of the confirmed negative split sample test result, as specified.

ANALYSIS:

Existing law:

1) Prohibits a veterinarian licensed in this state from disclosing any information concerning an animal receiving veterinary services except under any one of specified circumstances and subjects a veterinarian to specified criminal penalties for violating these provisions.

2) Requires any blood or urine test sample that the CHRB requires to be taken from a horse that is entered in any race be divided or taken in duplicate – the

initial test sample is referred to as the official test sample and the secondary sample is referred to as the split sample.

3) Requires that the CHRB be notified of a finding of a prohibited drug substance in an official test sample within 24 hours of the confirmation of that prohibited drug substance in the split sample, as specified.

4) Requires, except as specified, that the results of the tests be confidential until or unless the CHRB files an official complaint.

This bill:

1) Exempts from the existing prohibition on veterinarians disclosing any information concerning an animal receiving veterinarian services if the care or service was for a horse that has participated in or is intended to participate in a licensed horse race.

2) Requires, in situations where a horse has participated in or is intended to participate in a licensed horse race, the entire medical record for the horse be made available upon request to anyone responsible for the direct care of the horse, including the owner, trainer, or veterinarian, the CHRB or any other state or local governmental entity, and the racing association or fair conducting the licensed horse race.

3) Requires the CHRB to publish on a weekly basis, on its internet website, all horse fatalities that occur within a licensed enclosure.

4) Requires the CHRB to post on its internet website the results of all nonconfidential official test samples collected after July 1, 2020, within five business days of the confirmation of the split sample or waiver of the split sample testing by the owner or trainer.

Background

Purpose of the bill. According to the author's office, "the CHRB has recommended a number of statutory and regulatory changes. SB 800 includes three of the CHRB's recommendations – increased transparency of veterinary records, publishing online of equine fatalities, and publishing online negative drug test results. Together, with pending CHRB regulatory changes, this bill will help

to ensure that California is the safest racing jurisdiction in the nation, and an example for other states to follow."

Veterinarian records of equines. Under current law, licensed veterinarians are prohibited from disclosing any information concerning an animal receiving veterinary services, the client responsible for the animal receiving veterinary services, or the veterinary care provided to an animal, except under limited circumstances including written or oral authorization by informed consent of the client responsible for the animal, in response to a valid court subpoena, or as may be required to ensure compliance with any federal, state, county, or city law or regulation.

This bill adds an exemption to the general prohibition of sharing horse veterinary records if the care or service was for a horse that has participated in or is intended to participate in a licensed horse race. In these situations, the entire medical record for the horse shall be made available upon request to anyone responsible for the direct care of the horse, including the owner, trainer, or veterinarian, the CHRB or any other state or local government entity, and the racing association or fair conducting the licensed horse race.

Online publishing of equine fatalities. The State of California monitors all horse fatalities within CHRB racing and authorized training facilities. This is accomplished through official veterinarians, safety stewards, the equine medical director, and the CHRB/University of California, Davis (UC Davis) post-mortem program. CHRB Rule 1846.5, Postmortem Examination, requires a necropsy for all horses dying within a CHRB facility. Research findings are published in veterinary medical journals and presented at racing industry, veterinary medical, and other professional meetings available to the public. Additionally, in January 2020, the CHRB began publishing weekly updates on equine fatalities including the horse's name, breed, the activity the horse was performing, the trainer of the horse, the track surface, the weather at the time of the injury, and the last time the horse had ran in a race, among other things.

This bill requires the CHRB, by statute, to publish on a weekly basis, on its internet website, all equine fatalities that occur within a CHRB licensed facility.

Equine drug testing. In order to protect horse and jockey welfare and the integrity of racing, the CHRB requires analysis of blood and urine samples from horses in competition. The Kenneth L. Maddy Equine Analytical Chemistry Laboratory (Maddy Lab) at UC Davis, is the authorized drug-testing laboratory for California

horse racing. The Maddy Lab analyzed 52,333 samples during the 2018-2019 race season. Urine and blood samples are obtained post-race from the winner of every race, horses finishing second and third in certain stakes races, and from any other horses selected at random from each program, as well as other horses designated by the stewards. Post-race testing includes in-depth testing for anabolic steroids and over 1,800 other prohibited drugs, from regularly used therapeutic medications to potent stimulants such as ethylphenidate. Additionally, the Maddy Lab tests out-of-competition (OOC) blood samples. The OOC program monitors compliance with anabolic steroid reporting procedures and for surveillance of other drugs of interest.

Existing law requires any blood or urine test sample required by the CHRB to be taken from a horse to be divided or taken in duplicate. The initial test sample is referred to as the official test sample and the secondary sample is referred to the split sample. All samples immediately become and remain the property of the CHRB. If the official test sample is found to contain a prohibited drug substance, the executive director of the CHRB, after consulting with and agreeing with the equine medical director that the official test sample contains a prohibited substance, shall confidentially inform the owner and trainer of those results. The owner or trainer of the horse may then request that the split sample be tested by an independent laboratory, to be paid by the owner or trainer. Within 24 hours of the confirmation of a prohibited substance in the split sample, the executive director is required to report the results to the CHRB. Under existing law, the results of the test are required to be confidential until or unless the CHRB files an official complaint.

In order to increase transparency of testing, this bill requires the CHRB to post on its internet website the results of all nonconfidential official test samples collected within five business days of the confirmation of the split sample or waiver of the split sample testing by the owner or trainer.

Related/Prior Legislation

AB 1974 (Gray, 2020), among other things, adds as a CHRB responsibility, the adoption of rules and regulations that protect and advance the health, safety, welfare, and aftercare of racehorses; and, prohibit a trainer from administering any medication to a thoroughbred horse unless the medication is prescribed for that specific horse and administered strictly in accordance with board regulations, as specified. (Pending in the Assembly Appropriations Committee)

AB 2177 (Kalra, 2020), among other things, requires the CHRB to adopt rules and regulations for the welfare and safety of racehorses, as specified; requires specified licensed track operators to provide computerized tomography scanning equipment to detect potential horse injuries that shall be available onsite; establishes an onsite central pharmacy; prohibits training or races at least seven days after any sealing or reinforcement of the track, as specified; authorizes the CHRB to require racetracks to transition to high-quality synthetic surfaces, as specified; and requires the executive director of the CHRB to make drug test results publicly available. (Pending in the Assembly Governmental Organization Committee)

AB 2615 (Chau, 2020) codifies existing regulations requiring that, if a horse suffers a fatal injury on a racetrack in training or in competition, or dies or is euthanized within an area under the jurisdiction of the CHRB, the horse undergo a postmortem examination at a diagnostic laboratory that is under contract with the CHRB, as specified. (Pending in the Assembly Governmental Organization Committee)

SB 469 (Dodd, Chapter 22, Statutes of 2019) authorized the CHRB to immediately suspend a license to conduct a horse racing meeting when necessary to protect the health and safety of horses and riders, as specified.

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

SUPPORT: (Verified 6/3/20)

Los Angeles County District Attorney's Office

OPPOSITION: (Verified 6/3/20)

None received

ARGUMENTS IN SUPPORT: The Los Angeles District Attorney's Office writes that it's "Santa Anita Task Force Report of Investigation recommended that California adopt policies to increase transparency of racehorse veterinary records. The Task Force recommended that complete, digitized, individual veterinary medical records should accompany a horse throughout its racing career."

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6/4/20 9:58:08

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

SENATE RULES COMMITTEE
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THIRD READING

Bill No: SB 809
Author: Committee on Budget and Fiscal Review
Introduced: 1/10/20
Vote: 21

SUBJECT: Budget Act of 2020

SOURCE: Author

DIGEST: This bill expresses the intent of the Legislature to enact statutory changes relating to the Budget Act of 2020.

ANALYSIS: Senate Bills 809 through 848, inclusive, are to be considered as vehicles for the 2020-21 Budget Trailer Bills.

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

SUPPORT: (Verified 3/9/20)

None received

OPPOSITION: (Verified 3/9/20)

None received

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3/11/20 13:58:00

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

SENATE RULES COMMITTEE SB 860
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THIRD READING

Bill No: SB 860
Author: Beall (D), et al.
Amended: 5/13/20
Vote: 21

SENATE EDUCATION COMMITTEE: 6-0, 5/12/20
AYES: Leyva, Wilk, Chang, Durazo, McGuire, Pan
NO VOTE RECORDED: Glazer

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Foster Youth Services Coordinating Program: postsecondary education financial aid applications

SOURCE: John Burton Advocates for Youth

DIGEST: This bill modifies elements of the Foster Youth Services (FYS) Coordinating Program relative to ensuring program participants complete the Free Application for Federal Student Aid (FAFSA) or the California Dream Act Application (CADAA), and the reporting of information about the completion of those financial aid applications.

ANALYSIS:

Existing law:

FYS Coordinating Programs

1) Authorizes a county office of education, or a consortium of county offices of education, to operate an education-based FYS Coordinating Program to provide educational support for students who are in foster care. (Education Code § 42921)

2) Requires each FYS Coordinating Program, as a condition of receiving funds for that purpose, to develop and implement a FYS coordinating plan for purposes

of establishing guiding principles and protocols to provide supports for students who are in foster care. (EC § 42921)

3) Requires each FYS coordinating plan to include:

   a) A description of how the program will establish ongoing collaboration with local educational agencies (LEAs), county child welfare agencies, and county probation departments, to determine the proper educational placement of the foster youth.

   b) Policies and procedures to ensure educational placement for a foster youth is not delayed.

   c) A description of how the program will facilitate coordination with local postsecondary educational institutions to ensure foster youth meet admission requirements and access programs that support their matriculation needs.

   d) Policies and procedures for LEAs, county welfare agencies, and county probation departments to share all relevant educational information for foster youth to ensure the court has updated and accurate information as it makes decisions regarding foster youth.

4) Requires each FYS Program, as a condition of receiving funds, to report the following to the Superintendent of Public Instruction (SPI):

   a) Recommendations regarding the effectiveness and continuation of the FYS Coordinating Program.

   b) Aggregate educational outcome data for each county in which there were at least 15 students in foster care who attended school in the county, with information on the following indicators:

      i) The number of students in foster care who attended school in the county.

      ii) The academic achievement of the students in foster care, as determined by quantitative and qualitative data.

      iii) The number of students in foster care who were suspended or expelled.

      iv) The number of students in foster care who were placed in a juvenile hall, camp, ranch or other county-operated juvenile detention facility.

      v) The truancy rates, attendance rates, and dropout rates for students in foster care.

vi) The number of students in foster care participating in FYS Coordinating Programs who successfully transition to postsecondary education.

vii) The amount of funds allocated and spent by each FYS Coordinating Program in the previous two fiscal years.

c) A discussion of the meaning and implications of the indicators.

d) Information about how the program has supported the development and implementation of new policies, practices, and programs aimed at improving the educational outcomes of students in foster care.

e) Information about how the program has improved coordination of services between LEAs and county agencies, including the types of services provided to students in foster care. (EC § 42923)

5) Requires the California Department of Education (CDE) to collaborate with the Chancellor of the California Community Colleges and the Chancellor of the California State University to identify indicators that can be used to track access to postsecondary education for students in foster care participating in a FYS Coordinating Program. (EC § 42923)

FAFSA and CADAA

6) Requires submission of a FAFSA or CADAA as a condition of being eligible for various forms of student financial aid. (EC § 69433)

7) Authorizes a community college to waive some or all of the fees for first-time community college students who are enrolled full time, and who complete and submit either a FAFSA or CADAA. (EC § 76396.3)

8) Requires submission of a FAFSA or CADAA as a condition of being eligible for the Middle Class Scholarship Program. (EC § 70022)

9) Requires submission of a FAFSA as a condition of waiving mandatory systemwide tuition or fees. (EC § 66025.3, § 69000)

This bill modifies elements of the FYS Coordinating Program relative to ensuring program participants complete the FAFSA or CADAA, and the reporting of information about the completion of those financial aid applications. Specifically, this bill:

1) Expands the components of the required FYS coordinating plan to also include a description of how the program will coordinate efforts to ensure, to the extent

possible, completion of the FAFSA or the CADAA for foster youth students who are in grade 12.

2) Expands the indicators that must be included in each FYS Coordinating Program's report to the SPI to also include the number and percentage of students in foster care who successfully complete a FAFSA or CADAA while in grade 12.

Comments

1) *Need for the bill.* According to the author, "Financial aid is critical for success in higher education, but currently just 40 percent of foster youth received the Pell Grant and only 11 percent received the Cal Grant, despite virtually all meeting income eligibility requirements. One of the primary barriers that foster youth students face is that many do not complete the FAFSA. The low rate of financial aid attainment speaks to the fact that foster youth are not receiving the support they need to complete the required steps necessary to receive most forms of financial aid. The FYS Coordinating Programs, housed within each county's office of education, are the obvious entity to facilitate this coordination. [These programs] interface with school districts, child welfare and probation agencies, and community partners to coordinate educational support services for foster youth in their county. Further, they are tasked with coordinating support for college matriculation for foster youth. This bill will clarify that FAFSA completion is a specified element of this responsibility."

2) *Why is the FAFSA or CADAA so important?* The FAFSA is used to determine eligibility for federal student aid, and the FAFSA and CADAA are used to determine eligibility for state aid such as the Cal Grant or California College Promise Grant, as well as for various student support programs. Community college students do not need to submit a FAFSA or CADAA to receive a California College Promise Grant (formerly known as the Board of Governors waiver). However, community college students do need to submit a FAFSA or CADAA to be eligible for various student support programs. A recent study showed that half of the foster youth students who received a Promise Grant were not eligible for a student support program specifically for foster youth (NextUp) merely for a lack of submitting a FAFSA or CADAA. [https://www.jbaforyouth.org/wp-content/uploads/2019/07/Charting-the-Course-Final.pdf]

   While FYS Coordinating Programs are required to coordinate with local postsecondary educational institutions to ensure foster youth meet admission requirements and access programs that support their matriculation needs, there

is no requirement that programs coordinate with other entities to ensure foster youth complete the FAFSA or CADAA. This bill requires the coordinating plan to also include a description of how the program will coordinate efforts to ensure completion of the FAFSA or the CADAA for foster youth students who are in grade 12.

3) *Indicators of access to postsecondary education*. Existing law requires the CDE to work with the California Community Colleges and California State University to identify indicators that can be used to track access to postsecondary education for students in foster care who participate in the FYS Coordinating Program. According to the CDE, FYS Coordinating Programs have been asked to provide this data point to the CDE for the past two years (for purposes of inclusion in CDE's biennial report on the coordinating program). This bill adds information on FAFSA or CADAA completion to the list of indicators to be tracked.

4) *FYS Coordinating Program report.* Existing law requires the SPI to report to the Legislature specified information on the FYS Coordinating Program, by July 1 of each even-numbered year. According to the CDE, the 2020 report is in the approval process. It appears that the most recent report available on the CDE's website is from the 2012-13 school year. [https://www.cde.ca.gov/ls/pf/fy/lrlegreport2014.asp]

Related/Prior Legislation

SB 958 (Leyva, 2020) would have 1) expanded eligibility for priority enrollment and for a program of support for current and former foster youth at California Community Colleges; 2) clarified that the program may provide direct financial assistance to students prior to the beginning of an academic term; and 3) required regulations to allow the waiving of income criteria for students who were employed prior to enrollment. The author is not proceeding with SB 958 because it is not related to COVID-19 nor does the proposed change to statute absolutely need to occur this year.

AB 1617 (Reyes, 2019) would have required students to complete a FAFSA, or opt-out from doing so, as a condition of graduation from high school. AB 1617 was not heard.

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

SUPPORT: (Verified 6/3/20)

John Burton Advocates for Youth (source)

AdvancED Consulting, LLC
Alameda County CASA
Alliance for Children's Rights
Beyond Emancipation
Bill Wilson Center
California Alliance of Child and Family Services
California Faculty Association
California Federation of Teachers
California School Boards Association
California State University, Monterey Bay, College Support Programs
California Student Aid Commission
California Teachers Association
California Youth Connection
Catholic Charities of Santa Clara County
Children's Law Center of California
Children's Law Offices
County Welfare Directors Association of California
Creative Alternatives East Bay
Education Trust-West
Excite Credit Union
First Place for Youth
First STAR
Foster Care Counts
Los Angeles County Board of Supervisors
Modesto Junior College Student Success
Moreno Valley College, Grants and Student Equity Initiatives
National Association of Social Workers, California Chapter
National Center for Youth Law
Norco College, Special Funded Programs
One Day, INC.
Reedley College, NextUp & Extended Opportunity Programs and Services
Rio Hondo College
Riverside Community College District, Foster Youth Support Network
Santa Rosa Junior College, Student Financial Services
Silicon Valley Leadership Group Skyline College, Guardian Scholars Program
STAR Vista, Transitional Youth Services
Swipe Out Hunger
Tipping Point Community
UNITE-LA
Unity Care

Walden Family Services
Wesley House
Youth Law Center

OPPOSITION: (Verified 6/3/20)

None received

Prepared by: Lynn Lorber / ED. /
6/9/20 14:08:09

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

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CONSENT

Bill No: SB 864
Author: Wilk (R)
Amended: 3/11/20
Vote: 21

SENATE AGRICULTURE COMMITTEE: 4-0, 5/13/20
AYES: Galgiani, Wilk, Caballero, Dahle
NO VOTE RECORDED: Glazer

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Industrial hemp: reporting of hemp production: laboratory test reports

SOURCE: Author

DIGEST: This bill establishes a registration program administered by county agricultural commissioners and the California Department of Food and Agriculture (CDFA) for growers of industrial hemp, hemp breeders, and established agricultural research institutions, as defined. This bill requires CDFA to report to the Farm Service Agency of the United States Department of Agriculture specified information regarding all hemp production in the state.

ANALYSIS:

Existing federal law:

1) Defines "industrial hemp" as the plant *Cannabis sativa L*. and any part of such plant, whether growing or not, with a delta-9 THC concentration of not more than 0.3% on a dry weight basis.

2) Authorizes an institution of higher education or a state agricultural department to grow or cultivate industrial hemp if:

a) The industrial hemp is grown or cultivated for purposes of research conducted under an agricultural pilot program or other agricultural or academic research program; and

b) The growing or cultivating of industrial hemp is allowed under the laws of the state in which such institution of higher education or state department of agriculture is located and such research occurs.

3) Classifies marijuana as a Schedule I controlled substance.

Existing state law:

1) Defines industrial hemp as a fiber or oilseed crop, or both, that is limited to types of the plant *Cannabis sativa L.* having no more than three-tenths of 1% THC contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom.

2) Provides that, except when grown by an established agricultural research institution or by a registered seed breeder developing a new California seed cultivar, industrial hemp shall only be grown if it is on the list of approved seed cultivars.

3) Provides that the list of approved seed cultivars includes the following:

a) Industrial hemp seed cultivars that have been certified on or before January 1, 2013, by member organizations of the Association of Official Seed Certifying Agencies, including, but not limited to, the Canadian Seed Growers' Association;

b) Industrial hemp seed cultivars that have been certified on or before January 1, 2013, by the Organization of Economic Cooperation and Development; and

c) California varieties of industrial hemp seed cultivars that have been certified by a seed-certifying agency, as specified.

4) Provides that, except for an established agricultural research institution, a grower of industrial hemp for commercial purposes, prior to cultivation, must register with the agricultural commissioner of the county in which the grower intends to engage in industrial hemp cultivation. The application must specify

several things, including the approved seed cultivar to be grown and whether the seed cultivar will be grown for its grain or fiber, or as a dual purpose crop.

5) Provides that, except when grown by an established agricultural research institution, a seed breeder, prior to cultivation, must register with the agricultural commissioner of the county in which the seed breeder intends to engage in industrial hemp cultivation. The application must specify several things, including whether the seed cultivar will be grown for its grain or fiber, as a dual purpose crop, or for seed production.

6) Provides that, except when grown by an established agricultural research institution or a registered seed breeder, industrial hemp shall be grown only as a densely planted fiber or oilseed crop, or both, in acreages of not less than one-tenth of an acre at the same time.

7) Prohibits ornamental and clandestine cultivation of industrial hemp.

8) Prohibits pruning and tending of individual industrial hemp plants, except when grown by an established agricultural research institution or when the action is necessary to perform THC testing, as described.

9) Prohibits culling of industrial hemp, except when grown by an established agricultural research institution, when the action is necessary to perform THC testing, as described, or for purposes of seed production and development by a registered seed breeder.

This bill:

1) Requires CDFA to report to the Farm Service Agency of the United States Department of Agriculture information regarding all hemp production in the state, including the location, acreage, and license or registration number associated with each location in the state where hemp will be produced by registered established agricultural research institutions, registered growers of industrial hemp, and registered hemp breeders.

2) Requires that laboratory test reports on hemp include the measurement of uncertainty associated with the test results.

3) Requires laboratories to use appropriate, validated methods and procedures for all testing activities, including when estimating the measurement of uncertainty.

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

SUPPORT: (Verified 6/3/20)

California Hemp Council

OPPOSITION: (Verified 6/3/20)

None received

ARGUMENTS IN SUPPORT: According to the author, "Senate Bill 864 is a follow up to my SB 153 (2019), which revised provisions regulating the cultivation and testing of industrial hemp to conform to the requirements for a state plan under the Agriculture Improvement Act of 2018 (Farm Bill). On October 31, 2019, the USDA published its much anticipated interim regulations, which include additional provisions that need to be reflected in the California Food and Ag. Code and CDFA regulations in order to submit a qualifying state plan. SB 864 deals with these more specific issues regarding reporting of hemp crops throughout the state and testing methodologies used in regards to measuring uncertainty in test results."

According to the California Hemp Council, this bill is needed to conform the state's laws regarding reporting and testing of industrial hemp to the newly established interim requirements established by the United States Department of Agriculture.

Prepared by: Reichel Everhart / AGRI. / 916-651-1508
6/4/20 9:58:10

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

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THIRD READING

Bill No: SB 865
Author: Hill (D)
Amended: 6/2/20
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 13-0, 5/12/20
AYES: Dodd, Wilk, Allen, Archuleta, Bradford, Chang, Galgiani, Hill, Hueso, Nielsen, Portantino, Rubio, Wiener
NO VOTE RECORDED: Borgeas, Glazer, Jones

SENATE APPROPRIATIONS COMMITTEE: 5-0, 6/9/20
AYES: Portantino, Bradford, Hill, Leyva, Wieckowski
NO VOTE RECORDED: Bates, Jones

SUBJECT: Excavations: subsurface installations

SOURCE: Author

DIGEST: This bill requires new subsurface installations be tagged with geographic information systems (GIS) coordinates, as specified; renames the California Underground Facilities Safe Excavation Board as the "Dig Safe Board" (Board); and requires an excavator discovering or causing damage to a subsurface installation that results in an emergency to immediately call "911," as specified.

ANALYSIS:

Existing law:

1) Creates, pursuant to the Dig Safe Act of 2016 (Act), the Board within the Office of the State Fire Marshal (SFM). The Act subjects the board to review by the appropriate policy committees of the Legislature.

2) Requires the Board to perform various duties relating to the protection of subsurface installations, as specified.

3) Subjects any operator or excavator who violates the Act to a civil penalty, as specified.

This bill:

1) Provides that the Board shall also be known as the "Dig Safe Board."

2) Requires a Regional Notification Center (RNC) to include two excavator representatives on its board.

3) Requires an RNC to provide notification records to the Board quarterly and to provide notifications of damage to the Board within five business days of receipt at the RNC.

4) Requires all new subsurface installations after January 1, 2021, be tagged with GIS coordinates, as specified.

5) Exempts from the GIS tagging and record keeping requirements any oil and gas flowlines three inches or less in diameter that are located within the administrative boundaries of an oil field, as specified.

6) Requires an excavator discovering or causing damage to a subsurface installation that results in an emergency to immediately call "911." After calling "911," the excavator shall immediately notify the subsurface operator, and notify an RNC within two hours, as specified.

7) Authorizes enforcement of the Act by specified agencies through their own investigations, and authorizes the Board to collect penalties imposed on persons subject to its jurisdiction, as specified.

8) Moves the Board out of the SFM, commencing on January 1, 2022, and into the Office of Energy Infrastructure Safety within the Natural Resources Agency, as specified.

9) Authorizes the Board to offer violators, for violations that are neither egregious nor persistent, the option of completing an educational course in lieu of paying a fine, as specified.

Background

Purpose of the bill. According to the author's office, "SB 865 builds upon my previous efforts to strengthen safe excavation practices in our state. Excavating safely requires the cooperation of many different individuals, and there are common sense reforms we can enact to better facilitate that cooperation and communication. Most importantly, these simple reforms will save lives."

Call Before You Dig. In 1986, a southern California excavating crew incorrectly assumed that no subsurface infrastructure existed at their construction site and as a result, a gas main was struck and exploded, killing a 23-year old crew member. That incident, together with others like it across the country, led to the adoption of California's "Call Before You Dig" law in 1989, AB 73 (Elder, Chapter 928, Statutes of 1989).

The law generally requires individuals to contact an RNC prior to planned excavations, and requires any utility or other operator with subsurface installations in the vicinity of a planned excavation to go to the site and clearly identify and mark all underground infrastructure.

In California, the two RNCs are Underground Service Alert of Northern California and Nevada, also known as USA North 811; and, Underground Service Alert of Southern California, also known as DigAlert. Collectively, the two centers are commonly referred to as 811 centers.

Dig Safe Act of 2016. SB 661 (Hill, Chapter 809, Statutes of 2016) enacted the Dig Safe Act of 2016, amending the existing "Call Before You Dig" statute in response to a series of fatal incidents, including a dig-in incident (an industry term for when construction workers accidentally hit gas lines) in Fresno where an excavator punctured a 10-inch natural gas pipeline while operating heavy equipment at a road construction site, killing one person and injuring 12 others and temporarily closing down Highway 99. SB 661, among other things, required a person planning to conduct an excavation to contact the appropriate RNC prior to commencing that excavation regardless of whether the excavation would be conducted in an area that is known, or reasonably should be known, to contain subsurface installations.

This bill renames the "California Underground Facilities Safe Excavation Board" as the "Dig Safe Board," and – commencing on January 1, 2022 – removes the Board from under the SFM and establishes it within the Office of Emergency

Infrastructure Safety within the Natural Resources Agency. The author argues that the Office of Emergency Infrastructure Safety better aligns with the Board's mission and operational functions, however that particular office had not yet been established when the Board was initially created. Additionally, this bill requires each of the state's two RNCs to include two exactor representatives on their boards, and makes various conforming changes to the Dig Safe Act.

Geographic information systems. GIS is a system of computer software, hardware, data, procedures, and personnel combined to help manipulate, analyze, and present information tied to a geographic location. This information provides organizations and individuals the ability to analyze, visualize, manage, disseminate, and interpret geographical data, and the complex geographic relationship between them. RNCs must be able to accurately and precisely identify the dig site location, which often includes areas of recent construction.

This bill requires, commencing January 1, 2021, all new subsurface installations be tagged with GIS coordinates and maintained as permanent records of the operator. Existing law requires operators to amend, update, maintain, and preserve all plans and records for its subsurface installations as that information becomes known, and requires that the records be turned over to the new operator in the instance of a change in ownership.

This bill exempts from the new GIS tagging and record keeping requirements oil and gas flowlines three inches or less in diameter that are located within the administrative boundaries of an oil field. Small diameter flowlines located in active oil fields are frequently moved to accommodate new drilling and facility installation which could result in the development of a database with outdated and inaccurate information, thus increasing the potential for incidents to occur.

Damage to subsurface installations. As noted above, damage to subsurface infrastructure can lead to catastrophic and deadly emergencies. Existing law requires an excavator to call "911" emergency services upon discovering or causing damage to either of the following: a natural gas or hazardous liquid pipeline in which the damage results in the escape of any flammable, toxic, or corrosive gas or liquid; or a high priority subsurface installation of any kind.

This bill repeals that provision of law, and instead requires any excavator discovering or causing damage to a subsurface installation that results in an emergency to immediately call "911" emergency services; and, after calling "911" emergency services to immediately notify the subsurface installation operator.

Within two hours of discovering or causing damage, the excavator will be required to notify the RNC.

Education in lieu of fiscal penalties. Under existing law, the Board is required to grant the use of the moneys in the Safe Energy Infrastructure and Excavation Fund (Fund) to fund public education and outreach programs designed to promote excavation safety around subsurface installations and targeted towards specific excavator groups, giving priority to those with the highest awareness and education needs, including, but not limited to, homeowners.

This bill deletes those education and outreach program provisions, and instead, requires the Board to offer violators of the Act, that are neither egregious nor persistent, to offer violators the option of completing an educational course in lieu of paying a fine. This bill makes moneys in the Fund available to the Board in order to fund the educational course, subject to appropriation by the Legislature.

Related/Prior Legislation

AB 754 (Grayson, Chapter 494, Statutes of 2019) authorized the California Department of Technology to provide access to Geographic Information Systems data to an RNC, as specified.

AB 1166 (Levine, Chapter 453, Statutes of 2019) required every operator of a subsurface installation to supply an electronic positive response through the RNC before the excavation start date, as specified.

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

According to the Senate Appropriations Committee, the Board estimates costs of up to $140,000 Safe Energy Infrastructure and Excavation Fund in the first year and $75,000 ongoing for infrastructure technology improvements to intake quarterly notification records as required by the bill.

Any costs associated with moving the Board from the Office of the State Fire Marshal to the Office of Energy Infrastructure Safety within the Natural Resources Agency are anticipated to be minor and absorbable.

The California Public Utilities Commission does not anticipate a fiscal impact.

SUPPORT: (Verified 6/10/20)

City of San Carlos
League of California Cities
Underground Service Alert of Northern California and Nevada (USA North 811)

OPPOSITION: (Verified 6/10/20)

Underground Service Alert of Southern California

ARGUMENTS IN SUPPORT: According to the League of California Cities, "[e]xcavations near and around critical underground infrastructure continue to pose safety risks to Californians due to insufficient communication. SB 865 addresses some of these concerns, increasing communication by requiring regional notification centers, which provide warnings of excavations close to existing subsurface installations, to share damage reports with the Dig Safe Board within five days, and provide quarterly reports on all notifications. Notably, SB 865 requires operators to map any new subsurface installations with GIS coordinates beginning January 1, 2021."

ARGUMENTS IN OPPOSITION: Underground Service Alert of Southern California, commonly referred to as DigAlert, writes that it has "adopted an "Oppose Unless Amended" position on SB 865. As you know, DigAlert is the regional notification center serving excavators and utility companies in the nine Southern California counties of Imperial, Inyo, Los Angeles, Orange, San Bernardino, San Diego, Santa Barbara, Riverside, and Ventura."

Prepared by: Brian Duke / G.O. / (916) 651-1530
6/10/20 13:25:03

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

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CONSENT

Bill No: SB 869
Author: Committee on Governmental Organization
Introduced: 1/17/20
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 13-0, 5/12/20
AYES: Dodd, Wilk, Allen, Archuleta, Bradford, Chang, Galgiani, Hill, Hueso, Nielsen, Portantino, Rubio, Wiener
NO VOTE RECORDED: Borgeas, Glazer, Jones

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: California Gambling Control Commission

SOURCE: Author

DIGEST: This bill requires the California Gambling Control Commission (Commission) to post a public record of each of its votes on its Internet Web site no later than two business days after the meeting at which the vote was taken.

ANALYSIS:

Existing law:

1) Provides, under the Gambling Control Act (Act), for the licensure and regulation of various legalized gambling activities and establishments by the Commission and the investigation and enforcement of those activities and establishments by the Department of Justice (DOJ).

2) Requires the Commission to keep a record of all proceedings at its regular and special meetings and to make these records open to public inspection.

3) Requires DOJ to maintain a file of all applications for licenses under the Act and a record of all actions taken with respect to those applications, and to make this file and record open to public inspections.

This bill requires the Commission to post a public record of each of its votes on its Internet Web site no later than the close of business on the second business day after the meeting at which the vote was taken.

Comments

Purpose of the bill. According to the author's office, "while current law requires the Commission to keep records of votes that are taken during proceedings of the Commission, there is no requirement that those votes be posted anywhere on the Internet. As such, members of the public have a difficult time staying informed on votes taken by the Commission. This bill simply provides transparency for members of the public who want to be informed on the Commission's proceedings."

Gambling Control Act. The Act provides the Commission with jurisdiction over the operation of gambling establishments in California. The Act requires every owner, lessee, or employee of a gambling establishment to obtain and maintain a valid state gambling license. The Act assigns the Commission the responsibility of assuring that gambling licenses are not issued to, or held by, unqualified or disqualified persons, or by persons whose operations are conducted in a manner that is harmful to the public health, safety, or welfare.

The Act directs the Commission to issue licenses only to those persons of good character, honesty and integrity, whose prior activities, criminal record, if any; reputation, habits and associations do not pose a threat to the public interest of this state. The DOJ conducts background and field investigations and enforces the provisions of the Act in this regard. The Act currently requires the Commission to maintain a public record at the Commission's principal office. However, there is no requirement that the vote be placed anywhere on the Commission's Internet Web site. The author's office points out that this hampers the ability of the public to be informed on the votes that the Commission takes.

Related/Prior Legislation

SB 286 (Governmental Organization, 2019) would have required the Commission to post a public record of every vote on its Internet Web site no later than two business days after the meeting at which the vote was taken. (Gutted and amended)

AB 1827 (Governmental Organization, 2019) requires the Commission to post a public record of each of its votes on its Internet Web site. (Pending on the Senate Floor)

AB 2838 (Low, 2018) would have required the Bureau of Gambling Control to review and comment on any submitted ordinance within 60 days of receiving the ordinance. (Vetoed by Governor Brown)

SB 280 (Glazer, 2017) would have required the Commission to post a public record of every vote on its Internet Web site no later than two business days after the meeting at which the vote was taken. (Never heard in the Senate Governmental Organization Committee)

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

SUPPORT: (Verified 6/2/20)

None received

OPPOSITION: (Verified 6/2/20)

None received

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
6/4/20 9:58:11

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

SENATE RULES COMMITTEE SB 872
Office of Senate Floor Analyses
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THIRD READING

Bill No: SB 872
Author: Dodd (D), et al.
Introduced: 1/21/20
Vote: 21

SENATE INSURANCE COMMITTEE: 9-2, 5/14/20
AYES: Rubio, Archuleta, Dodd, Galgiani, Glazer, Hueso, Mitchell, Portantino, Roth
NOES: Jones, Moorlach
NO VOTE RECORDED: Bates, Borgeas

SUBJECT: Residential property insurance: state of emergency

SOURCE: California Department of Insurance

DIGEST: This bill grants to commercial insureds the same minimum time limits granted to homeowners to collect full replacement cost value when a structure is damaged or destroyed by an event declared a "state of emergency"; prohibits an insurer from deducting the land value from the replacement cost when a homeowner or commercial insured rebuilds or purchases an existing structure on another property; streamlines the process for residential property insurance claims and adds consumer protections to the process for settling personal contents and additional living expense (ALE) claims; and requires insurers to provide a 60-day grace period for nonpayment in an area impacted by a declared state of emergency.

ANALYSIS:

Existing law:

Time to Collect Replacement Value

1) Requires property insurance to pay the actual cash value of the damaged property until it has been repaired, rebuilt, or replaced, and establishes minimum periods to collect the full replacement cost of a structure once the insurer has made a first payment.

a) Grants the insured at least 12 months to collect the full replacement cost of a damaged structure.

b) If the loss is due to an event that was declared a "state of emergency," grants an insured homeowner at least 36 months, as well as one or more six-month extensions, if the insured acting in good faith encounters delays in the reconstruction process.

Additional Living Expense Coverage (ALE)

2) Requires homeowners insurance to provide ALE for at least 24 months if the loss resulted from an event declared to be a state of emergency and requires extensions of up to 12 additional months, for a total of 36 months, if the insured acting in good faith encounters delays in the reconstruction process.

Relocation

3) Prohibits homeowners insurance, in the event of a total loss, from limiting or denying payment of building code upgrade cost or the replacement cost on the basis that the insured rebuilds, or purchases an existing home, at a new location.

This bill:

Time to Collect Replacement Value

1) Grants commercial property insureds the same minimum time limits to collect full replacement value as those that apply to homeowners**.**

Additional Living Expense Coverage

2) Revises or clarifies the rules governing ALE benefits for insureds who have lost their homes or cannot live in their homes.

a) Requires ALE to cover all reasonable expenses incurred by the insured to maintain a comparable standard of living, including housing, furniture rental, food, transportation, storage, and boarding of pets and noncommercial livestock.

b) Authorizes an insured to collect the fair rental value of the dwelling in lieu of itemized expenses.

c) If the loss resulted from an event declared to be a state of emergency, requires ALE to provide the following:

i) Expenses accrued after the direct physical loss has been remediated if the premises remains uninhabitable because of direct damage to neighboring premises or public infrastructure that was covered by an insured peril.

ii) For claims filed after January 1, 2021, an advance payment of at least four months if the home was a total loss.

Personal Contents Coverage

3) Revises the rules applicable to claims filed after January 1, 2021, that govern claims for lost or damaged personal property, i.e. "contents coverage," (appliances, furniture, clothing, etc.) resulting from a declared state of emergency and requires the insurer to:

   a) Provide an advance payment of no less than 25% of the policy limit for contents without an inventory of lost items but allows the insurer to require proof for additional payments;

   b) Accept an inventory in a reasonable form that provides substantially the same information as the insurer's form but allows the insurer to request additional information if reasonable; and

   c) Accept an inventory of contents that includes groupings of personal property, including clothing, books, food items, etc.

Relocation

4) Revises rules applicable to claims where the insured chooses to build a new home or purchase an existing home on a different piece of property.

   a) Prohibits the insurer from deducting the value of the new land from the replacement cost.

   b) Applies the new rules regarding the land value deduction, as well as the existing rule against deducting building code upgrade coverage and replacement cost, to commercial properties.

Grace Period

5) Requires an insurer to offer a 60-day grace period for nonpayment of premium for policies on property located in areas affected by a declared state of emergency.

6) Declares that the provisions of this bill are severable.

Background

In 2017 and 2018, California experienced the largest and most destructive wildfires in its history. Following those fires, the California Department of Insurance (CDI) requested that insurers follow voluntary procedures designed to expedite claims for impacted homeowners. This bill codifies some of those procedures and requires the insurer to provide advance payments of a portion of the ALE and personal contents coverage after a state of emergency; accept alternative forms of inventories for claims for lost contents; and provide a 60-day grace period for nonpayment of premium.

This bill also creates or expands other consumer protections:

- Expands minimum time periods to collect replacement cost value to commercial properties;
- More explicitly defines and expands what is covered under ALE;
- Expands the rules that apply to insureds that relocate and applies those rules to commercial properties.

Time to Collect Replacement Cost. Existing law provides a homeowner a minimum of 36 months to collect full replacement cost, as well as extensions for good cause, following a declared state of emergency. This bill would apply the extensions to commercial properties as well.

CDI argues that, prior to legislation in 2018 that extended the time limit to 36 months from 24, the minimum time to collect full replacement cost along with good cause extensions applied to commercial properties as well. According to CDI, the 2018 legislation unintentionally replaced the original generic language providing the extensions with new language that only applies to residential properties. Some insurance trade representatives argue that the committee analyses and stakeholder discussions regarding the original legislation (AB 2199, Kehoe, Chapter 311, Statutes of 2004) did not include commercial properties.

Additional Living Expenses (ALE). ALE helps homeowners pay for the additional costs of living outside the home while waiting to rebuild, repair, or replace the home after it has been physically damaged. In addition to codifying some expedited claims procedures, this bill provides homeowners with more ALE options and requires the insurer to:

- Provide insureds the option to collect the fair rental value of the lost property rather than seek reimbursement. Insurers may provide ALE in the form of reimbursement so that the insured must incur the expenses first and provide

receipts to collect the benefit. This bill would require insurers to offer claimants the option to collect the fair rental value of the lost home on a monthly basis instead of documenting monthly expenses.

- Cover "all reasonable additional expenses incurred by the insured to maintain a comparable standard of living," including housing, furniture rental, food, transportation, storage, and boarding of pets and noncommercial livestock.

- Provide ALE when the home remains uninhabitable even though the damage has been repaired. ALE usually only covers expenses while the home remains uninhabitable due to covered damage. This bill fills in a gap in coverage where the property has been repaired but remains unusable for some other reason, such as a lack of electricity or water.

Relocation. After a total loss, the insured may rebuild the existing home or purchase another home at a different location. Some insurers have been deducting the value of the new land from the replacement cost value when a homeowner purchases elsewhere. This practice is consistent with that used in auto insurance when a vehicle is "totaled" and is intended to avoid overcompensating the insured; the insurer pays the fair market value of the vehicle but takes ownership.

However, the practical effect of deducting the land value may force the insured to purchase a lesser value dwelling, borrow money, or come up with cash out of their own pockets. This bill prohibits an insurer from deducting the value of the land. It also applies that rule to commercial properties and extends to commercial properties the rules against limiting recovery because the insured chooses to relocate.

Potential Impact on Rates. According to CDI, the provisions implementing the expedited procedures and time limit extensions should not impact rates significantly because they only provide what the insured would have received anyway. Several insurance trade associations disagree and argue that this measure will significantly expand the kinds of expenses that must be reimbursed, such as the circumstances under which extended ALE payments will be required, while simultaneously reducing the level of scrutiny for contents claims.

Because CDI anticipates that only a few consumers will take advantage of some of the changes offered in this bill, such as those who move to a new location, and that those changes will have a minimal impact (assuming that consumer behavior does not change because of this bill or other factors).

The effect of some changes, like the expansion of ALE to cover expenses after a damaged home has been repaired, is less clear. CDI lacks the necessary data to provide a reliable impact estimate. Theoretically, savings from faster claims settlement and lower ALE costs could offset, at least in part, additional costs.

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

SUPPORT: (Verified 5/17/20)

California Department of Insurance (source)
Consumer Federation of California
Rural County Representatives of California
United Policyholders

OPPOSITION: (Verified 5/17/20)

American Property Casualty Insurance Association
National Association of Mutual Insurance Companies
Pacific Association of Domestic Insurance Companies
Personal Insurance Federation of California

ARGUMENTS IN SUPPORT: Rural County Representatives of California (RCRC) writes in support that residents in RCRC member counties have been experiencing these difficulties for years in relation to high severity wildfires such as the Butte, Rim, and Valley Fires, and more recently in disastrous fires such as the Tubbs Fire, Camp Fire and Kincade Fire. These recent fires have only underscored the need for relief to property owners suffering losses who are trying to move on and recover some sense of normalcy after such a devastating event.

ARGUMENTS IN OPPOSITION: Opponents explain that historic financial losses place tremendous upward pressure on the price of homeowners insurance, and have forced many insurers to safeguard their solvency (and their ability to pay claims in the event of another disaster) by limiting the amount of insurance they sell in high fire-risk areas of the state. They argue that, absent adequate rates that reflect the new costs imposed by this bill, SB 827 may exacerbate the homeowners insurance availability challenges in high fire-risk areas of the state.

Prepared by: Hugh Slayden / INS. / (916) 651-4110
5/19/20 12:24:59

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: SB 898
Author: Wieckowski (D)
Amended: 4/6/20
Vote: 21

SENATE JUDICIARY COMMITTEE: 7-0, 5/22/20
AYES: Jackson, Durazo, Lena Gonzalez, Monning, Stern, Umberg, Wieckowski
NO VOTE RECORDED: Borgeas, Jones

SUBJECT: Enforcement of judgments: exemptions

SOURCE: State Treasurer Fiona Ma

DIGEST: This bill revises the statutes setting forth the amounts of various types of property owned by a judgment debtor that are statutorily exempt from enforcement of a money judgment so that the amounts match the currently-in-effect amounts implemented by the Judicial Council in 2019. This bill also adds an exemption from enforcement of a judgment for money held in a college savings account owned by the debtor that was established pursuant to the Golden State ScholarShare Trust Act (Ed. Code, § 69980 et seq., referred to as a "ScholarShare account" or "ScholarShare 529 account").

ANALYSIS:

Existing law:

1) Provides that, except where property is expressly exempted from collection by law, all property of the judgment debtor is subject to enforcement of a money judgment. (Code Civ. Proc., § 695.010(a).)

2) Provides that, in a case under Title 11 of the United States Code (relating to bankruptcy), a judgment debtor may elect to exempt from collection the categories of property set forth in Code of Civil Procedure Section 703.140, subdivision (b), or the categories set forth in the remainder of the chapter

(including the exemptions in Code of Civil Procedure sections 704.010 et seq.). (Code Civ. Proc., § 703.140(a).)

3) Provides that, in cases not arising under Title 11 of the United States Code, a judgment debtor may exempt from collection the categories of property set forth in Code of Civil Procedure sections 704.010 et seq. (Code Civ. Proc., § 703.010(a).)

4) Provides that the Judicial Council shall adjust the 703 and 704 exemptions at three-year intervals and determine the amounts of the adjustments "based on the change in the annual California Consumer Price Index for All Urban Consumers, published by the Department of Industrial Relations, Division of Labor Statistics, for the most recent three-year period ending on December 31 preceding the adjustment, with each adjusted amount rounded to the nearest twenty-five dollars ($25)." (Code Civ. Proc., § 703.150(a), (b), (d).)

   a) Despite the Judicial Council's statutory obligation to adjust the dollar values of the 703 and 704 exemptions, the Judicial Council's adjustments are not automatically reflected in the statutes themselves. The current exemption amounts reflecting the Judicial Council's 2019 adjustments are set forth in Judicial Council Form EJ-156, but the statutes have not been revised to reflect the newly adjusted amounts, making the amounts set forth in the statute incorrect. (Compare Judicial Council Forms, form EJ-156 [revised April 1, 2019] with, e.g., Code Civ. Proc., §§ 703.140(b) [last amended in 2016, Chapter 50, Statutes of 2016], 704.010 [last amended in 2003, Chapter 379, Statutes of 2003.)

5) Does not exempt funds in a ScholarShare account from collection.

This bill:

1) Updates the dollar amounts set forth in the 703 and 704 exemptions so that the statutes reflect the current dollar amounts of the exemptions as adjusted by the Judicial Council in 2019.

2) Adds to the 703 and 704 exemptions an exemption for monies held in a ScholarShare account owned and established by the debtor.

Background

Existing law identifies property of a debtor that is exempt from all procedures for enforcement of a money judgment. A judgment debtor whose case arose under Title 11 of the United States Code can elect between two sets of exemptions: those

set forth in Code of Civil Procedure section 703.140 (the "703 exemptions"), or alternative exemptions set forth in Code of Civil Procedure sections 704.010 et seq. (the "704 exemptions"). Other judgment debtors are entitled to the 704 exemptions only.

Certain 703 and 704 exemptions have specific dollar values—for example, a debtor may exempt up to $5,850 of an interest in one or more motor vehicles.[1] The Judicial Council adjusts the dollar values of the 703 and 704 exemptions every three years based on the change in the annual California Consumer Price Index for All Urban Consumers within the last three years. The statutes are not automatically revised to reflect the latest adjustments. This bill modifies the dollar values of various 703 and 704 exemptions as set forth in the statutes to match the currently-in-effect amounts adopted by the Judicial Council on April 1, 2019.

Existing law also does not exempt from collection, in any amount, monies held in ScholarShare accounts. California's ScholarShare program allows individuals to establish qualified tax-advantaged investment accounts under 26 U.S.C. § 529 ("529 accounts") in order to help pay the increasingly steep cost of higher education. ScholarShare accounts may be established for any future student, and the investment gains may be withdrawn tax-free when spent on qualifying educational expenses such as tuition, books, and certain room and board expenses.[2] This bill adds 703 and 704 exemptions for monies held in ScholarShare accounts owned by the debtor.

Comments

According to the author:

> One of the greatest hurdles families face when contemplating whether to pursue a post-secondary education is the skyrocketing cost of attending college, which has grown at a rate of two to three times the rate of inflation. Despite these troubling trends, many California families continue to see value in a post-secondary education for their children and make it a priority to help them prepare financially by saving as much as possible in an effort to mitigate against increasing costs and student loan debt.
>
> Savings plans such as ScholarShare 529 provide families of all income levels with a diverse set of investment options, tax-deferred growth, and withdrawals free from state and federal taxes when used for qualified higher education

[1] Judicial Council Forms, form EJ-156 (revised April 1, 2019), available at **https://www.courts.ca.gov/documents/ej156.pdf** (as of June 3, 2020).
[2] 26 U.S.C. § 529; Ed. Code, §§ 69980 et seq.

expenses, such as tuition and fees, books, certain room and board costs, computer equipment and other required supplies. ScholarShare 529 savings can be used at eligible educational institutions, which include most public and private four-year universities, community colleges, and career technical schools nationwide and many institutions abroad.

Unlike retirement plans, ScholarShare 529 college savings accounts are not afforded protection from creditor claims in California. If an account owner is faced with a judgement, the creditor has the ability to attach the account to satisfy their judgment, a result that can be devastating to the family and their loved ones. Presently, California is one of 22 states without state creditor protection for 529 college savings accounts.

SB 898 amends the California Code of Civil Procedure to expand the list of judgment exemptions under California bankruptcy law in order to include family savings in a ScholarShare 529 college savings plan account. Thus this bill will ensure that family college savings are protected from judgment creditors.

In support, sponsor State Treasurer Fiona Ma writes:

Since its inception in 1999, ScholarShare 529 has been committed to helping California families of all income levels prepare and save for future higher education expenses. Studies have shown that children with savings accounts, however small, are three times more likely to enroll and four times more likely to graduate from college.

Unlike retirement plans, however, Scholar Share 529 college savings accounts are not given protection from creditor claims in California. In the unfortunate event that an account owner is served with a judgment, the creditor has the ability to attach the account to satisfy their judgment, a result that can be devastating to family members and their loved ones. Presently, California is one of only 22 states without state creditor protections for 529 college savings accounts. The savings in these accounts are for access to higher education for the child (the beneficiary of the account), not the account owner and this lack of creditor protection disproportionately penalizes the beneficiary. In many cases other family members contribute to these accounts as well, not just the account owner, as gifts to invest in the beneficiary's future. It is unfair and unjust to allow a child's future to be negatively impacted when they have done nothing wrong to directly impact the judgment.

Supporter Housing and Economic Rights Advocates writes:

> The Legislature should support and protect families who save for their children's education. We should reward their far-sighted concern for the welfare, not only of their own children, but of society in general. Education is a key to productivity, financial independence, and service to others. Creditors should not be permitted to appropriate these salutary savings, and irreparably harm the future educational prospects of innocent children, to collect a debt. Allowing them to divert a child's education fund is a cruel joke, especially when the savings has been accumulated over a long period of time.
>
> This is of immediate and pressing concern in view of the unprecedented unemployment we are now facing and the impending flood of collection actions based on consumer debt.

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

SUPPORT: (Verified 6/3/20)

State Treasurer Fiona Ma (source)
California Low-Income Consumer Coalition
Consumer Action
Housing and Economic Rights Advocates
One individual

OPPOSITION: (Verified 6/3/20)

None received

Prepared by: Allison Meredith / JUD. / (916) 651-4113
6/4/20 9:58:11

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

SENATE RULES COMMITTEE SB 903
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

CONSENT

Bill No: SB 903
Author: Grove (R)
Introduced: 1/30/20
Vote: 27 - Urgency

SENATE PUBLIC SAFETY COMMITTEE: 7-0, 5/20/20
AYES: Skinner, Moorlach, Bradford, Jackson, Mitchell, Morrell, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Grand theft: agricultural equipment

SOURCE: State Controller's Office

DIGEST: This bill amends Section 489 of the Penal Code to include the rural crime prevention program schedule, allowing the State Controller's Office to properly distribute funds.

ANALYSIS:

Existing law:

1) States that grand theft is committed when the money, labor, or real or personal property taken is of a value exceeding $950, except in specified cases of theft authorizing a lower threshold. (Pen. Code, § 487.)

2) Punishes grand theft as an alternate felony-misdemeanor. (Pen. Code, § 489, subd. (c).)

3) Includes grand theft statutes for theft of tractors, all-terrain vehicles, agricultural equipment, or any item used in the acquisition or production of food for public consumption where the value of the items taken exceeds $950. (Pen. Code, § 487k.)

4) States that counties participating in a rural crime prevention program, the proceeds of the fine imposed shall be allocated by the State Controller, upon appropriation by the Legislature, to the Central Valley Rural Crime Prevention Program pursuant to Section 14173 or to the Central Coast Rural Crime Prevention Program, respectively. (Pen. Code, § 489 (2).)

5) Provides that when a fine is not prescribed in statute, the court may impose a fine not exceeding $1,000 for a misdemeanor or up to $10,000 for a felony in addition to the imprisonment prescribed. (Pen. Code, § 672.)

6) Authorizes the Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare to develop a Central Valley Rural Crime Prevention Program. (Pen. Code, § 14171.)

7) States, beginning with the 2013-14 fiscal year, the Central Valley and Central Coast Rural Crime Prevention Programs, authorized by Sections 14170 and 14180 , shall receive 9.06425605 percent and shall be allocated by the State Controller in monthly installments according to the following schedule:

Fresno County	18.5588%
Kern County	13.7173%
Kings County	6.8587%
Madera County	4.4380%
Merced County	6.8587%
Monterey County	7.2411%
San Benito County	4.8273%
San Joaquin County	6.8587%
San Luis Obispo County	2.1723%
Santa Barbara County	3.6206%
Santa Cruz County	1.4482%
Stanislaus County	6.8587%
Tulare County	16.5415%

8) Provides that, for any of the programs described in this section, funding will be distributed by local agencies as would otherwise have occurred pursuant to Section 1 of Chapter 13 of the Statutes of 2011, First Extraordinary Session. (Pen. Code, § 13821 subd. (c)(12).)

This bill:

1) Includes a cross-reference to section 13821 that provides a schedule for the State Controller to properly allocate funds to the Central Valley and Central Coast Rural Crime Prevention Programs.

2) Contains an urgency statute that declares that the funds be distributed immediately.

Background

Clean up SB 224 (Grove, Chapter 119, Statutes of 2019)

This bill intends to clean up SB 224 (Grove, 2019), which created a separate grand theft statute for theft of tractor, all-terrain vehicles, etc., where the property stolen exceeds $950. SB 224 also stated that if the property taken exceeds $50,000 you could be punished by up to three years jail time and a fine not exceeding $10,000. The vital part of SB 224 is that counties participating in a Rural Crime Prevention Program, will receive the proceeds from the fine imposed for agricultural property grand theft. These fines were to be allocated by the State Controller, however due to the pay schedule not being referenced in Penal Code Section 489, the State Controller's Office was unable to distribute funds. This bill aims to fix that issue by amending that code section and including the pay schedule.

Rural Crime Prevention Programs

AB 2768 (Poochigian, Chapter 327, Statutes of 1996) authorized the County of Tulare to begin a three-year pilot project known as the "Rural Crime Demonstration Project". In 1997, the project was expanded to include five counties: Tulare, Fresno, Kern, Kings, and Madera. The following year, AB 157 (Reyes, Chapter 564, Statutes of 1999) authorized the development of the Rural Crime Task Force in Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare Counties, and $3.541 million was appropriated to carry out the purpose of the Task Force. AB 374 (Matthews, Chapter 719, Statutes of 2002) renamed the "Rural Crime Prevention Program" the "Central Valley Rural Crime Prevention Program," and required the program to develop a uniform procedure for the collection and reporting of data on agricultural crimes.

SB 44 (Denham, Chapter 18, Statutes of 2003) authorized the counties of Monterey, San Luis Obispo, Santa Barbara, Santa Cruz, and San Benito to develop Central Coast Rural Crime Prevention Programs modeled on Central Valley Rural

Crime Prevention Programs, to be administered by the county sheriff's office in Monterey County and by the district attorney's office in each of the other four counties. Sources of funding for the program may include, but shall not be limited to, appropriations from local government and private contributions.

Having a specialized team of law enforcement officers permanently assigned to rural crime prevention allows for specialization and consistent interaction between ranchers, farmers, and the crime prevention units. The overall goal of these programs is to reduce rural crime by coordinating the efforts of law enforcement and the agricultural community.

SB 224 (Grove, Chapter 119, Statutes of 2019) provided that for violations of the new section created by the bill where the value of the items stolen exceeds $50,000, the proceeds of the $10,000 fine shall be allocated to the Central Valley Rural Crime Prevention Program or the Central Coast Rural Crime Prevention Program.

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

SUPPORT: (Verified 6/2/20)

State Controller's Office (source)
California Cattlemen's Association
California Farm Bureau Federation
Peace Officers Research Association of California
Western United Dairies

OPPOSITION: (Verified 6/2/20)

None received

ARGUMENTS IN SUPPORT: According to the California Farm Bureau Federation, Western United Dairies, and the California Cattlemen's Association:

> SB 224 established a specific criminal classification of high-value agricultural theft of essential equipment such as tractors and all-terrain vehicles and authorized the fines and penalties from such theft to be allocated to existing regional Rural Crime Prevention Programs. By putting the money collected from fines and penalties back into existing rural and agricultural crime prevention and enforcement programs, the bill will provide more resources to law enforcements efforts in this critical area.

SB 903 follows up last year's legislation by specifying how funds collected from agriculturally-related fines and penalties will be allocated by the State Controller. Namely, SB 903 would reference the current allocation schedule within Penal Code for those counties participating in the Central Valley Rural Crime Prevention Program and the Central Coast Rural Crime Prevention Program. This bill also contains an urgency clause to more quickly enable the fund distribution to these counties to support these important enforcement efforts.

Prepared by: Nikki Scott / PUB. S. /
6/4/20 9:58:12

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

SENATE RULES COMMITTEE SB 905
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SB 905
Author: Archuleta (D)
Amended: 5/21/20
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 5/20/20
AYES: Skinner, Bradford, Jackson, Mitchell, Wiener
NO VOTE RECORDED: Moorlach, Morrell

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Criminal history information requests

SOURCE: California Catholic Conference

DIGEST: This bill provides that a residence address shall not be required to be submitted to the Department of Justice (DOJ) for a background check of an individual applying to work with a minor and makes other technical amendments regarding federal background checks.

ANALYSIS:

Existing law:

1) Provides that people seeking a license, employment or volunteer position with supervisory or disciplinary power over a minor may have a criminal background check through the DOJ. (Penal Code § 11105.3)

2) Requires any request for a criminal background check shall include the fingerprints of the individual along with other specified information. (Penal Code § 11105.3(b).)

3) Provides that the under specified statutes the DOJ may request a federal background check along with the state criminal history information. (Penal Code § 11105)

This bill:

1) Provides that the DOJ shall not require the applicant's residence address for any request for records under. (Penal Code § 11105.3)

2) Adds "universal citation" information into California law to clarify that all agencies and entities authorized to get background checks can also receive federal background checks.

Background

1) *Removes address requirement*

   Under existing law specified people whose job or volunteer position includes authority over children are required to get a criminal background check. Under existing law this may require a person submit their home address along with their fingerprints. Some organizations have found that while people are happy to volunteer they are not comfortable submitting their fingerprints to a governmental agency. This bill clarifies that a residence address cannot be required.

2) *Federal background check clarification*

   The federal government requires statutory authority in order for a federal criminal background check. While many state background check statutes have the appropriate language, not all do. This bill introduces a "universal citation" into California law, which simplifies the inclusion of language for agencies and entities seeking statutory authority to perform federal criminal history records checks. Consistent references to proposed legislation ensures all requirement criteria of Public Law 92-544 and FBI policy are met, which will reduce the number of requests for federal criminal records checks authority that are denied by the FBI.

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

SUPPORT: (Verified 6/8/20)

California Catholic Conference (source)
California Attorney General, Xavier Becerra
California Public Defenders Association

Oakland Privacy
San Francisco Public Defender

OPPOSITION: (Verified 6/8/20)

None received

Prepared by: Mary Kennedy / PUB. S. /
6/10/20 13:25:04

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

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

CONSENT

Bill No: SB 909
Author: Dodd (D), et al.
Amended: 3/16/20
Vote: 27 - Urgency

SENATE TRANSPORTATION COMMITTEE: 13-0, 5/29/20
AYES: Beall, Allen, Dahle, Dodd, Galgiani, Lena Gonzalez, Grove, McGuire, Melendez, Morrell, Roth, Rubio, Wieckowski
NO VOTE RECORDED: Skinner, Umberg

SUBJECT: Emergency vehicles

SOURCE: Author

DIGEST: This bill authorizes emergency vehicles to be equipped with certain audible equipment to be used for evacuation purposes.

ANALYSIS:

Existing law:

1) Defines an "authorized emergency vehicle" as a variety of publically owned or operated vehicles, including, but not limited to, ambulance, lifeguard, police, fire, emergency services, and/or forestry vehicles.

2) Prohibits any vehicle, other than an authorized emergency vehicle, from being equipped with a siren.

3) Requires an authorized emergency vehicle to be equipped with a siren that meets requirements set forth by the Department of the California Highway Patrol (CHP).

4) Provides that, at the regulatory level, CHP defines "hi-lo" to be a nonsiren sound alternating between a fixed high and a fixed low frequency and requires

the "hi-lo" function to be disabled on any siren manufactured after January 1, 1978.

This bill:

1) Authorizes an emergency vehicle to be equipped with a "hi-lo" audible warning sound and further authorizes the "hi-lo" to be used solely for the purpose of notifying the public of an immediate need to evacuate.

2) Includes an urgency clause.

Comments

1) *Author's statement.* According to the author, "During the Tubbs Fire of 2017, the Napa County Sheriff concluded that first responders needed a new way to alert the community that mandatory evacuations are in effect in the event of another catastrophic emergency. The Napa County Sheriff decided that the Hi-Lo audible warning, as commonly heard on European first responder vehicles, would be a practical solution. In the year following the Tubbs Fire, Napa County successfully evacuated its citizens on three separate occasions, receiving positive feedback from the community. Given the success of alerting the public impending catastrophic wildfires by using Hi-Lo sirens, it is appropriate that local law enforcement have the authority to use this tool for emergency alert. This distinct warning is proven effective and will save lives as California deals with the ongoing wildfire threat. It tells people to stop what they are doing, gather their loved ones and get out now. When seconds count, that unmistakable blast, telling people to evacuate, is absolutely critical."

2) *Wildfires.* Over the past several years, California has experienced a series of devastating wildfire seasons. Recent notable fires include, the Carr Fire (July 2018) in Shasta and Trinity Counties, which burned over 229,000 acres with eight fatalities associated with the fire. Additionally, the Camp Fire (November 2018) in Butte County, which burned over 151,000 acres with 86 fatalities associated with the fire. Unfortunately, the upcoming 2020 wildfire season does not appear to deviate from the past several years. The California Department of Forestry and Fire Protection's (CAL FIRE) Web site currently notes, "large fire potential may increase to above normal this spring across Southern California in response to the possibility of near to above normal rates of offshore wind events. "Grassfire Season" may be a few weeks earlier than

usual in 2020 with resource demand likely centered on foothill and urban interface regions."

3) *Evacuation procedures.* Throughout the State, counties encourage their residents to prepare evacuation plans in anticipation of a natural disaster. For example, the County of Los Angeles Fire Department produced a document titled "Ready! Set! Go!" which serves as a template and checklist for residents to prepare for catastrophic situations, such as wildfires. In circumstances where evacuations are necessary, state and local officials use a variety of informational tools and notifications to inform residents on evacuation procedures. For instance, in Marin County, the County Sheriff's department's "Alert Marin" program will inform Marin County Residents via texting, e-mailing, and call messaging regarding natural disaster notifications and evacuation updates.

4) *Sirens.* Existing law directs CHP to establish siren criteria for authorized emergency vehicles through regulations. These regulations specify three different siren functions (e.g. wail, manual, and yelp) are currently allowed and further specifies no other siren functions are permitted unless authorized by the CHP Commissioner and are approved on an experimental basis. The author's office notes that County of Napa is currently in the middle of a two year pilot program to use the hi-lo audible warning as a notification tool for natural disasters and/or evacuations. Since the program began, they have used the hi-lo audible warning sound to evacuate residents on three separate occasions. According to the author, Napa County has received positive feedback from the community on each occasion. Additionally, first responders in two other Northern California counties have used the hi-lo audible warning for evacuation purposes over the past several years.

5) *Statewide authorization.* This bill proposes to allow emergency vehicles statewide to use the hi-lo audible warning function when notifying residents of an evacuation without receiving authorization from CHP. The author asserts that this notification has been effective in several Northern California counties and should be expanded to allow emergency vehicles statewide to utilize this tool for evacuations purposes.

6) *Urgency Clause.* This bill includes an urgency clause and shall go into effect immediately upon passage by the Legislature and signature by the Governor.

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

SUPPORT: (Verified 6/1/20)

California Police Chiefs Association
California State Sheriffs' Association
Solano County Board of Supervisors

OPPOSITION: (Verified 6/1/20)

None received

Prepared by: Manny Leon / TRANS. / (916) 651-4121
6/4/20 9:58:13

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

Office of Senate Floor Analyses
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CONSENT

Bill No: SB 918
Author: Committee on Governmental Organization
Amended: 5/7/20
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 13-0, 5/12/20
AYES: Dodd, Wilk, Allen, Archuleta, Bradford, Chang, Galgiani, Hill, Hueso, Nielsen, Portantino, Rubio, Wiener
NO VOTE RECORDED: Borgeas, Glazer, Jones

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Alcoholic beverages: special nonprofit sales license: wine labels

SOURCE: Author

DIGEST: This bill clarifies a current provision in law that allows the Department of Alcoholic Beverage Control (ABC) the authority to issue a special nonprofit sales license to the University of California, Davis (UC Davis), as specified; and requires any wine bottled on or after January 1, 2023, and labeled with an American Viticultural Area (AVA) that is located entirely within the County of Mendocino to bear the designation "Mendocino County" on the label, as specified.

ANALYSIS:

Existing law:

1) Establishes the Department of ABC and grants it exclusive authority to administer the provisions of the ABC Act in accordance with laws enacted by the Legislature. This involves licensing individuals and businesses associated with the manufacture, importation and sale of alcoholic beverages in this state and the collection of license fees for this purpose.

2) Allows students who are at least 18 years of age and enrolled in degree granting programs in enology or brewing at accredited public postsecondary educational institutions to taste, but not consume, an alcoholic beverage for educational purposes as part of the instruction in a course required for a degree.

3) Grants the Department of ABC the authority to issue a special nonprofit sales license to a nonprofit mutual benefit corporation associated with the Department of Viticulture and Enology at UC Davis and permits the licensee to, among other things, accept up to 20,000 gallons of wine produced by UC Davis and sell the wine to consumers or to other licensees authorized to sell wine.

4) Requires any wine bottled on or after January 1, 2019, and labeled with an AVA that is located entirely within the County of Monterey to bear the designation "Monterey County" on the label, as specified.

5) Requires any wine bottled on or after January 1, 2014, and labeled with an AVA located entirely within a Sonoma County to bear the designation "Sonoma County" on the label, as specified.

6) Requires that, when the word "Napa" (or any federally recognized viticultural region within Napa County) appears on a brand label, at least 75% of the grapes used to make that wine must be from Napa County.

7) Requires wines produced within the "Napa Valley" to be labeled as being derived from that valley, if the wine label indicates that they are produced within a separate viticultural area within the Napa Valley, in order to preserve consumer identification and understanding.

8) Prohibits the sale of wine produced, bottled, or labeled after December 31, 2008, in this state that identifies, in a brand name or otherwise, on any label, packaging material, or advertising, the name "Sonoma," unless at least 75% of the grapes used to make the wine are from Sonoma County, as specified.

9) Stipulates that every person who, with intent to defraud, either falsely makes, alters, forges, or counterfeits the label for any wine or uses the label or bottle of any wine belonging to another, without his or her consent, is guilty of a misdemeanor.

This bill:

1) Clarifies a current provision in law that grants the Department of ABC the authority to issue a special nonprofit sales license to a nonprofit mutual benefit corporation associated with the Department of Viticulture and Enology at UC Davis and permits the licensee to among other things, accept up to 20,000 gallons of wine produced by UC Davis and sell the wine to consumers or to other licenses authorized to sell wine.

2) Requires any wine bottled on or after January 1, 2023, and labeled with an AVA that is located entirely within the County of Mendocino to bear the designation "Mendocino County" on the label, as specified.

Background

Purpose of this bill. According to the author's office, "in 2016, Governor Brown signed SB 683 (Wolk) which granted the Department of ABC the ability to issue a special nonprofit alcohol license to UC Davis which would have allowed it to sell up to 20,000 gallons of wine. UC Davis, through its College of Agricultural and Environmental Sciences, offers undergraduate and graduate degrees in the areas of grape growing and wine making. Historically, UC Davis had destroyed all excess wine by pouring it down the drain. Unfortunately, the bill was drafted incorrectly and UC Davis has been unable to obtain the license. This bill fixes that drafting error and would finally allow the Department of ABC to issue a special alcohol license to UC Davis. This bill will help prevent unnecessary and avoidable waste by allowing wine to be sold instead of discarded."

Additionally, the author's office states that, "California's wine industry is one of the largest economic drivers here in the Golden State. Our wine grape crop is a top tier agricultural fruit, worth a staggering $3.6 billion. California wine's total state economic impact is worth an estimated $58 billion. The wine industry is particularly important to several counties across the state, providing a critical boost to local businesses and economies. SB 918 is a simple bill that creates a 'Mendocino' wine label designation for wine produced within the County of Mendocino after January 1, 2023."

Previous authorization. In 2016, Governor Brown signed SB 683 (Wolk, Chapter 584, Statutes of 2016) which sought to authorize the Department of ABC to issue a special nonprofit license to UC Davis. Unfortunately, in order for the new nonprofit corporation in the bill to qualify to receive the special license, it must be

a nonprofit mutual benefit corporation, as described in Section 23701a of the Revenue and Taxation Code. However this code section does not refer to a "mutual benefit corporation" but instead defines a labor, agricultural, or horticultural organization described in Section 501(c)(5) of the Internal Revenue Code of 1954. This requirement is not entirely appropriate to the corporation envisioned by SB 683 and is a difficult threshold to meet. Therefore, while the authorization currently exists in law, UC Davis does not qualify for the license. This bill fixes that drafting error.

Conjunctive labeling. Conjunctive wine labeling is the practice of labeling wine to show both region and sub-regions of origin. Supporters of conjunctive labeling laws believe conjunctive labeling helps build brand equity, preserve, and strengthen a region's position as a recognized wine region. Supporters also believe conjunctive labeling increases sales of wines in the region.

In the U.S., Napa Valley was the first region to require conjunctive labeling in 1990, mandating that all Napa Valley wineries include the term "Napa Valley," on the front label. Some experts believe that Napa Valley's conjunctive labeling law, along with its high quality wine are some of the reasons the Napa Valley is such a world-recognized wine region.

Related/Prior Legislation

SB 683 (Wolk, Chapter 584, Statues of 2016) granted the Department of ABC the authority to issue a special nonprofit sales license to a nonprofit mutual benefit corporation associated with the Department of Viticulture and Enology at UC Davis and permitted the licensee to, among other things, accept up to 20,000 gallons of wine produced by UC Davis and sell the wine to consumers or to other licensees authorized to sell wine.

AB 394 (Stone, Chapter 167, Statutes of 2015) required any wine bottled on or after January 1, 2019, and labeled with an AVA that is located entirely within the County of Monterey to bear the designation "Monterey County" on the label.

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

SUPPORT: (Verified 6/2/20)

Mendocino County Farm Bureau
Mendocino Winegrowers Inc.
Visit Mendocino County

OPPOSITION: (Verified 6/2/20)

None received

ARGUMENTS IN SUPPORT: According to the Mendocino Winegrowers Inc., "conjunctive labeling builds country brand equity, increases wine sales, and raises recognition of budding industries across the Golden State. Starting in 1998, the California Legislature has approved conjunctive labeling laws for several winemaking regions, including Sonoma, Napa, and Lodi. When counties require their wine to bear the county name on the bottle, both the local industry and economy benefit. The value of wine increases when consumers are encouraged to "buy locally" and can bring positive association to a county when winemakers promote the regional identity of the product."

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6/4/20 9:58:13

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

Office of Senate Floor Analyses
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CONSENT

Bill No: SB 928
Author: Committee on Governance and Finance
Introduced: 2/5/20
Vote: 27 - Urgency

SENATE GOVERNANCE & FIN. COMMITTEE: 7-0, 5/11/20
AYES: McGuire, Moorlach, Beall, Hertzberg, Hurtado, Nielsen, Wiener

SUBJECT: Validations

SOURCE: Author

DIGEST: This bill validates the organization, boundaries, acts, and bonds of state and local agencies.

ANALYSIS: Over the past 80 years, the Legislature's annual Validating Acts have boosted the stability and credit ratings of state and local bonds. The Validating Acts cure public officials' mistakes that might otherwise invalidate boundary changes or bond issues. They also correct errors or omissions by local agencies and state departments. The Acts do not protect against fraud, corruption, or unconstitutional actions.

This bill validates the organization, boundaries, acts, proceedings, and bonds of the state government, counties, cities, special districts, and school districts, among other public bodies.

Comments

1) *Purpose of the bill.* The annual Validating Acts protect investors from the chance that a minor error might undermine the legal integrity of a public agency's bond. Banks, pension funds, and other investors will not buy public agencies' securities unless they are sound investments. Investors rely on legal opinions from bond counsels to assure the bonds' credit worthiness. Without legislative action to cure technical errors, bond counsels are reluctant to certify bonds as good credit risks. SB 928 gives legislative protection to public agencies and private investors.

2) *Taxpayers benefit*. The three Validating Acts cure typographical, grammatical, and procedural errors. They do not forgive fraud, corruption, or unconstitutional acts. A local official who makes a technical error will find reassurance in the Validating Acts, while a corrupt official faces prosecution regardless of the Acts. By insulating state and local bonds against harmless errors, the Validating Acts save taxpayers' money. Strong legal opinions from bond counsels result in higher credit ratings for state and local bonds. Higher credit ratings allow state and local officials to pay lower interest rates to private investors. Lower borrowing costs save money for taxpayers.

3) *Why three?* Starting in the mid-1920s, the Legislature passed separate validating acts for different types of bonds, several classes of special districts, and various local boundary changes. By the late 1930s, the practice was to pass annual validating acts (AB 2842, Bennett, 1939). The current custom and practice is to pass three Validating Acts that retroactively cure public officials' mistakes. The first two measures are urgency bills. The First Validating Act (SB 928) will probably reach Governor Newsom's desk this spring, validating errors made before the date on which the bill is chaptered. The Second Validating Act (SB 929) will become operative on September 1, validating mistakes made after SB 928 is chaptered. The Third Validating Act (SB 930) will take effect on January 1, 2021, covering the period between SB 929's operative date and the end of 2020.

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

SUPPORT: (Verified 5/12/20)

California Association of Local Agency Formation Commissions
California Special Districts Association
California State Association of Counties
East Bay Municipal Utility District
Rural County Representatives of California

OPPOSITION: (Verified 5/12/20)

None received

Prepared by: Jonathan Peterson / GOV. & F. / (916) 651-4119
5/13/20 10:22:58

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

SENATE RULES COMMITTEE SB 929
Office of Senate Floor Analyses
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CONSENT

Bill No: SB 929
Author: Committee on Governance and Finance
Introduced: 2/5/20
Vote: 27 - Urgency

SENATE GOVERNANCE & FIN. COMMITTEE: 7-0, 5/11/20
AYES: McGuire, Moorlach, Beall, Hertzberg, Hurtado, Nielsen, Wiener

SUBJECT: Validations

SOURCE: Author

DIGEST: The bill validates the organization, boundaries, acts, and bonds of state and local agencies.

ANALYSIS: Over the past 80 years, the Legislature's annual Validating Acts have boosted the stability and credit ratings of state and local bonds. The Validating Acts cure public officials' mistakes that might otherwise invalidate boundary changes or bond issues. They also correct errors or omissions by local agencies and state departments. The Acts do not protect against fraud, corruption, or unconstitutional actions.

This bill validates the organization, boundaries, acts, proceedings, and bonds of the state government, counties, cities, special districts, and school districts, among other public bodies.

Comments

1) *Purpose of the bill.* The annual Validating Acts protect investors from the chance that a minor error might undermine the legal integrity of a public agency's bond. Banks, pension funds, and other investors will not buy public agencies' securities unless they are sound investments. Investors rely on legal opinions from bond counsels to assure the bonds' credit worthiness. Without legislative action to cure technical errors, bond counsels are reluctant to certify bonds as good credit risks. SB 929 gives legislative protection to public agencies and private investors.

2) *Taxpayers benefit*. The three Validating Acts cure typographical, grammatical, and procedural errors. They do not forgive fraud, corruption, or unconstitutional acts. A local official who makes a technical error will find reassurance in the Validating Acts, while a corrupt official faces prosecution regardless of the Acts. By insulating state and local bonds against harmless errors, the Validating Acts save taxpayers' money. Strong legal opinions from bond counsels result in higher credit ratings for state and local bonds. Higher credit ratings allow state and local officials to pay lower interest rates to private investors. Lower borrowing costs save money for taxpayers.

3) *Why three?* Starting in the mid-1920s, the Legislature passed separate validating acts for different types of bonds, several classes of special districts, and various local boundary changes. By the late 1930s, the practice was to pass annual validating acts (AB 2842, Bennett, 1939). The current custom and practice is to pass three Validating Acts that retroactively cure public officials' mistakes. The first two measures are urgency bills. The First Validating Act (SB 928) will probably reach Governor Newsom's desk this spring, validating errors made before the date on which the bill is chaptered. The Second Validating Act (SB 929) will become operative on September 1, validating mistakes made after SB 928 is chaptered. The Third Validating Act (SB 930) will take effect on January 1, 2021, covering the period between SB 929's operative date and the end of 2020.

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

SUPPORT: (Verified 5/12/20)

California Association of Local Agency Formation Commissions
California Special Districts Association
California State Association of Counties
East Bay Municipal Utility District
Rural County Representatives of California

OPPOSITION: (Verified 5/12/20)

None received

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5/13/20 10:22:59

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

Office of Senate Floor Analyses
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CONSENT

Bill No: SB 930
Author: Committee on Governance and Finance
Introduced: 2/5/20
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 7-0, 5/11/20
AYES: McGuire, Moorlach, Beall, Hertzberg, Hurtado, Nielsen, Wiener

SUBJECT: Validations

SOURCE: Author

DIGEST: This bill validates the organization, boundaries, acts, and bonds of state and local agencies.

ANALYSIS: Over the past 80 years, the Legislature's annual Validating Acts have boosted the stability and credit ratings of state and local bonds. The Validating Acts cure public officials' mistakes that might otherwise invalidate boundary changes or bond issues. They also correct errors or omissions by local agencies and state departments. The Acts do not protect against fraud, corruption, or unconstitutional actions.

This bill validates the organization, boundaries, acts, proceedings, and bonds of the state government, counties, cities, special districts, and school districts, among other public bodies.

Comments

1) *Purpose of the bill.* The annual Validating Acts protect investors from the chance that a minor error might undermine the legal integrity of a public agency's bond. Banks, pension funds, and other investors will not buy public agencies' securities unless they are sound investments. Investors rely on legal opinions from bond counsels to assure the bonds' credit worthiness. Without legislative action to cure technical errors, bond counsels are reluctant to certify

bonds as good credit risks. SB 930 gives legislative protection to public agencies and private investors.

2) *Taxpayers benefit*. The three Validating Acts cure typographical, grammatical, and procedural errors. They do not forgive fraud, corruption, or unconstitutional acts. A local official who makes a technical error will find reassurance in the Validating Acts, while a corrupt official faces prosecution regardless of the Acts. By insulating state and local bonds against harmless errors, the Validating Acts save taxpayers' money. Strong legal opinions from bond counsels result in higher credit ratings for state and local bonds. Higher credit ratings allow state and local officials to pay lower interest rates to private investors. Lower borrowing costs save money for taxpayers.

3) *Why three?* Starting in the mid-1920s, the Legislature passed separate validating acts for different types of bonds, several classes of special districts, and various local boundary changes. By the late 1930s, the practice was to pass annual validating acts (AB 2842, Bennett, 1939). The current custom and practice is to pass three Validating Acts that retroactively cure public officials' mistakes. The first two measures are urgency bills. The First Validating Act (SB 928) will probably reach Governor Newsom's desk this spring, validating errors made before the date on which the bill is chaptered. The Second Validating Act (SB 929) will become operative on September 1, validating mistakes made after SB 928 is chaptered. The Third Validating Act (SB 930) will take effect on January 1, 2021, covering the period between SB 929's operative date and the end of 2020.

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

SUPPORT: (Verified 5/12/20)

California Association of Local Agency Formation Commissions
California Special Districts Association
California State Association of Counties
East Bay Municipal Utility District
Rural County Representatives of California

OPPOSITION: (Verified 5/12/20)

None received

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5/13/20 10:23:00

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

SENATE RULES COMMITTEE SB 940
Office of Senate Floor Analyses
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THIRD READING

Bill No: SB 940
Author: Beall (D), et al.
Amended: 4/17/20
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 6-0, 5/11/20
AYES: McGuire, Beall, Hertzberg, Hurtado, Nielsen, Wiener
NO VOTE RECORDED: Moorlach

SUBJECT: Housing Crisis Act of 2019: City of San Jose

SOURCE: City of San Jose
Santa Clara Valley Open Space Authority

DIGEST: This bill grants the City of San Jose flexibility in meeting the no net loss in residential capacity requirements of SB 330 (Skinner Chapter 654, Statues of 2019).

ANALYSIS:

Existing law:

1) Allows, under the California Constitution:

   a) Cities and counties to "make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws."

   b) Cities that adopt charters to control their own "municipal affairs." In all other matters, charter cities must follow the general, statewide laws.

2) Requires every county and city to adopt a general plan that sets out planned uses for all of the area covered by the plan. A general plan must include specified mandatory "elements," including a housing element that establishes the locations and densities of housing, and a land use element that describes the

general categories of uses (such as multifamily residential, single family residential, retail commercial, and open space) that are allowed in specific portions of a jurisdiction.

3) Requires cities' and counties' major land use decisions—including zoning ordinances and other aspects of development permitting—to be consistent with their general plans.

4) Requires a local government's housing element to allow for enough housing to be produced to meet the jurisdiction's regional housing need allocation (RHNA), which is updated on a statutory schedule (generally every eight years). The Department of Housing and Community Development (HCD) reviews and certifies housing elements as compliant with state law, and also reviews their zoning ordinances for consistency with the approved housing element.

5) Provides, pursuant to the Housing Crisis Act of 2019 (SB 330):

   a) Prohibits, until January 1, 2025, most local governments from changing local planning rules to reduce residential capacity within the jurisdiction or otherwise change land uses to a less intensive use that would reduce residential capacity.

   b) Allows cities and counties to reduce residential development intensity ("downzone") in one part of their jurisdiction as long as they increase residential intensity ("upzone") commensurately in another part of the jurisdiction at the same time, so that there is no net loss in residential capacity.

This bill:

1) Allows the City of San Jose, for the purposes of complying with the no net loss requirement in SB 330, to first increase the residential capacity in one area of the city and count that upzoning towards a later downzoning of an eligible parcel.

2) Applies this bill's provisions only to parcels zoned for residential uses that are inconsistent with the general plan of the city in effect on January 1, 2020. The downzoning authorized by SB 940 must occur within one year of the increase in zoned capacity takes place.

3) Provides that any downzonings only take effect once the City of San Jose establishes zoning districts that implement mixed use neighborhood, urban residential, transit residential, and urban village general plan land use designations.

4) Requires the city of San Jose to report each downzoning in the annual progress report that the city must file with HCD and to submit the annual report to the relevant policy committees of the Legislature in every year that the City of San Jose amends a zoning ordinance pursuant to this bill.

5) Sunsets this bill once HCD certifies the city's housing element for the sixth cycle.

6) Includes findings and declarations to support its purposes.

Background

The City of San Jose is a charter city. The city's current general plan, Envision 2040, proposes 29 types of land uses within the city's boundaries, including designations for urban villages that are intended to accommodate higher density housing and significant job growth, mixed use neighborhood, urban residential, transit residential that is intended to put mixed-use development near transit stations at moderately high density, urban residential that allows for medium density development and some commercial uses, and mixed use neighborhood that is intended for individual neighborhoods of denser single family homes or townhomes. The city has not yet adopted all the conforming zoning ordinances for these designations.

San Jose has relied on maintaining inconsistency between their general plan and zoning to ensure that development was concentrated in its urban core, rather than in its undeveloped outlying areas. Since the general plan designation overrides the zoning designation, the amount of housing that can be legally built on these parcels is negligible. Prior to 2019, state law didn't require zoning ordinances for charter cities to be consistent with their general plans. SB 1333 (Wieckowski, Chapter 856, Statutes of 2018) extended the consistency requirement, as well as several other provisions of planning and zoning law, to charter cities. However, in order to meet SB 1333's requirements, the city must downzone these parcels to less intensive uses. SB 330 prohibits downzoning unless a city simultaneously upzones to avoid any loss in residential capacity.

Because San Jose is embarking on a more comprehensive effort to bring zoning for many parcels into consistency with its general plan, it argues that it is infeasible to downzone and upzone all the parcels that it needs to modify for consistency simultaneously, as SB 330 requires. The city and the Santa Clara Valley Open Space Authority want the Legislature to grant the City of San Jose flexibility on when upzonings and downzonings can occur under SB 330.

Comments

1) *Purpose of the bill.* According to the author, "Senate Bill 940 empowers the City of San Jose to protect green and open space while maintaining a commitment to increase capacity for housing developments. This bill is urgently needed because the City of San Jose is currently in the process of rezoning over 11,000 acres of open space that is currently incorrectly zoned for single-family homes. Without SB 940, the city will have to navigate a burdensome rezoning process that will make it difficult to meet the deadlines required in recently passed legislation. This bill will authorize the City of San Jose to up-zone infill housing sites proactively in the urban core and around transit, while also having the flexibility to strategically down-zone sites to prevent sprawl. In other words, San Jose will aggressively up-zone in the urban core, then use their down-zone capacity to appropriate re-zone and protect our open spaces. I want to make it clear that this bill will not decrease the City's housing capacity."

2) *Who's next?* SB 1333 required all charter cities to bring their zoning ordinances into conformity with their general plans. While some charter cities required consistency between their general plans and zoning ordinances prior to SB 1333, others did not. Accordingly, it seems likely that other cities will come forward with reasons of their own for relaxing provisions of SB 330, whether because of SB 1333's consistency requirement or other implementation issues that arise. SB 940 sets a precedent for easing compliance with SB 330, which could be used by those cities who are less well-intentioned. However, SB 940 also included several provisions that ensure that it will be used in a manner that truly preserves residential capacity within the jurisdiction, such as a sunset, reporting requirements, and triggers on when the downzonings authorized by the bill become effective. Other city-by-city measures to loosen requirements set by SB 330 should ensure that they are similarly consistent with the spirit of the law.

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

SUPPORT: (Verified 5/14/20)

City of San Jose (co-source)
Santa Clara Valley Open Space Authority (co-source)
Building Industry Association of the Bay Area
California Building Industry Association
Green Foothills
Santa Clara Valley Audubon Society

OPPOSITION: (Verified 5/14/20)

None received

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5/15/20 8:59:28

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

SENATE RULES COMMITTEE SB 970
Office of Senate Floor Analyses
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CONSENT

Bill No: SB 970
Author: Umberg (D) and Berman (D), et al.
Amended: 5/29/20
Vote: 21

SENATE ELECTIONS & C.A. COMMITTEE: 5-0, 5/19/20
AYES: Umberg, Nielsen, Hertzberg, Leyva, Stern

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Primary election date

SOURCE: Author

DIGEST: This bill moves the direct primary election in gubernatorial election years from March to June, as specified.

ANALYSIS:

Existing law:

1) Provides that the direct primary election be held on the first Tuesday after the first Monday in March in each even-numbered year.

2) Provides that the presidential primary election be held on the first Tuesday after the first Monday in March of any year that is evenly divisible by four.

3) Establishes, pursuant to the California Constitution, the Citizens Redistricting Commission (CRC) and tasks the Commission with adjusting the boundary lines of the congressional, State Senate, Assembly, and Board of Equalization districts, as specified. Requires the CRC to approve the four final maps by August 15 in each year ending in the number one.

This bill:

1) Changes the date of the direct primary in gubernatorial election years (i.e. even-numbered years not evenly divisible by four) from the first Tuesday after the first Monday in March to the first Tuesday after the first Monday in June.

2) Finds and declares the following:

   a) California voters approved the Voters FIRST Act in 2008 and the Voters FIRST Act for Congress in 2010, which together established the CRC and made the Commission responsible for adjusting the boundary lines of the congressional, State Senate, Assembly, and Board of Equalization districts based on the federal decennial census and in conformity with standards set forth in both the federal and state constitutions.

   b) The CRC is required to conduct an open and transparent process enabling full public consideration of and comment on the drawing of district lines. That process includes holding public hearings both before and after releasing draft and final plans and providing adequate public comment periods after any plans are released.

   c) The CRC cannot draw new district lines until it receives census data from the United States Census Bureau (Census Bureau). Due to the COVID-19 pandemic, the Census Bureau has announced that release of census data to California will be delayed up to four months to July 31, 2021. As a result, the CRC will not have sufficient time to undertake the redistricting process as required by the Voters FIRST Act and the Voters FIRST Act for Congress and to approve new district boundaries that will be in place in time for a statewide direct primary election held in March 2022. Therefore, the Legislature finds that the 2022 statewide direct primary election must be moved back to June 7, 2022.

3) Makes other conforming technical changes.

Background

History of California's Primary Elections. From 1946 through 1994, California's primary elections were held in June of every even-numbered year. Additionally, since 1946, the only statewide primary election in a non-presidential election year that did not take place in June of an even-numbered year occurred in March of 2002. Changes to the primary election date have typically intertwined with California’s attempts to move up the presidential primary election due to the

perceived lack of impact that California had on the presidential nominating process.

In 1993, the Legislature passed and the Governor signed AB 2196 (Costa, Chapter 858, Statutes of 1993), moving the statewide primary election in presidential election years to March. Following the presidential primary election in March of 1996 and the direct statewide primary election in June of 1998, the Legislature passed and the Governor signed SB 1999 (Costa, Chapter 913, Statutes of 1998). SB 1999 permanently moved all future primary elections to the first Tuesday in March. As a result, both presidential primary and direct primary elections in 2000, 2002, and 2004 each took place in March of their respective year.

However, in 2005, the Legislature passed and Governor signed SB 1730 (Johnson, Chapter 817, Statutes of 2005). SB 1730 required California's primary election to be held on the first Tuesday after the first Monday in June in every even-numbered year. There were concerns raised with the perceived lack of influence California was having in the national presidential primary process, even with the earlier primary date, and concerned that the earlier primary for legislative, congressional, and statewide offices was increasing the costs of campaigning by lengthening the campaign season.

For 2008, the Legislature passed and the Governor signed SB 113 (Calderon, Chapter 2, Statutes of 2007). SB 113 moved California's presidential primary to February in an effort to increase California's influence in the presidential primary election and encourage candidates to discuss and debate issues relevant to this state. In addition to moving the presidential primary to February, SB 113 required a separate primary election for congressional and legislative offices to be held in June. In other words, California did not consolidate its presidential primary with the statewide direct primary election. This resulted in two primaries (March and June) and the statewide general election (November).

AB 80 (Fong, Chapter 138, Statutes of 2011) changed the date of the presidential primary election back to the first Tuesday after the first Monday in June from the first Tuesday in February of presidential election years. Combined with the changes established by AB 80 and the continuation of statewide direct primaries occurring in June of non-presidential years, all statewide primary elections between 2010 and 2018 took place in June.

Finally, in 2017, the Legislature passed and the Governor signed SB 568 (Lara, Chapter 335, Statutes of 2017). SB 568 changed the date of the statewide direct primary and the presidential primary to the first Tuesday after the first Monday in March with an operative date of January 1, 2019. As a result, the first direct

primary following the provisions of SB 568 was the presidential primary election held on March 3, 2020. Under current law, the next statewide direct primary would take place on March 8, 2022.

Comments

1) *Author's Statement.* According to the author, because of the ongoing effects of COVID-19, the Census Bureau has sought Congressional approval for four additional months to deliver the census data needed to reapportion Congress and to redraw congressional, state legislative and local districts in 2021. While some related details may still be pending, we have been assured that the delay will be approved.

   That delay will make it impossible for the CRC, the Los Angeles and San Diego County redistricting commissions, and other local jurisdictions to complete their work under current legal deadlines. Those deadlines must be commensurately adjusted and so must the date of the 2022 primary.

   The other impetus for this bill is to reduce the length of the gubernatorial election cycle. Since 1946, the statewide primary election in gubernatorial election years has been held in June with the lone exception of 2002. A March gubernatorial primary results in an unnecessarily elongated election cycle with the gap between the primary and the general election at eight months. Moving the primary to June would shorten the election season to a much more reasonable five months.

2) *Redistricting Timelines.* On April 13, 2020, the Census Bureau sought statutory relief from Congress of 120 additional calendar days to deliver the final apportionment counts due to the ongoing effects of the COVID-19 virus. Under the plan announced by the Census Bureau, the field data collection period would be extended from August 15, 2020 to October 31, 2020. Additionally, the deadline to deliver the apportionment counts to the President would also be extended from December 31, 2020 to April 30, 2021. Finally, the deadline for the delivery of redistricting data to the states would be moved from no later than March 31, 2021 to no later than July 31, 2021.

   If the redistricting data is delivered to California on July 31, 2021, it would provide redistricting bodies and local jurisdictions with a nearly impossible timeframe to adjust state and local district lines. For example, regardless of a change to the primary date and pursuant to state statute, the CRC is required to release the first preliminary statewide maps of the congressional, State Senatorial, Assembly, and Board of Equalization districts to the public no later than July 1, 2021. The CRC has until August 12, 2021 to release final district

maps for the House of Representatives, the Board of Equalization, the State Senate, and the State Assembly. The final maps, pursuant to the California Constitution, would need to be approved by August 15, 2021.

Additionally, both Los Angeles and San Diego counties have independent redistricting commissions established pursuant to state statute with a requirement that the supervisorial district maps be approved before August 15, 2021. For other counties and municipalities, the deadline to approve district lines must be completed 151 days before the next regular election occurring after March 1, 2022. For special districts, current state statute prohibits a change in division boundaries from being made within 180 days preceding the election of any director. As a result, if an election is held on March 8, 2022, district maps would need to be finalized for counties and municipalities by October 8, 2021 and for special districts by September 9, 2021. If the deadline is extended for delivering census data to the states without a change to the 2022 direct primary election date, jurisdictions throughout California would face an almost impossible challenge when adjusting their district lines in a timely manner.

Related/Prior Legislation

SCA 10 (Umberg, 2020) and ACA 26 (Berman, 2020), for 2021, authorize the CRC to extend the deadlines for final map approval and public display of preliminary maps if the Census Bureau fails to provide the Commission with necessary state redistricting population data within one year after the decennial census date. The measures also stipulate that the deadline to approve final maps shall not be extended beyond December 15, 2021.

SB 568 (Lara, Chapter 335, Statutes of 2017) changed the date of the statewide direct primary and the presidential primary to the first Tuesday after the first Monday in March.

AB 84 (Mullin, 2017) would have changed the date of the presidential primary election to first Tuesday after the first Monday in March. Following passage by the Assembly, AB 84 was amended for another purpose.

AB 80 (Fong, Chapter 138, Statutes of 2011) changed the date of the presidential primary election back to the first Tuesday after the first Monday in June of presidential election years from the first Tuesday in February of those years.

SB 113 (Calderon, Chapter 2, Statutes of 2007) moved California's presidential primary election from June to February in presidential election years and prohibited it from being consolidated with the statewide direct primary.

AB 2949 (Umberg, 2006) would have required the Secretary of State to schedule California's presidential primary election before, or on the same day as, the earliest presidential primary election held in any other state. AB 2949 was held on the Assembly Appropriations Committee's suspense file.

AB 1730 (Johnson, Chapter 817, Statutes of 2004) moved California's statewide direct primary election to the first Tuesday after the first Monday in June and required it to be consolidated with the presidential primary election in presidential election years.

SB 1999 (Costa, Chapter 913, Statutes of 1998) required that the statewide direct primary election be held on the first Tuesday in March in each even-numbered year and that it be consolidated with the presidential primary in presidential election years.

AB 2196 (Costa, Chapter 858, Statutes of 1993) moved California's presidential primary election from June to the fourth Tuesday in March and that it be consolidated with the statewide direct primary.

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

SUPPORT: (Verified 6/9/20)

Asian Americans Advancing Justice – California
League of Women Voters of California

OPPOSITION: (Verified 6/9/20)

None received

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6/10/20 14:27:57

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

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THIRD READING

Bill No: SB 972
Author: Skinner (D)
Amended: 5/29/20
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 4-2, 5/28/20
AYES: McGuire, Beall, Hertzberg, Wiener
NOES: Moorlach, Nielsen
NO VOTE RECORDED: Hurtado

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Corporation taxes: disclosure

SOURCE: SEIU California

DIGEST: This bill requires the State Controller to publish a list of large corporate taxpayers' tax liabilities and amounts of tax credits claimed based on information received from the Franchise Tax Board.

ANALYSIS:

Existing law:

1) Prohibits, generally, disclosure or inspection of any income tax return information.

2) Sets forth criminal sanctions, including imprisonment, which apply to Franchise Tax Board (FTB) personnel convicted of unlawful disclosure or inspection of tax records.

3) Directs FTB to notify a taxpayer if criminal charges have been filed for willful unauthorized inspection or disclosure of their tax data.

4) Contains explicit exemptions from the above requirements allowing FTB to disclose information to certain entities for specified purposes, such as to other

state agencies to assist administering programs, such as to the Department of Health Care Services for use in determining eligibility for Medi-Cal.

5) Requires FTB to publish a list of the top 250 tax delinquencies over $100,000 (AB 1418, Horton, Chapter 716, Statutes of 2006), which it subsequently expanded to the top 500 (AB 1424, Perea, Chapter 455, Statutes of 2011).

6) Allows various income tax credits, deductions, exemptions, and exclusions. The Legislature enacts such tax incentives either to compensate taxpayers for incurring certain expenses, such as child adoption, or to influence certain behavior, such as charitable giving.

7) Applies the combined report method of corporate taxation, which requires a corporation computing its California tax liability to include the tax returns of its unitary subsidiaries and affiliates into one report, and divide the corporation's overall income among the taxing jurisdictions in which it does business.

This bill:

1) Directs FTB to provide the State Controller with a list of all taxpayers subject to the Corporation Tax with gross receipts of $5 billion or more for the taxable year reported on a return submitted in the previous calendar year.

2) Requires the list to include:

   a) The taxpayer's name,

   b) Its tax liability,

   c) The taxable year for which the return is filed,

   d) The total gross receipts for that taxable year, and

   e) The amount of credits against the corporation tax claimed for that taxable year.

3) Provides that any determination with regard to calculating gross receipts must be made at the combined group level.

4) Requires the State Controller to post the information provided by FTB on its Internet Web site by May 1, 2021, and each May 1 thereafter, in a list that includes:

   a) The taxpayer's name as listed on its tax return.

b) The taxpayer's total amount of tax liability for the taxable year reported on a return in the previous calendar year.

c) The total amount of credits claimed by the taxpayer for the taxable year reported on a return in the previous calendar year.

5) Disconnects existing provisions of state law prohibiting disclosure or inspection of any income tax return information, but bars officers, employees, or agents of the State Controller's Office from disclosing any other information except as required to implement the bill.

6) Defines several terms, including "credits claimed," "gross receipts," "identifying information," and "tax liability."

Background

In 2017, Congress enacted HR 1, which comprehensively changed federal personal income and corporation taxes. HR 1 enacted several changes that significantly reduced federal taxes on corporations, including lowering the statutory rate from 35% to 21%, allowing immediate expensing when purchasing or leasing new equipment, and adopting a "territorial" system that mostly excludes from tax the income of a U.S. company's foreign subsidiaries. As a result of these changes, the Institute on Taxation and Economic Policy recently found in a sample of 397 companies for the 2018 taxable year that the effective federal income tax rate is only 11.3%, or less than half of the new statutory rate, with many prominent firms paying no federal taxes at all. In California, the Legislative Analyst's Office (LAO) has found that the corporation tax's share of total general fund revenues has declined from 16% in the 1950s and 60s to 9% in the early 2010s. LAO states that changes in state law made since the mid-to-late 1980s and increased usage of tax credits reduced annual revenues by approximately $3 billion annually.

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

SUPPORT: (Verified 6/10/20)

SEIU California (source)
Alameda Labor Council
American Civil Liberties Union of California
California Alliance for Retired Americans
California Association of Professional Scientists
California Federation of Teachers
California Professional Firefighters
California School Employees Association

California Teachers Association
California Tax Reform Association
Evolve California
Friends Committee on Legislation of California
Professional Engineers in California Government
UDW/AFSCME Local 3930
United Food and Commercial Workers – Western States Council

OPPOSITION: (Verified 6/10/20)

Biocom
Calaveras County Taxpayers Association
California Business Properties Association
California Business Roundtable
California Chamber of Commerce
California Life Sciences Association
California Manufacturers & Technology Association
California Retailers Association
California Taxpayers Association
CompTIA
Council on State Taxation
Family Business Association of California
Kern County Taxpayers Association
Orange County Taxpayers Association
San Gabriel Valley Economic Partnership
Santa Maria Valley Chamber of Commerce
Silicon Valley Leadership Group
Solano County Taxpayers Association
Sutter County Taxpayers Association
TechNet
Western States Petroleum Association

ARGUMENTS IN SUPPORT: According to the author, "With California facing a $54 billion deficit as a result of the COVID-19 pandemic, expenditures the state makes or forgoes merit thorough scrutiny to ensure that the budget enacted meets its intended goal. One area that policymakers and the public have little ability to assess is the over $70 billion a year California gives in tax credits, deductions, exclusions, exemptions, or other tax benefits. California does not collect or make available data on the state tax breaks that a particular corporation takes or the amount of state taxes an individual corporation pays. In contrast, Florida, Indiana, Iowa, Maine, Maryland, Minnesota, Mississippi, Nebraska, Oklahoma, and

Washington all require companies to disclose varying levels of information on the state specific tax credits taken by those companies and the amount of taxes the companies pay to the state. Federally, all publicly traded companies must annually disclose to the Securities Exchange Commission data on the amount of federal taxes paid by the corporation, federal tax deductions taken, CEO and median employee pay, and other info. This publicly available data provides policymakers and the public the ability to evaluate the benefits of various tax policies that can guide future policy recommendations, and ensure appropriate oversight. By creating a database of corporations with $5 Billion or more in gross receipts and requiring those corporations to disclose any state tax subsidies taken and the amount of state taxes paid, SB 972 provides a tool that policymakers and the public can access. SB 972 does not eliminate any tax benefit and does not raise any taxes, it simply provides transparency and access to information on how California spends its taxpayers' dollars."

ARGUMENTS IN OPPOSITION: According to the California Taxpayers Association, "This proposed law would violate the California Taxpayers' Bill of Rights, which requires the Franchise Tax Board to protect the rights of all California taxpayers. These rights include the right to privacy and confidentiality, and the right to pay no more than the correct legal amount of tax owed. There is no valid reason to violate the fundamental principle of taxpayer confidentiality. Information submitted by taxpayers to tax agencies should remain confidential to encourage the self-reporting upon which California's income tax system relies. Under SB 972 an erosion of trust would occur, as the public is acutely aware that tax agencies currently must safeguard their tax information, and this bill would break that trust. This bill discriminates against certain businesses based upon subjective criteria. The bill arbitrarily sets a threshold of $5 billion annually in gross receipts for businesses whose confidential information must be shared with the public. Taxpayers should not be singled out based upon the amount of business they conduct. The COVID-19 pandemic is having a devastating impact on California workers, and the number of unemployment insurance claims has shattered the previous record high. Now more than ever, California needs to look for ways to improve its business climate so jobs can be preserved and Californians can go back to work when the pandemic is over. By violating business taxpayers' rights and creating a disincentive for using tax credits designed to increase job-creation, this legislation goes in the opposite direction."

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6/10/20 13:25:05

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

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THIRD READING

Bill No: SB 974
Author: Hurtado (D)
Amended: 6/2/20
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 6-0, 5/29/20
AYES: Allen, Dahle, Hertzberg, Hill, McGuire, Wieckowski
NO VOTE RECORDED: Bates

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: California Environmental Quality Act: small disadvantaged community water system: exemption

SOURCE: Rural Community Assistance Corporation
Self-Help Enterprises

DIGEST: This bill exempts from the California Environmental Quality Act (CEQA) certain water infrastructure projects for small disadvantaged community water systems that improve the water system's water quality, water supply, or water reliability; encourage water conservation; or provide safe drinking water service to existing residences within a disadvantaged community.

ANALYSIS: Existing federal law, the federal Safe Drinking Water Act (SDWA), authorizes the United States Environmental Protection Agency (US EPA) to set standards for drinking water quality, known as maximum contaminant levels (MCLs) and to oversee the states, localities, and water suppliers who implement those standards (42 United States Code §§300f et seq.).

Existing state law:

CEQA

1) Requires lead agencies with principal responsibility for carrying out or approving a proposed discretionary project to prepare a negative declaration

(ND), mitigated negative declaration (MND), or environmental impact report (EIR) for this action, unless the project is exempt from CEQA. CEQA includes various statutory exemptions as well as categorical exemptions in the CEQA guidelines (Public Resources Code §21000 et seq.). If there is substantial evidence, in light of the whole record before a lead agency that a project may have a significant effect on the environment, the lead agency must prepare a draft EIR (CEQA Guidelines 15064(a)(1), (f)(1)).

California Safe Drinking Water Act (SDWA)

2) Requires the State Water Resources Control Board (SWRCB) to adopt drinking water standards for contaminants in drinking water that are consistent with those standards set by the US EPA, as specified (Health and Safety Code (HSC) §116365).

3) Requires SWRCB to encourage the consolidation of small community water systems that serve disadvantaged communities when consolidation will help the affected agencies and the state meet specific goals (HSC §116326).

4) Authorizes SWRCB, in the following circumstances, to order consolidation with a receiving water system:

   a) When a public water system or a state small water system, serving a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water.

   b) When a disadvantaged community is substantially reliant on domestic wells that consistently fail to provide an adequate supply of safe drinking water (HSC §116682).

5) Authorizes SWRCB to order extension of service to an area within a disadvantaged community that does not have access to safe drinking water as long as the extension of service is an interim extension in preparation for consolidation (HSC §116682).

This bill:

1) Exempts from CEQA specified water infrastructure projects that primarily benefit a small disadvantaged community water system and that meet all of the following:

   a) Does not affect wetlands or sensitive habitats.

b) Unusual circumstances do not exist that would cause significant effect on the environment.

c) Is not located on a hazardous waste site, as specified.

d) Does not have the potential to cause substantial adverse change in the significance of a historical resource.

e) Construction impacts are fully mitigated consistent with applicable law.

f) The cumulative impact of successive reasonably anticipated projects of the same type as the project, in the same place, over time, is not significant.

g) Does not apply to facilities that are constructed primarily to serve future growth and facilities that are used to dam, divert, convey surface water.

2) Defines "small disadvantaged community water system" to mean either of the following:

a) A small community water system that serves one or more disadvantaged communities.

i) Defines "small community water system" as a community water system that serves no more than 3,300 service connections or a yearlong population of no more than 10,000 persons.

ii) Defines "community water system" to mean a public water system that serves at least 15 service connections used by yearlong residents or regularly serves at least 25 yearlong residents within the area served by the public water system.

b) A nontransient noncommunity water system that primarily serves one or more schools that serve one or more disadvantaged communities.

i) Defines "nontransient noncommunity water system" as a public water system that is not a community water system and that regularly serves at least 25 of the same persons more than six months per year.

3) Defines "disadvantaged community" as a community with an annual median household income that is less than 80 percent of the statewide annual median household income.

Background

1) *CEQA.*

a) *Overview of CEQA Process*. CEQA provides a process for evaluating the environmental effects of a project, and includes statutory exemptions, as well as categorical exemptions in the CEQA guidelines. If a project is not exempt from CEQA, an initial study is prepared to determine whether a project may have a significant effect on the environment. If the initial study shows that there would not be a significant effect on the environment, the lead agency must prepare a ND. If the initial study shows that the project may have a significant effect on the environment, the lead agency must prepare an EIR.

Generally, an EIR must accurately describe the proposed project, identify and analyze each significant environmental impact expected to result from the proposed project, identify mitigation measures to reduce those impacts to the extent feasible, and evaluate a range of reasonable alternatives to the proposed project. Prior to approving a project that has received environmental review, an agency must make certain findings. If mitigations measures are required or incorporated into a project, the agency must adopt a reporting or monitoring program to ensure compliance with those measures.

b) *What is analyzed in an environmental review?* An environmental review analyzes the significant direct and indirect environmental impacts of a proposed project and may include water quality, surface and subsurface hydrology, land use and agricultural resources, transportation and circulation, air quality and greenhouse gas emissions, terrestrial and aquatic biological resources, geology and soils, recreation, public services and utilities such as water supply and wastewater disposal, and cultural resources. The analysis must also evaluate the cumulative impacts of any past, present, and reasonably foreseeable projects/activities within study areas that are applicable to the resources being evaluated. A study area for a proposed project must not be limited to the footprint of the project because many environmental impacts of a development extend beyond the identified project boundary. Also, CEQA stipulates that the environmental impacts must be measured against existing physical conditions within the project area, not future, allowable conditions.

c) *CEQA provides hub for multi-disciplinary regulatory process.* An environmental review provides a forum for all the described issue areas to be considered together rather than siloed from one another. It provides a

comprehensive review of the project, considering all applicable environmental laws and how those laws interact with one another. For example, it would be prudent for a lead agency to know that a proposal to mitigate a significant impact (i.e. alleviate temporary traffic congestion, due to construction of a development project, by detouring traffic to an alternative route) may trigger a new significant impact (i.e. the detour may redirect the impact onto a sensitive resource, such as a habitat of an endangered species or tribal cultural resource). The environmental impact caused by the proposed mitigation measure should be evaluated as well. CEQA provides the opportunity to analyze a broad spectrum of a project's potential environmental impacts and how each impact may intertwine with one another.

2) *California's Safe Drinking Water Program*. The federal SDWA requires the US EPA to establish mandatory nationwide drinking water standards. It also requires water systems to monitor public water supplies to ensure drinking water standards are met and report to consumers if the standards are not met.

   The California SDWA generally provides for the operation of public water systems and enforces the federal act. And, as required by the federal act, the state's drinking water program must set drinking water standards that are at least as stringent as the US EPA's standards. Each community water system also must monitor for a specified list of contaminants, and the findings must be reported to SWRCB.

   As of June 2019, there were 7,410 public water systems in California classified into three different categories: 2,894 community water systems serving communities with full-time residents; 1,488 non-transient non-community water systems serving the same non-residents at least six months per year (e.g., schools, places of work, and prisons); and 3,028 transient non-community water systems serving nonresident at least 180 days per year (e.g., parks, motels, restaurants, and campgrounds).

3) *Contaminated levels in drinking water*. Under the federal SDWA, the US EPA sets national MCLs in drinking water for human consumption to protect the health of its users. Under California SDWA, SWRCB can set MCLs that are more restrictive than those set by the US EPA and can set MCLs for those contaminants not covered by the US EPA.

   When larger systems exceed MCLs, those problems are usually corrected promptly. In contrast, over time, small water systems because of their small base of rate payers, are much less able to remain compliant with state drinking

water standards. This is especially true when water system users include disadvantaged communities.

According to SWRCB Division of Drinking Water's 2018 Compliance Report, of the 7,410 public water systems, 366 public water systems had one or more violations of an MCL or of treatment procedures of contaminated waters in 2018. Of these, 90% are smaller public water systems, such as community water systems having less than 500 service connections and noncommunity water systems.

4) *CEQA and drinking water*. CEQA provides various exemptions for drinking water-related projects that meet certain criteria. These include:

- Emergency repairs to public service facilities necessary to maintain service (PRC 21080(b)(2). Under CEQA Guidelines 15269(b), this exemption applies to repairs to publicly or privately owned facilities necessary to maintain service essential to the public health, safety, or welfare, including repairs that require a reasonable amount of planning in order to address an anticipated emergency.

- Projects that are less than one mile in length within a public street or highway or any other public right-of-way for the installation of a new pipeline or the maintenance, repair, restoration, reconditioning, relocation, replacement, or demolition of an existing pipeline (PRC 21080.21).

- Operation, repair, maintenance, permitting, leasing, licensing, or minor alternation of existing public or private structures, facilities, mechanical equipment, or topographical features. This exemption is limited to activities that involve "negligible" or "no expansion of previous use beyond that existing at the time of the lead agency's determination." (CEQA Guidelines §15301)

- Replacement or reconstruction of existing structures or facilities. New structures must be located on the same site and have substantially the same purpose and capacity as the replaced structure; size of the project is irrelevant (CEQA Guidelines §15302).

Comments

1) *Purpose of Bill.* According to the author, "There are more than 1 million Californians without safe drinking water, and low-income communities and communities of color are more likely to be exposed to contaminated drinking

water. Severely disadvantaged communities are particularly suffering under failed water distribution systems, facing water outages, and lack potable water. Whether on private domestic wells of community water systems, low-income communities have historically had fewer resources to upgrade infrastructure. Consequently, an insufficient water supply means deciding whether to shower or wash clothes. Although California was the first state in the nation to recognize a comprehensive Human Right to Water in 2012, that promise remains unfilled.

> SB 974 creates a narrow exemption from CEQA for drinking water systems serving a disadvantaged community with fewer than ten thousand people as well as projects owned and operated by schools that serve a disadvantaged community. SB 974 helps the community seek necessary infrastructure to address their water supply needs by avoiding the timely and costly burden of CEQA.

2) *What do we lose with a CEQA exemption?* Often groups will seek a CEQA exemption in order to expedite construction of a particular type of project and reduce costs. In this case, a CEQA exemption is sought to avoid costs and delays associated with the environmental review process. According to Self-Help Enterprise, one of the co-sponsors:

> In cases where an existing exemption does not apply, [MNDs] are prepared for small disadvantaged community drinking water projects. [EIRs] are unheard of for projects at this small scale. Still, MNDs can take a year to draft (and review and revisions from the SWRCB can add as much as another year), and regularly cost about $40,000 to prepare. However, the costs can be much higher; a particularly challenging recent project's CEQA process totaled $84,500.

Providing an exemption, however, can overlook the benefits of environmental review: to inform decisionmakers and the public about project impacts, identify ways to avoid or significantly reduce environmental damage, prevent environmental damage by requiring feasible alternatives or mitigation measures, disclose to the public reasons why an agency approved a project if significant environmental effects are involved, involve public agencies in the process, and increase public participation in the environmental review and the planning processes.

Even though the ultimate goal is to provide drinking water to disadvantaged communities quickly, and not have projects to be delayed by the environmental review process, CEQA ensures that projects are approved in accordance with

informed and responsible decisionmaking. It ensures that decisionmakers, project proponents, and the public know of the potential short-term, long-term, and maybe permanent environmental consequences of a particular project before the project is approved. CEQA gives local governments and project proponents the opportunity to mitigate, or avoid if possible, those impacts associated with a particular water project.

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

SUPPORT: (Verified 6/8/20)

Rural Community Assistance Corporation (co-source)
Self-Help Enterprises (co-source)
Allensworth Community Services District
California Association of Realtors
East Orosi Community Services District
Hardwick Water Company
Lanare Community Services District
Lemon Cove Sanitary District
Plainview Mutual Water Company
Richgrove Community Services District
Rural County Representatives of California
Sultana Community Services District
Yettem-Seville Community Services District

OPPOSITION: (Verified 6/8/20)

State Building and Construction Trades Council of California

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6/10/20 14:32:29

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

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THIRD READING

Bill No: SB 998
Author: Moorlach (R)
Amended: 5/22/20
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 7-0, 5/21/20
AYES: McGuire, Moorlach, Beall, Hertzberg, Hurtado, Nielsen, Wiener

SUBJECT: Local government: investments

SOURCE: California Municipal Treasurers Association

DIGEST: This bill expands local agencies' investment options and makes other changes to their ability to invest surplus funds.

ANALYSIS:

Existing law:

1) Authorizes local officials to invest a portion of local agencies' temporarily idle funds in a variety of financial instruments.

2) Allows local officials to deposit money in state or national banks, savings associations, federal associations, credit unions, or federally insured industrial loan companies in the State of California.

3) Limits the percentage that local agencies can invest in specified investment types.

4) Allows local agencies to maintain commercial paper programs. Commercial paper programs offer notes of varying short-term maturities not to exceed 270 days, but typically between one to 90 days. In addition to the maximum maturity of 270 days, state law includes additional safeguards to ensure that commercial paper programs operate effectively.

5) Limits the amount of surplus funds local agencies can invest in commercial paper. Cities and special districts other than the City and County of San Francisco and the City of Los Angeles, may invest no more than 25 percent of the surplus funds in commercial paper and no more than 10 percent of the commercial paper of any single issuer. Counties, or local agencies that pool investments, may invest no more than 40 percent of their surplus funds in commercial paper and no more than 10 percent of surplus funds in any one issuer's commercial paper.

6) Permits local agencies to invest in medium-term notes, which are securities with a maximum remaining maturity of five years or less. Local agencies may invest up to 30 percent of their surplus funds in medium term notes, which must be issued by specified financial institutions.

7) Allows two or more public agencies to use their powers in common if they sign a joint powers agreement. Sometimes an agreement creates a new, separate government called a joint powers agency or joint powers authority (JPA).

8) Permits local agencies to pool investment resources and form JPAs to jointly exercise their power to make specified investments. These JPAs can issue shares of beneficial interest to specified public agencies provided they retain an investment advisor that meets specified qualifications.

9) Prohibits local agencies from investing surplus funds in securities that could realize zero or negative interest unless otherwise specified.

This bill:

1) Increases the commercial paper limit for cities and special districts that have more than $100 million in investment assets from 25% to 40% of their total surplus funds.

2) Prohibits cities and special districts from investing more than 10% of their commercial paper and medium-term investments in any single issuer.

3) Allows JPAs to determine the terms and conditions for public agencies to participate and invest in shares of beneficial interest consistent with existing law and clarifies that federally-recognized Indian tribes can participate in these investment pools.

4) Allows local agencies to invest in securities the federal government issues or backs that could result in zero- or negative-interest accrual if held to maturity

during a period of negative market interest rates, and hold those securities until maturity.

Background

When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, state law outlines local agencies' investment objectives, also known as the prudent investor standard. The primary objective is to safeguard the principal of the funds under its control. The secondary objective is to meet the liquidity needs of the depositor. The final objective is to achieve a return on the funds under its control. State law limits the percentage that local agencies can invest in many types of investments. This encourages local agencies to diversify their investment portfolios, which limits the risk to the local agency if any investment does not have the expected return. Local agencies make investments with different maturity dates, which refer to the date when the borrower must make the final payment due on an investment.

Comments

1) *Purpose of the bill*. According to the author, "SB 998 provides improved investment modifications for municipal treasurers in this time of crisis. From raising commercial paper concentration limits to expanding access to JPA investment pools, the Legislature should be equipping local governments with more investment tools to safeguard their balance sheets."

2) *Raise the roof.* While some municipal treasurers want to increase the limit on commercial paper if they have relatively large investment portfolios, it is unclear whether this change is necessary. There is not a readily available list of agencies and portfolio sizes. Furthermore, it is unclear how close agencies are to the existing 25% cap, and would therefore be able to avail themselves of the proposed increase to 40%. As a result, it is difficult to assess whether an increase in the cap is worth the potential risk of having some local agencies invest more of their assets in one type of security. SB 998 helps mitigate this risk by limiting the amount cities and special districts can invest in any single issuer's commercial paper and medium-term notes to 10% and includes a five-year sunset on this increased limit.

3) *To boldly go…* SB 998 allows local agencies to venture into uncharted territory by allowing investments in securities the federal government issues or backs that could result in zero- or negative-interest accrual, and allows local agencies to hold those securities during a period of negative market interest rates. There is concern that U.S. banks may follow the lead of some European banks and

pass through negative interest charges to depositors. This means that banks would charge local agencies for keeping funds in the bank, rather than investing them. These negative interest charges could prove more costly than if local agencies invested in a zero- or negative-interest accrual security issued or backed by the federal government. However, since banks are not currently levying negative interest charges, it is unclear how local agencies would take advantage of this provision of this bill. To determine whether these securities are stable and secure investment tools, this bill includes a five-year sunset to their authorization.

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

SUPPORT: (Verified 5/21/20)

California Municipal Treasurers Association (source)
California Asset Management Program
California Special Districts Association

OPPOSITION: (Verified 5/21/20)

None received

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5/22/20 14:07:42

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

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THIRD READING

Bill No: SB 999
Author: Umberg (D), et al.
Amended: 5/29/20
Vote: 21

SENATE JUDICIARY COMMITTEE: 7-1, 5/22/20
AYES: Jackson, Durazo, Lena Gonzalez, Monning, Stern, Umberg, Wieckowski
NOES: Jones
NO VOTE RECORDED: Borgeas

SUBJECT: Mobilehome park residencies: rent control: exemption

SOURCE: Golden State Manufactured Home Owners League
Los Angeles County Board of Supervisors

DIGEST: This bill removes a provision in state law that exempts mobilehome leases from any otherwise applicable local rent control ordinance if, among other specified conditions, the lease term is greater than one year.

ANALYSIS:

Existing law:

1) Allows local jurisdictions to impose mobilehome rent control laws, provided that parks can still earn a fair return on their investment. (*Cacho v. Boudreau* (2007) 40 Cal.4th 341, 350.)

2) Exempts a mobilehome lease from any otherwise applicable local mobilehome rent control ordinance adopted, if the lease meets all of the following:

   a) the rental agreement is in excess of 12 months' duration;
   b) the rental agreement is entered into between the management and a homeowner for the personal and actual residence of the homeowner;
   c) the homeowner was given at least 30 days from the date the rental agreement is first offered to accept or reject the rental agreement;

d) the homeowner was given 72 hours after receiving a copy of the signed rental agreement in specified manners. (Civ. Code § 798.17.)

This bill:

1) Makes a series of findings and declarations regarding the number of mobilehome parks in California, the number of local jurisdictions that have enacted some form of rent control applicable to mobilehome parks, and the impact that economic fallout from the COVID-19 pandemic is having on mobilehome residents.

2) Makes state law preempting the application of local rent control ordinances to mobilehome leases that are over a year in length and meet other specified conditions inapplicable to leases entered into on or after February 13, 2020.

3) Repeals the exemption from local rent control ordinances for all mobilehome leases that are over a year in length, effective January 1, 2025.

4) Contains a severability clause.

Background

1) *Summary.* Mobilehomes are an important source of affordable housing in California. Despite their name, however, mobilehomes are usually difficult or impossible to relocate. To protect the affordability of mobilehome living and in recognition that mobilehome owners cannot simply move out in response to large rent increases, many local jurisdictions in California have passed ordinances that control how much a mobilehome park can increase the rent it charges to residents. Since 1985, however, state law has preempted the application of local rent control laws to mobilehome leases that are more than one year long. As a result, mobilehome parks can avoid local efforts to control the rate of mobilehome rent increases by entering into long-term leases with residents. This bill would phase out the statewide exemption for such long-term leases, thus restoring full local control over restrictions on mobilehome rent increases, regardless of the length of the mobilehome lease in question.

2) *Overview.* As originally enacted, Civil Code Section 798.17 simply exempted a mobilehome lease from local rent control if the lease was greater than a year in length and so long as prominent language in the lease informed the mobilehome tenant about the exemption. (SB 1352, Greene, Chapter 1084, Statutes of 1985) Almost immediately, however, the Legislature added more preconditions to the

contractual circumstances that would support the exemption. Specifically, the Legislature required parks to give residents at least 30 days before deciding whether to accept or reject the offer. Additionally, the Legislature mandated that parks give residents a 72-hour period in which to void a long-term, rent control exempt lease after signing it. These "cooling off" provisions appear to recognize the danger that mobilehome residents might be pressured or incentivized to enter quickly into long-term, rent control exempt leases without immediately realizing what they were giving up. Finally, the Legislature established that mobilehome residents who reject the long-term, rent control-exempt lease offered to them must be given a shorter, rent controlled lease on the same essential terms. (SB 2026, Petris, Chapter 1416, Statutes of 1986).

The park owners who oppose this bill assert that these basic procedural protections are sufficient to ensure that parks cannot take advantage of park residents. According to this viewpoint, if park residents choose to enter into long-term, rent control-exempt leases, it is only because they perceive some benefit in such a lease that outweighs the value of rent control. The author and proponents of this bill, conversely, believe that the protections in existing law do little to overcome the fundamental asymmetry at the heart of this bargaining relationship. In contrast to most mobilehome residents, park owners are constant and repeat players in mobilehome lease negotiations, they are versed in mobilehome law, and they often have ready access to sophisticated legal counsel.

3) *What this bill does and does not do*. In considering the merits of this bill, it may be helpful to distinguish between what this bill does and does not do.

Nothing in this bill prohibits residents and parks from entering into long term leases. The only difference would be that, where a local rent control ordinance is in place, the terms of any long-term lease would have to comply with that rent control ordinance.

Nothing in the bill requires any local jurisdiction to adopt rent control for mobilehomes if it does not wish to do so. Local jurisdictions would maintain their current authority to adopt mobilehome rent control measures – or not – as they see fit. Only the scope of that local authority would change. Under existing law, local governments are powerless to force leases of over a year in length to comply with their mobilehome rent control ordinances. Under this bill, local governments would have that option.

Nothing in this bill requires local jurisdictions to apply rent control to long-term leases. Any local jurisdiction that likes the currently existing exemption from rent control for long-term leases would be free to maintain it, or add it, as a provision of their local ordinance.

What this bill does do is lift a statewide limitation on the authority of local governments to apply rent control to long-term mobilehome leases. It would mean, thus, that any jurisdiction which has elected to enact rent control for mobilehomes could also decide whether that rent control should apply to long-term mobilehome leases – or not – at its own discretion and without the interference of a statewide mandate.

4) *Constitutional considerations*. Two components of this bill would have the practical effect of modifying some existing mobilehome leases. Both the federal and California constitutions contain provisions limiting the power of government to enact laws which impair contractual obligations. Though both constitutional contract clauses speak in absolute terms, courts have long held that they do not prohibit all state action that results in the modification of a contract. (*Lyon v. Flournoy* (1969) 271 Cal.App.2d 774, 782.)

Instead, as the U.S. Supreme Court recently articulated in *Sveen v. Melin* (2018) 138 S. Ct. 1815, whether a state law violates the Contracts Clause must be determined through a two-step test. The threshold question is whether the state law operates as a "substantial impairment of a contractual relationship." If not, the state law does not violate the Contracts Clause. If so, then the state law may still be constitutional if it is drawn in an "appropriate" and "reasonable" way to advance "a significant and legitimate public purpose." (*Id*. at 1821-22.)

For a detailed discussion of how the constitutional contracts clauses might apply to this bill, please see the Senate Judiciary Committee Analysis.

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

SUPPORT: (Verified 5/29/20)

Golden State Manufactured Home Owners League (co-source)
Los Angeles County Board of Supervisors (co-source)
California Alliance for Retired Americans
California Rural Legal Assistance Foundation
California Senior Legislature
Disability Rights California

Long Beach Residents Empowered
Pomona Economic Opportunity Center
Public Advocates
Public Interest Law Project
Public Law Center
Stonegate Mobile Home Owners Association
Brent A. Tercero, Councilmember, City of Pico Rivera
YIMBY Law
Western Center on Law & Poverty
2 individuals

OPPOSITION: (Verified 5/29/20)

California Association of Realtors
California Mobilehome Parkowners Alliance
Cabrillo Management
Western Manufactured Housing Communities Association

ARGUMENTS IN SUPPORT: According to the author:

> The approximately one million fixed to modest-income seniors, disabled individuals, veterans, and immigrants living in mobilehomes throughout California are at the center of our affordable housing crisis. […]
>
> The immobility of these individuals heightens their need for consumer protections. With the prospect of moving so difficult, mobilehome residents simply cannot refuse extortionate rent increases through participation in the free market.
>
> Instead of offering protections, state law has imposed multiple loopholes that have effectively prevented local governments from instituting local rent control ordinances for mobilehome residents. Mobilehome residents and advocates deserve to enjoy the protections they have fought to earn on the local level. SB 999 would restore local control and help ensure rent affordability for mobilehome residents by removing a state imposed loophole in local mobilehome rent stabilization ordinances.

As sponsor of the bill, the Golden State Manufactured Home Owners League writes:

> Today, the housing crisis has become a humanitarian one.
>
> When we ask local governments to do everything in their power to address the housing crisis, and they do, why then is the state saying we didn't mean it with state-imposed loopholes. […]
>
> The bill says there is no longer a state-imposed loophole that prevents mobilehome tenants from benefitting from what local government pass into law on the issue of affordability.

As co-sponsor of the bill, the Los Angeles County Board of Supervisors writes:

> Mobilehome park residents […] have generally been regarded as some of the most vulnerable low-income homeowners. A significant portion of mobile homeowners or tenants are also senior citizens who live on limited or fixed incomes.
>
> […] SB 999 is an important step toward ensuring rent stabilization protections are in place for vulnerable homeowners and tenants by creating price stability and certainty and removing the risk of unexpected and substantial rent increases.

ARGUMENTS IN OPPOSITION: In opposition to the bill, Western Manufactured Housing Communities Association writes:

> In addition to our objection to this legislation on constitutional grounds, there are ample policy reasons to oppose the measure. Long-term leases provide certainty and stability for mobilehome park residents. […] SB 999 also effectively eliminates federal affordable housing financing opportunities through the FHA program. […] This legislation would also interfere with leases that balance rents over time. […] In jurisdictions were rent control has been imposed on mobilehome parks, the irony is that rent control limits the supply of affordable housing that can be financed by prospective homebuyers. The reason for this conundrum is

> actually quite simple – if rents are capped, the sales price of the home increases. […] WMA is additionally concerned that SB 999 will have the unintended consequence of stifling mobilehome park amenities and upgrades. Long-term leases are often required by institutions providing credit to parkowners. Without these leases, it will likely be more expensive to borrow money for park improvements […].

In further opposition to the bill, California Mobilehome Parkowners Alliance writes:

> SB 999 would repeal Civil Code section 798.17 […] which was originally cosponsored by park residents and park owners […] to encourage the use of long-term leases out of recognition that they are beneficial to both park owners and residents. […]
>
> While the proponents of SB 999 refer to Civil Code 798.17 as a loophole in state law, it is an option which provides homeowners the protections they need to negotiate on even terms with a prospective landlord.

Prepared by: Timothy Griffiths / JUD. / (916) 651-4113
6/1/20 10:02:22

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

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CONSENT

Bill No: SB 1003
Author: Jones (R), et al.
Introduced: 2/13/20
Vote: 27 - Urgency

SENATE JUDICIARY COMMITTEE: 8-0, 5/22/20
AYES: Jackson, Durazo, Lena Gonzalez, Jones, Monning, Stern, Umberg, Wieckowski
NO VOTE RECORDED: Borgeas

SUBJECT: Skateboard parks: other wheeled recreational devices: safety and liability

SOURCE: County of San Diego

DIGEST: This bill expands the law providing public entities qualified immunity, if certain attendant requirements are met, in connection with skateboarding in skateboard parks to also include the riding of other wheeled recreational devices, as defined. Similar to skateboarding, the riding of other wheeled recreational devices will be considered a "hazardous recreational activity."

ANALYSIS:

Existing law:

1) Defines "hazardous recreational activity" as a recreational activity conducted on property of a public entity that creates a substantial, as distinguished from a minor, trivial, or insignificant, risk of injury to a participant or a spectator. This includes animal riding, archery, bicycle racing, rodeo, and body contact sports. (Gov. Code § 831.7(b).)

2) Limits the liability of a public entity and a public employee to any person who participates in a hazardous recreational activity, including any person who assists the participant, for any damage or injury to property or persons arising out of that hazardous recreational activity. This qualified immunity also applies

to claims of spectators who knew or reasonably should have known that the hazardous recreational activity created a substantial risk of injury to themselves and were voluntarily in the place of risk, or having the ability to do so failed to leave. (Gov. Code § 831.7(a), (c).)

3) Provides that riding a skateboard at a facility or park owned or operated by a public entity as a public skateboard park, as specified, shall be deemed a hazardous recreational activity within the meaning of Government Code Section 831.7 ("Section 831.7") if all of the following conditions are met:

   a) the person riding the skateboard is 12 years of age or older;

   b) the riding of the skateboard that caused the injury was stunt, trick, or luge riding; and

   c) the skateboard park is on public property that complies with the requirements laid out below. (Health & Saf. Code § 115800(d)(1).)

4) Prohibits an operator of a skateboard park from permitting a person to ride a skateboard in the park, unless that person is wearing a helmet, elbow pads, and knee pads. (Health & Saf. Code § 115800(a).) These requirements may be satisfied, with respect to a facility, owned or operated by a local public agency, that is designed and maintained for the purpose of riding a recreational skateboard, and that is not supervised on a regular basis, by compliance with the following:

   a) adoption by the local public agency of an ordinance requiring a person riding a skateboard at the facility to wear a helmet, elbow pads, and knee pads; and

   b) the posting of signs at the facility affording reasonable notice that a person riding a skateboard in the facility must wear a helmet, elbow pads, and knee pads, and that a person failing to do so will be subject to citation under the above ordinance. (Health & Saf. Code § 115800(b).)

5) Requires the local public agency to maintain a record of all known or reported injuries incurred by a person riding a skateboard in a public skateboard park or facility. The local public agency shall also maintain a record of all claims, paid and not paid, including any lawsuits and their results, arising from those incidents that were filed against the public agency. (Health & Saf. Code § 115800(d)(4).)

6) Provides that a public entity that owns or operates a dog park shall not be held liable for injury or death of a person or pet resulting solely from the actions of a dog in the dog park. (Gov. Code § 831.7.5.)

This bill:

1) Defines "other wheeled recreational device" to mean nonmotorized bicycles, scooters, inline skates, roller skates, or wheelchairs.

2) Includes other wheeled recreational devices in Health and Safety Code Section 115800 ("Section 115800"), applying the same requirements and affording the same qualified immunity as currently provided to skateboarding in skateboard parks.

3) Applies the qualified immunity afforded above to injuries that occur while operating other wheeled recreational devices on or after the effective date of the legislation.

4) Provides that it is an urgency measure to take effect immediately.

Background

Existing law provides a qualified immunity to public entities and public employees in connection with injuries and damages arising from a person's participation in "hazardous recreational activities." (Gov. Code § 831.7.) The law extends that qualified immunity to local public agencies that operate public skateboarding parks, provided that they meet certain requirements, including requiring persons who skateboard to wear helmets, elbow pads, and knee pads. This bill extends that same qualified immunity, subject to the same requirements, to injuries or damage arising from the use of "other wheeled recreational devices," as defined, in these skateboard parks.

Other wheeled recreational devices were previously added to the statute in 2015, but a sunset date was placed on the expansion. The statute adding such devices sunset on January 1, 2020 without any extension. This bill once again extends the qualified immunity afforded to public agencies in connection with skateboarding to other wheeled devices, by again making the riding of such devices a hazardous recreational activity.

This bill is sponsored by the County of San Diego. There is no other known support or opposition. This bill contains an urgency clause.

Comments

Hazardous recreational activities

In 1983, California codified a qualified immunity for public entities and public employees for injuries suffered by individuals engaged in "hazardous recreational activities," currently defined as recreational activities "conducted on property of a public entity that creates a substantial, as distinguished from a minor, trivial, or insignificant, risk of injury to a participant or a spectator." (§ 831.7.) The law identifies activities considered hazardous for these purposes, including rock climbing, sky diving, and surfing. Section 831.7 makes clear that it is not a complete immunity and explicitly provides that it does not limit liability for certain conduct, such as failure of a public entity or employee to guard or warn of a known dangerous condition; negligent failure of the public entity or public employee to properly construct or maintain in good repair any structure, recreational equipment or machinery, or substantial work of improvement; or for gross negligence on the part of the entity or employee.

In 1997, AB 1296 (Morrow, Chapter 573, Statutes of 1997) categorized skateboarding as a hazardous recreational activity for which public entities could receive qualified immunity. (§ 115800.) Local public agencies are afforded the immunity pursuant to Section 115800 only if the person riding the skateboard is 12 years of age or older and the riding that caused the injury was "stunt, trick, or luge riding." In addition, the skateboard park must meet certain requirements. The public agency operator must not permit a person to ride a skateboard in the park, unless that person is wearing a helmet, elbow pads, and knee pads. However, this requirement can also be met at a facility not supervised on a regular basis through compliance with the following:

- adoption by the local public agency of an ordinance requiring a person riding a skateboard at the facility to wear a helmet, elbow pads, and knee pads; and

- the posting of signs at the facility affording reasonable notice that a person riding a skateboard in the facility must wear a helmet, elbow pads, and knee pads, and that a person failing to do so will be subject to citation.

As stated in previous analyses of legislation amending Section 115800, the qualified immunity encouraged communities to begin building skateboarding parks for use by their residents with requirements that proper safety ordinances first be put into effect.

Other wheeled recreational devices

In 2015, AB 1146 (Jones, Chapter 221, Statutes of 2015) was enacted to accommodate the use of other wheeled devices in public skateboard parks. AB 1146 expanded the existing qualified immunity of Section 115800 to also cover the use of these other devices in skateboard parks operated by a public entity, deeming the riding of such devices similarly a hazardous recreational activity. The bill defined "other wheeled recreational devices" as "nonmotorized bicycles, scooters, in-line skates, roller skates, or wheelchairs." The qualified immunity was made subject to the same terms and conditions that applied to the use of skateboards in those parks. The author of this bill illustrates the intent of AB 1146:

> Before AB 1146, locals would only open parks to skateboarders, because California Health and Safety Code § 115800 only provides local government immunity for skateboard injuries that occur in the park. However, skate parks were changing: traditionally only skateboards utilized these parks, but a variety of wheeled devices also began to want to utilize the parks. A growing population of skateboarders and other extreme sport riders caused riders to use existing busy public streets, parking lots, and other places to skate and ride. Their use of these areas for recreation resulted in damage to public and private structures, and placed children at risk of injury. AB 1146 allowed locals to open their skate parks to other all-wheeled devices for a safe place to ride and skate.

However, AB 1146 included a sunset of January 1, 2020, on its changes to the law, at which point the statute would revert to the previously existing statute covering only skateboarding.

With no intervening legislation, the statute sunset and the expansion to cover other wheeled recreational devices was removed from Section 115800. This bill again inserts other wheeled recreational devices, defined exactly as in AB 1146, into the provisions of Section 115800. In order to ensure the lapse in qualified immunity in connection with the use of these devices is minimized, the bill will take immediate effect and will cover claims for injuries that occurred on or after that effective date.

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

SUPPORT: (Verified 5/26/20)

County of San Diego (source)

OPPOSITION: (Verified 5/26/20)

None received

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
5/27/20 11:03:35

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

SENATE RULES COMMITTEE SB 1029
Office of Senate Floor Analyses
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CONSENT

Bill No: SB 1029
Author: Pan (D)
Amended: 5/14/20
Vote: 21

SENATE HEALTH COMMITTEE: 9-0, 5/13/20
AYES: Pan, Nielsen, Lena Gonzalez, Grove, Hurtado, Leyva, Mitchell, Monning, Rubio

SUBJECT: Medi-Cal: County of Sacramento

SOURCE: Author

DIGEST: This bill authorizes the Board of Supervisors of the County of Sacramento to establish a health authority to designate a number of Knox-Keene licensed health plans, approved by Department of Health Care Services, as the only Medi-Cal managed care plans authorized to operate within the county, negotiate and enter into contracts with health plans that the health authority designates, establish advisory committees, and pursue any other activities provided to a special county health authority. This bill establishes the membership of a commission, appointed by the board, to govern the health authority.

ANALYSIS:

Existing law:

1) Establishes the Medi-Cal program, administered by the Department of Health Care Services (DHCS), under which low-income individuals are eligible for medical coverage. [WIC §14000, et seq.]

2) Authorizes the director of DHCS to contract, on a bid or nonbid basis, with any qualified individual, organization, or entity to provide services to, arrange for, or case manage the care of Medi-Cal beneficiaries. [WIC §14087.3]

3) Establishes the Geographic Managed Care (GMC) pilot project to provide services to Medi-Cal beneficiaries, residing in clearly defined geographic areas, by permitting Medi-Cal beneficiaries the option of choosing from two or more managed health care plan or fee-for-service managed case arrangements. Authorizes DHCS to seek proposals and enter into contracts for managed health care services, as specified. [WIC §14089]

4) Authorizes the Sacramento County Department of Health and Human Services (DHS) to establish a stakeholder advisory committee to provide input on the delivery of health care services provided in the county. Authorizes the advisory committee to submit written input to DHCS and to receive any final reports a Medi-Cal managed care plan (MCP) in Sacramento County submits to DHCS. Prohibits state General Fund money to be used to fund advisory committee or administrative costs incurred by the county. [WIC §14089.07]

5) Authorizes DHCS to implement a GMC project in San Diego County, upon approval of the San Diego County Board of Supervisors. Authorizes San Diego County to establish two advisory boards, as specified, to advise the San Diego County Department of Health Services on the implementation of the GMC project. [WIC §14089.05]

6) Requires MCPs participating in the San Diego GMC project to be the first designated by the county for approval by DHCS. Authorizes MCPs designated by the county and approved by DHCS to compete for a contract with DHCS. Prohibits designation requirements by the county from conflicting with existing state or federal law and from being stricter than existing state or federal law, without DHCS approval. [WIC §14089.05]

7) Authorizes a special county health authority to be established in a county, selected by the director of DHCS in concurrence with the county, in order to meet the problems of delivery of publicly assisted medical care and to demonstrate ways of promoting quality care and cost efficiency. Authorizes the board of supervisors in the selected counties to establish a health authority to negotiate and enter in contracts, as specified in existing law, and to arrange for the provision of health care services, as specified. [WIC §14087.38]

8) Prohibits a member of the governing board appointed to represent the interests of physicians, health care practitioners, hospitals, pharmacies, other health care organizations, or beneficiaries from being deemed as interested in a contract entered into by DHCS if specified conditions are met. [WIC §14087.38]

This bill:

1) Authorizes the Board of Supervisors of the County of Sacramento to establish, by ordinance, a health authority to do all of the following:

    a) Designate a number of Knox-Keene licensed health plans, approved by DHCS, as the only Medi-Cal MCPs authorized to operate within the county by:

        i) Requiring health plans to first be designated by the health authority and then approved by DHCS, in order to compete for a contract with the state;

        ii) Prohibiting designation by the health authority and approval by DHCS from guaranteeing a health plan a contract with the state;

        iii) Prohibiting designation requirements of the health authority from conflicting with existing federal and state law or from being more strict than existing federal and state law, without DHCS's approval;

        iv) Requiring designation by the health authority to continue for the term of the Medi-Cal contract;

    b) Negotiate and enter into contracts with health plans that the health authority designates to contract with DHCS;

    c) Establish advisory committees to the health authority governing commission;

    d) Provide the option for the health authority to establish a county-sponsored plan as described in existing law; and,

    e) Pursue any other activities provided to a special county health authority, consistent with existing law.

2) Defines "health authority" to mean a separate public entity established by the Board that meets the requirements of existing state and federal law and criteria established by DHCS and engages in activities authorized by this bill.

3) Requires the health authority to be governed by a commission, appointed by the Board, which reflects the diversity of the community. Requires the commission to be compromised of the following members:

    a) 18 voting members, including:

i) Four individuals who advocate on behalf or represent the interests of Medi-Cal beneficiaries in the county;

ii) Two individuals who, at the time of being nominated, are Medi-Cal beneficiaries in the county;

iii) Two individuals who are represents community health centers operating in the county, serving Medi-Cal beneficiaries, and nominated by the Central Valley Health Network, or its successor organization;

iv) Four individuals who represent hospital systems operating in the county. Requires the Board to appoint no more than one individual representing each hospital system;

v) Two individuals who represent independent physician practice associations operating in the county;

vi) Two physicians, who serve Medi-Cal beneficiaries in the county, nominated by the Sierra Sacrament Valley Medical Society, or any successor organization;

vii) One behavioral health provider who serves Medi-Cal beneficiaries in the county;

viii) One individual who represents pharmacies that serve Medi-Cal beneficiaries enrolled in all Medi-Cal MCPs in the county;

b) At least two nonvoting members who represent Medi-Cal MCPs operating in the county; and,

c) Three nonvoting ex-officio members including a member of the Board, the director of the Sacrament DHS, and the director of the Sacramento County Behavioral Health Services, or their respective designees.

4) Authorizes the commission to establish advisory committees, which may include, but is not limited to, an executive committee and committees on consumer protection, finance, policies, and process. Authorizes the advisory committees, except for the executive committee, to consist of individuals who are not members of the commission.

5) Prohibits members of the commissions or its advisory committees to be compensated for activities relating to their duties as members. Requires members who are Medi-Cal beneficiaries to be reimbursed an appropriate

amount by the county for travel and childcare expenses incurred in performing their duties as members.

6) Prohibits a member of the commission from being deemed as interested in a contract entered into by DHCS if the member is a Medi-Cal beneficiary.

7) Prohibits a member of the commission appointed to represent the interests of physicians, health care practitioners, hospitals, or other health care organizations from being deemed as interested in a contract entered into by DHCS, as specified, if all the following the conditions are met:

   a) The member discloses the interest to the commission and abstains on voting on any recommendations on the contract;

   b) The member does not influence or attempt to influence the commission to recommend DHCS enter into a contract in which the member is interested; and,

   c) The commission notes the member's disclosure and abstention in its official record.

8) Sunsets the stakeholder advisory committee established by the Sacramento DHS under existing law, upon the establishment of the health authority authorized by this bill.

9) Makes legislative findings and declarations about the necessity for a health authority to meet the needs for delivering publicly assisted medical care in the county.

Comments

1) *Author's statement.* According to the author, over the last year, a broad range of local stakeholders convened to address concerns with Sacramento's Medi-Cal MCP and developed a number of recommendations, including a proposal to establish a new Medi-Cal oversight commission. While existing law authorizes a stakeholder advisory committee to provide input on Medi-Cal managed care in Sacramento, there remains a desire for more effective and locally focused oversight in Sacramento. Currently, members of the stakeholder advisory committee do not have a formal role in the contracting or oversight process. This bill will establish a health authority in Sacramento County, governed by an oversight commission. The commission will convene stakeholders to address Medi-Cal issues and will help determine which MCPs may contract with the state to provide Medi-Cal services in Sacramento County.

2) *Models of Medi-Cal managed care.* In 1981, the state began licensing different models of managed care delivery for Medi-Cal beneficiaries in different counties. Today, nearly 80% of Medi-Cal beneficiaries are enrolled in a Medi-Cal MCP and receive services through one of six managed care models. The six models of managed care in the Medi-Cal program are the county organized health system (COHS), GMC, two-plan model, regional model, Imperial model, and San Benito model. Each managed care model varies by which entities operate the MCP. For instance, in a COHS, the county administers the Medi-Cal MCP, which is the only MCP available to Medi-Cal beneficiaries in the county. On the other hand, in a two-plan model, Medi-Cal enrollees have a choice of MCP—one that is operated by the county (known as the local initiative plan), and one that is operated by a commercial MCP. In all models, DHCS contracts with the MCPs for delivering services.

3) *GMC in Sacramento County.* In 1992, the state established the GMC model, which enables DHCS to contract with many commercial MCPs to operate within a county to provide services to Medi-Cal beneficiaries. DHCS designated Sacramento as the first GMC County and later added San Diego County in 1994. Currently, DHCS contracts with five Medi-Cal MCPs to serve more than 425,000 Sacramento County residents enrolled in Medi-Cal.

   a) *Medi-Cal managed care stakeholder advisory committee.* In 2010, Sacramento DHS established a stakeholder advisory committee in order to improve services and health outcomes for beneficiaries. According to the committee charter, the committee provides input and recommendations to DHCS, Sacramento GMC Medi-Cal MCPs, the Board of Supervisors, and designated county leadership regarding the delivery of Medi-Cal services in Sacramento County. Members of the committee are appointed by Sacramento DHS and may appoint workgroups and subcommittees to address specific topics and may include non-committee members. While the committee convenes to provide input and recommendations for Sacramento GMC, there is no direct role for the committee to oversee the operations of Medi-Cal in the county and the performance of Medi-Cal MCPs.

   b) *Quality, access, and provider experience in GMC counties.* In October 2019, the California Health Care Foundation (CHCF) released a report reviewing quality, access, and provider experience in GMC counties. According to CHCF, there are several potential benefits in a GMC system, including more options for enrollees, competition between Medi-Cal MCPs that may lead to better performance, and more options for providers. CHCF also noted potential challenges. For instance, enrollees might find it difficult to choose

from multiple Medi-Cal MCPs or navigating the system when switching between MCPs. There may also be additional administrative costs for both providers and DHCS in order to manage a system with multiple Medi-Cal MCPs.

CHCF concludes that its analysis reveals a mixed picture of the performance of the GMC model and its ability to realize the potential benefits of greater competition and options for enrollees. It offers a number of recommendations to consider in order to improve the GMC model's performance. For instance, DHCS could demand better performance from participating Medi-Cal MCPs through contract requirements, oversight, and contract procurement criteria. DHCS could also provide financial incentives for better performance. Finally, the report suggests there could be greater collaboration among county and state stakeholders, including a more direct role for local stakeholders in establishing procurement priorities, reviewing Medi-Cal MCP bids, and overseeing performance.

c) *Efforts to improve Sacramento GMC.* Beginning in early 2019, stakeholders in Sacramento County have convened in a series of meetings to discuss potential changes to Sacramento GMC. As a result of these meetings, Sacramento stakeholders reached a consensus in identifying several major problems with Sacramento GMC and developed a number of proposals to address those problems. The stakeholders recommended establishing a county Medi-Cal oversight commission with greater authority than the existing stakeholder advisory committee, reducing the number of Medi-Cal MCPs in the county, explore establishing a county-sponsored Medi-Cal MCP, and investing in an integrated Sacramento health information exchange. In response to the stakeholder recommendations, DHCS has expressed a willingness to require MCPs seeking to contract with the state to have a letter of support from the county. DHCS also expressed a willingness to require contracted Medi-Cal MCPs to participate in local Medi-Cal oversight committees or commissions.

Related/Prior Legislation

AB 1467 (Committee on Budget, Chapter 23, Statutes of 2012) authorized Sacramento County to establish a stakeholder advisory committee to provide input on the delivery of oral health and dental care services in Medi-Cal, including dental managed care and fee-for-service Denti-Cal.

SB 208 (Steinberg, Chapter 714, Statutes of 2010) authorized Sacramento DHS to establish a stakeholder advisory committee to provide input on the delivery of Medi-Cal services provided in the county.

AB 2178 (Peace, Chapter 631, Statutes of 1994) authorized the Department of Health Services (now DHCS) to establish a multi-plan managed care pilot program, as defined, upon approval of the County of San Diego, for the provision of Medi-Cal services in that county. Authorized the county to establish advisory boards to review and comment on aspects of the multi-plan pilot program.

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

SUPPORT: (Verified 5/14/20)

Alianza
Children Now
County of Sacramento
Health Access California
Sacramento Area Congregations Together
Sacramento Covered
Sacramento Native American Health Center
SEIU California
Sierra Sacramento Valley Medical Society
United Latinos
Western Center on Law and Poverty
Six individuals

OPPOSITION: (Verified 5/14/20)

None received

ARGUMENTS IN SUPPORT: The County of Sacramento writes in support of this bill, stating that this bill gives the County greater control in holding Medi-Cal MCPs accountable for achieving certain goals and making MCPs responsive to any concerns raised by the health authority's governing commission. The County of Sacramento argues that the oversight ability authorized in this bill will assuredly result in significant improvements in access to and quality of care for the County's Medi-Cal beneficiaries.

Prepared by: Kimberly Chen / HEALTH / (916) 651-4111
5/18/20 9:14:40

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

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THIRD READING

Bill No: SB 1030
Author: Committee on Housing
Amended: 4/6/20
Vote: 27

SENATE HOUSING COMMITTEE: 10-0, 5/26/20
AYES: Wiener, Morrell, Caballero, Durazo, McGuire, Moorlach, Roth, Skinner, Umberg, Wieckowski
NO VOTE RECORDED: Bates

SENATE APPROPRIATIONS COMMITTEE: 7-0, 6/9/20
AYES: Portantino, Bates, Bradford, Hill, Jones, Leyva, Wieckowski

SUBJECT: Housing omnibus

SOURCE: Author

DIGEST: This bill makes non-controversial changes to sections of law relating to housing.

ANALYSIS: This bill makes non-controversial and non-policy changes to sections of law relating to housing. Specifically, this bill includes the following provisions, with the proponent of each provision noted in brackets:

1) *AB 1255 cleanup.* AB 1255 (R. Rivas, Chapter 661, Statutes of 2019) required each city and county to report an inventory of its surplus lands to the State Department of Housing and Community Development for inclusion in a digitized inventory of state surplus land sites compiled by the State Department of General Services. AB 1255 included a requirement to provide a surplus lands list when requested by certain entities, including "a citizen." To simplify the requirement and meet the intent of the provision, this bill changes "citizen" to "individual." [Senate Housing Committee]

2) *Housing element cleanup*. Recent legislation revised the code section pertaining to a locality's adequate sites inventory and placed a sunset on the

revision. There is a slight discrepancy in relation to the non-revised language between the section that will sunset, and the section that becomes operating after the sunset. This bill makes a technical correction to ensure conformity between the provisions of law that are in effect before and after the sunset. [Senate Housing Committee]

3) *Housing Accountability Act (HAA) cleanup*. SB 330 (Skinner, Chapter 654, Statutes of 2019) and AB 1743 (Bloom, Chapter 665, Statutes of 2019) both amended the HAA. AB 1743 was chaptered last and included jointing language to preserve the SB 330 changes to the HAA, but contained an error in the conforming subdivision changes. This bill corrects the error to ensure the changes in SB 330 are preserved. [Senate Housing Committee]

   Under SB 330, changes to a project's square footage or number of units cannot exceed 20% unless they are included in the project scope as a result of using a "density bonus, incentive, concession, waiver, or similar provision." This bill clarifies that under the HAA, Los Angeles' Transit Oriented Communities Program is included in "similar provision." [Mayor Garcetti's Office]

   Additionally, in the 2017 amendments to the HAA, the Legislature included an option for a local agency to direct the fine money to the Building Homes and Jobs Trust proposed by SB 2 (Atkins, Chapter 364, Statutes of 2017). In the event SB 2 did not pass, language was included to provide to direct the fine revenues into the Housing Rehabilitation Loan Fund. Because SB 2 ultimately did pass, this bill removes the obsolete references to the Housing Rehabilitation Loan Fund and correct the title of the Building Homes and Jobs Trust Fund. [Senate Housing Committee]

4) *Density Bonus Law (DBL) update.* The state DBL allows public entities to reduce or eliminate subsidies for a particular project by allowing a developer to include more total units in a project than would otherwise be allowed by the local zoning ordinance, in exchange for affordable units. Allowing more total units allows the developer to spread the cost of the affordable units more broadly over the market-rate units. There are several references to "handicapped parking" in DBL; this bill updates those references to "parking for persons with a disability." [Senate Housing Committee]

5) *SB 330 and LA's Transit Oriented Communities (TOC) program.* As noted above (see 3)), under SB 330 (Skinner, 2019), changes to a project's square footage or number of units cannot exceed 20% unless they are included in the project scope as a result of using a "density bonus, incentive, concession, waiver, or similar provision." This bill clarifies that under requirements for

preliminary applications, Los Angeles' Transit Oriented Communities Program is included in "similar provision." [Mayor Garcetti's Office]

6) *Los Angeles County Development Authority (LACDA) Housing Advisory Committee membership*. In April 2019, the Community Development Commission and the LA County Housing Authority were merged into one entity, the LACDA, with the LA County of Supervisors serving as the governing board. Prior to the merger, an 11-member Housing Commission served as the advisory board to the Supervisors in their role as LACDA commissioners. The Housing Commission consisted of six tenant members (one appointed by each supervisor). However, under state law, the Board of Supervisors was only allowed to establish a nine-member Housing Advisory Committee for LACDA, including two who must be tenant members. Because federal law requires that at least six members be tenant members, and state law limits the committee to nine members, there are only three seats available for non-tenant members. This bill authorizes LACDA to expand its Housing Advisory Committee to nine members, thereby allowing each Supervisor to appoint a non-tenant member. It also finds and declares that the proposed changes require a special statute because of the unique circumstances of LA County. [County of Los Angeles]

7) *Low Income Housing Tax Credit (LIHTC) Program cross references*. State law governing the LIHTC Program allows existing buildings to receive state credits only if they are "at-risk of conversion." This term is defined to mean a development in which at least 50% of the units have received governmental assistance from an enumerated list of federal and state programs and for which the affordability restrictions will expire within five years. Upon the expiration of the restrictions, the developments may charge market rate rents, displacing current low-income tenants. However, the LIHTC list of enumerated federal and state programs is outdated and incomplete. Cross referencing the list in LIHTC statute with the Preservation Notice Law in the Government Code, which has been kept more up to date, will allow the Tax Credit Allocation Committee (TCAC) to fund currently omitted at-risk properties and make these developments eligible for TCAC's at-risk set aside. [California Housing Partnership Corporation]

8) *No Place Like Home Program (NPLH) operating reserves*. The Mental Health Services Act Housing Program, the precursor to NPLH, awarded capitalized operating subsidy reserves (COSRs) as grants rather than loans. Building on this successful model that maximized private investment and the number of units funded, this bill makes the NPLH COSR a grant as well. This bill also

finds and declares that the proposed changes are consistent with, and further the intent of, Proposition 2 of 2018. [California Housing Partnership Corporation]

Background

According to the Legislative Analyst's Office, the cost of producing a bill in 2001-2002 was $17,890. By combining multiple matters into one bill, the Legislature can make minor changes to law in the most cost-effective manner.

Proposals included in this housing omnibus bill must abide by the Senate Housing Committee policy on omnibus bills. The proposals must be non-controversial and non-policy changes to various committee-related statutes. The proponent of an item submits proposed language and provides background materials to the Committee for the item to be described to legislative staff and stakeholders. Committee staff provides a summary of the items and the proposed statutory changes to all majority and minority consultants in both the Senate and Assembly, as well as all known or presumed interested parties. If an item encounters any opposition and the proponent cannot work out a solution with the opposition, the item is omitted from, or amended out of, the bill. Proposals in the bill must reflect a consensus and be without opposition from legislative members, agencies, and other stakeholders.

Comments

Purpose of the bill. The purpose of omnibus bills is to include technical and non-controversial changes to various committee-related statutes into one bill. This allows the Legislature to make multiple, minor changes to statutes in one bill in a cost-effective manner. If there is no consensus on a particular item, it cannot be included. There is no known opposition to any item in this bill.

Related/Prior Legislation

AB 957 (Committee on Housing and Community Development, Chapter 620, Statutes of 2019) made non-controversial changes to sections of law relating to housing.

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

According to the Senate Appropriations Committee:

- Changing NPLH Program funding awards for operating reserves from deferred payment loans to grants is considered a change in the use of a continuously appropriated fund, and is therefore considered an appropriation. It would not,

however, result in a change in the amount of funds allocated for operating reserves. (NPLH Fund)

- The remaining provisions are not expected to have a fiscal impact.

SUPPORT: (Verified 6/9/20)

California Housing Partnership Corporation

OPPOSITION: (Verified 6/9/20)

None received

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6/10/20 14:27:32

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

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THIRD READING

Bill No: SB 1049
Author: Glazer (D), et al.
Amended: 5/29/20
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 6-1, 5/28/20
AYES: McGuire, Beall, Hertzberg, Hurtado, Nielsen, Wiener
NOES: Moorlach

SUBJECT: Cities and counties: ordinances: short-term rentals

SOURCE: Author

DIGEST: This bill increases the administrative penalties that local agencies may impose for violations of short-term rental ordinances.

ANALYSIS:

Existing law:

1) Allows counties and cities to adopt and enforce ordinances that regulate local health, safety, peace, and welfare.

2) Allows, as an alternative to civil and criminal enforcement mechanisms, a local agency's legislative body to make any violation of any of its ordinances subject to an administrative fine or penalty.

3) Provides that a violation of a city ordinance is a misdemeanor unless by ordinance it is made an infraction. In general, every ordinance violation that is determined to be an infraction is punishable by:

   a) A fine not exceeding $100 for a first violation.

   b) A fine not exceeding $200 for a second violation of the same ordinance within one year.

c) A fine not exceeding $500 for each additional violation of the same ordinance within one year.

4) Establishes higher limits for a violation of local building and safety codes determined to be an infraction, punishable by:

a) A fine not exceeding $130 for a first violation.

b) A fine not exceeding $700 for a second violation of the same ordinance within one year.

c) A fine not exceeding $1,300 for each additional violation of the same ordinance within one year.

d) A fine not exceeding two thousand five hundred dollars ($2,500) for each additional violation of the same ordinance within two years of the first violation if the property is a commercial property that has an existing building at the time of the violation and the violation is due to failure by the owner to remove visible refuse or failure to prohibit unauthorized use of the property.

5) Allows cities to impose fines and penalties through civil or criminal proceedings. These fines and penalties are limited to $1,000 per violation and six months of imprisonment.

This bill:

1) Allows both cities and counties to enact administrative penalties for violations of short-term rental ordinances with the following fine amounts:

a) A fine not exceeding $1,500 for a first violation.

b) A fine not exceeding $3,000 for a second violation of the same ordinance within one year.

c) A fine not exceeding $5,000 for each additional violation of the same ordinance within one year.

2) Defines short-term rental as a residential property that is not a hotel or motel that is rented to a visitor for fewer than 30 consecutive days or less.

3) Requires a city levying any fines for a second or subsequent violation of any short-term rental ordinance to establish a process for granting a hardship waiver

to reduce the amount of the fine upon a showing by the responsible party that they have made a bona fide effort to comply after the first violation and that payment of the full amount of the fine would impose an undue financial burden.

Background

1) *Purpose of the bill.* According to the author, "Short-term rentals have exploded in popularity over the last decade with the rise of hosting platforms such as Airbnb, HomeAway, and VRBO. Airbnb alone now lists short-term rentals in 81,000 cities and 191 countries. Though short-term rentals offer a way to improve tourism and earn owners some extra money, their recent proliferation has allowed bad actors to use the platform to advertise and secure homes for large parties. With social media to amplify the reach of a party ad, a short-term rental property can quickly become the site of underage drinking, brawls, noise complaints, and – in some instances – violence. In the last half of 2019 alone, 42 people were shot inside or just outside short-term rental properties across the United States and 17 died. Many homes on these platforms rent for $1,000, $2,000, $3,000, or more dollars per night. In these instances, a maximum fine of $1,000 per violation is not enough to deter bad actors from trying to make a quick profit."

2) *Root of the problem?* Over the past years, some city and county officials have criticized short-term rentals for creating public safety concerns, with some California local jurisdictions creating strict short-term rental ordinances and others outright banning short-term rentals. According to the San Francisco Chronicle, between May 2019 and November 2019, at least 42 people have been shot inside or just outside the short-term rental properties across the United States, including in the California cities of West Covina, Fair Oaks, Hacienda Heights, Sacramento, and Orinda. However, it is unclear whether creating a new fine violation structure specifically for short-term rentals will deter behavior any more than the current fine violation structure. Does creating a new fine structure specifically for short-term rentals address the problem occurring in short-term rentals or would additional regulation to ensure platforms better oversee listings and guest generate better results?

3) *Paid in full.* Excessive fines can weigh heavily on people with limited means, while having a limited deterrent effect on those with deeper pockets. SB 1049 allows cities and counties to pursue fines for violations of short-term rental ordinances in an effort to encourage greater compliance, but city and county officials may seek the maximum fines for other reasons, without regard for the deterrent effect or the effect on the person or entity responsible for the

violation. Over the past several decades, city budgets have been squeezed by ballot measures such as Proposition 13 and Proposition 218 and new mandates from the state policymakers. Most recently, the COVID-19 pandemic has strained local government budgets. Local government revenue sources are often constrained to specific purposes, leaving local governments with fewer general fund resources. Fine revenues are one remaining source of funds for general activities. As such, local governments may be tempted to maximize revenue from fines.

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

SUPPORT: (Verified 5/29/20)

California Hotel and Lodging Association

OPPOSITION: (Verified 5/29/20)

None received

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6/1/20 11:29:37

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

SENATE RULES COMMITTEE
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THIRD READING

Bill No: SB 1099
Author: Dodd (D) and Glazer (D), et al.
Amended: 6/2/20
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 4-1, 5/29/20
AYES: Allen, Hertzberg, Hill, McGuire
NOES: Dahle
NO VOTE RECORDED: Bates, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Emergency backup generators: critical facilities: exemption

SOURCE: Author

DIGEST: This bill requires air districts to develop stipulations for an order of abatement that would allow permitted facilities to use backup generators (BUGs) in exceedance of hour limits, should they enter into a stipulated order of abatement (SOA) with the local air district. This bill further dictates some of the terms of that SOA, including reporting of use, and a schedule for replacing older polluting generators with the cleanest, feasible, applicable technology that is economically feasible.

ANALYSIS:

Existing federal law:

1) Sets, through the Federal Clean Air Act (FCAA) and its implementing regulations, National Ambient Air Quality Standards (NAAQS) for six criteria pollutants and requires states to prepare, submit, and adopt a State Implementation Plan (SIP) to limit air pollution and attain federal standards. (42 U.S.C. §7401 et seq.)

Existing state law:

1) Establishes the Air Resources Board (ARB) as the air pollution control agency in California and requires ARB, among other things, to coordinate, encourage, and review the efforts of all levels of government as they affect air quality. (Health and Safety Code (HSC) §39500 et seq.)

2) Creates the 35 air pollution control and air quality management districts (air districts) to be responsible for regional air quality planning, monitoring, and stationary source and facility permitting. (HSC §40000 et seq.)

3) Defines "emergency use" as providing electrical power during specified events, including the loss of normal electrical power for reasons beyond the control of the operator. (Title 17 of the California Code of Regulations §93115.4)

4) Allows an air district board or air pollution control officer to, after notice and hearing, order an entity to abate its emissions from a given technology, and such an order may contain stipulations regarding that abatement. (HSC § 42451)

This bill:

1) Defines pertinent terms for Section 42451.1 of the Health and Safety Code.

2) Makes findings and declarations regarding:

    a) The impacts on humans and the environment of increasing wildfires.

    b) How Public Safety Power Shutoffs (PSPS) events create challenges for water agencies moving and delivering water.

    c) The necessity for action to reduce impacts from different events on different facilities, and that that action provide better access to alternative power sources for the purposes of water delivery and wildfire response.

3) Requires air districts to develop stipulations for an SOA that allows the operator of a critical facility, as defined, to use a permitted emergency BUG in exceedance of that permit's runtime and testing and maintenance limits if both of the following are met:

    a) The operation of the BUG occurs as the result of a deenergization event or other loss of power.

b) The testing and maintenance for that emergency BUG is in accordance with the National Fire Protection Association Standard 110 for Emergency and Standby Power Systems.

4) Mandates some of the conditions of a mutually agreed-upon SOA to permit BUG use in exceedance of runtime limits, including:

a) A schedule for the replacement of Tier 1 or lower emergency BUG with the cleanest, feasible, and applicable technology.

b) Reporting requirements about the use of the BUG due to PSPS or testing.

c) Logistical considerations for duration of the SOA, and approval by the local air district hearing board.

Background

1) *Backup generators*. In order to mitigate the damage of power loss, many of these critical service providers may rely on BUGs to replace lost grid power. Additionally, many businesses may use BUGs to avoid catastrophic system disruptions and to minimize economic disruption that could result from prolonged power outages. However, this use of BUGs may result in air quality and public health impacts.

According to estimates from ARB, nearly 125,000 BUGs were used in California during PSPS events in October 2019. Assuming an average of 50 hours of operation each, those generators released a cumulative total of 166.4 tons of nitrogen oxides (NOx), 19.4 tons of particulate matter (PM), and 8.9 tons of diesel PM. The diesel PM release was roughly equivalent to 29,000 additional heavy-duty diesel trucks being used for the month.

2) *Health impacts of diesel emissions*. In 1998, California identified diesel PM as a toxic air contaminant based on its potential to cause cancer, premature death, and other health problems. Numerous studies have documented a range of adverse health impacts from long-term exposure to diesel pollution, including increased risk for respiratory and cardiovascular illnesses, such as asthma, heart attacks and lung cancer, stunted lung growth in children, adverse birth outcomes, more frequent emergency room visits, and higher mortality rates.

3) *Air district permitting rules*. Each of the state's 35 air districts adopts their own sets of regulations and rules tailored to the sources and air quality challenges of its region and overseen by ARB. Ultimately, these actions are designed to achieve NAAQS set by the FCAA. Collectively, these strategies (i.e. emission

standards, fuel regulations, emission limits, etc.) are included in the SIP. ARB is the lead agency in California for achieving the emission reductions goals and timelines described in the SIP. The 35 air districts, as well as other agencies, prepare SIP elements to be reviewed and approved by ARB before being integrated into the SIP.

With few exceptions, anyone constructing or operating a facility that emits air pollutants must obtain an appropriate permit from the local air district. Each air district establishes its own fee schedule, and may maintain different requirements. An air district uses these permits to assess the air pollution impacts of stationary sources within its jurisdiction, and it may require additional standards or control technologies be used to align permitted entities' emissions with the SIP.

4) *Using and maintaining BUGs in California*. Because of the air quality and public health impacts of diesel emissions, ARB and air districts have adopted rules and regulations that affect the amount of time BUGs can be used. The amount of time permitted for routine maintenance is dictated by ARB's Airborne Toxic Control Measure for Stationary Diesel Engines. This regulation—and the implementing rules from air districts—dictates that older, more-polluting engines be tested for less time to control cumulative emissions.

   There is currently no statewide regulation limiting the hours a BUG can be run. Notably, the South Coast Air Quality Management District (SCAQMD) has adopted such rules. SCAQMD's Rule 1110.2 dictates that a permitted BUG may only be run for 200 hours per year, including usage for maintenance and testing (an estimated 10-30 hours, depending on generator technology).

5) *Air district rules during emergencies*. Air districts provide for administrative exemption from established rules and regulations through the variance process, or in some cases have specific rules that do not apply during an emergency. For example, Yolo-Solano Air Quality Management District's Rule 110 exempts emergency standby engines used during an emergency from the District's other regulations on engines used over 200 hours per year, and the Bay Area Air Quality Management District's Rule 9-8-330 states a person may operate an emergency standby generator an unlimited number of hours for emergency use.

   If a permitted facility anticipates they will need to exceed their authorized emissions due to reasons outside their control, they may submit a request for a variance to the board of the air district, who will hear and vote on the request at a public meeting. Should an interruption arise without time for the normal variance and hearing process, there is also an established emergency variance

process. When an emergency variance is requested, it can be granted by the chair of the air district board (or a designee) without the board convening.

Comments

1) *Is there a real problem?* The Senate Environmental Quality Committee has seen no evidence of BUG regulations causing any facility to shut down or receive a fine during a PSPS event. Moreover, it is the understanding of staff that the only air district whose rules could limit BUG use during a PSPS is SCAQMD. Despite this, advocates for SB 1099 and similar BUG-exempting bills claim that the looming possibility of such consequences merits legislative action. It is impossible to predict the extent to which California's utility providers will rely on grid deenergization to mitigate wildfire risk going forward.

2) *Stipulated Orders of Abatement.* An SOA is a legally-binding agreement between an air district and a facility operating a stationary pollution source. An air district hearing board has statutory authority to issue such an order, with terms and conditions, to a facility. In the event that a facility expects they may exceed their runtime limits and be in violation of their permit, they could enter into an SOA to find a mutually-agreeable solution to that potential exceedance with the air district. Instead of being fined for exceeding their permit conditions, the facility could be required to address their emissions by, for example, agreeing to retire highly polluting generators under a defined timeline.

   Committee amendments to SB 1099 ensured that local air district authority is maintained in determining conditions that would allow a BUG to be used for more hours than it is permitted. Currently, most of the permitted BUGs in the state do not have their runtime limited during an emergency. The committee amendments do not require all critical facilities to enter into SOAs or retire their BUGs, nor do they require air districts to change their rules on runtime limits. SB 1099 ensures that, if critical facilities are subject to runtime limits, they have a clear and available path to certainty by entering into a mutually-agreeable SOA with their local air district.

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

SUPPORT: (Verified 6/9/20)

Association of California Water Agencies
California Cable & Telecommunications Association

California Groundwater Coalition
California Municipal Utilities Association
California Water Service
Calleguas Municipal Water District
City of Thousand Oaks
Eastern Municipal Water District
Elsinore Valley Municipal Water District
Irvine Ranch Water District
Laguna Beach County Water District
Las Virgenes Municipal Water District
Mesa Water District
Metropolitan Water District of Southern California
Municipal Water District of Orange County
Northern California Water Association
Public Water Agencies Group
Rowland Water District
San Diego County Water Authority
Sanitation Districts of Los Angeles County
Santa Clarita Valley Water Agency
Trabuco Canyon Water District
Western Municipal Water District

OPPOSITION: (Verified 6/9/20)

Bay Area Air Quality Management District
California Air Pollution Control Officers Association
Environmental Defense Fund
Republic Services, Inc
South Coast Air Quality Management District

ARGUMENTS IN SUPPORT: According to the California Municipal Utilities Association, "The widespread use of Public Safety Power Shutoffs (PSPS) to mitigate the risk of these wildfires could have significant impacts on critical facilities including water and wastewater agencies, such as the inability to pump water, inadequate fire flows, sewage backups and air conditioning shutoffs in facilities with temperature-sensitive equipment. If these agencies cannot access reliable electricity, communities could also face a public health crisis if they lack safe drinking water for consumption, cooking and sanitation.

"To mitigate these effects and ensure reliable electricity during a PSPS or other catastrophic loss of power like a wildfire, critical facilities must depend on their

onsite emergency generators. However, state and local air district restrictions for some existing generators adopted prior to the widespread use of PSPS do not provide enough time for proper testing in advance of an event or enough runtime during an event."

ARGUMENTS IN OPPOSITION: According to the California Air Pollution Control Officers Association, "This bill appears to be a solution looking for a problem. To date, the bill's supporters have not identified a single instance of an air district preventing an essential service provider from operating BUGs or penalizing their use in response to an actual emergency. Local air districts understand the importance of BUGs operating during a PSPS event or other emergency to provide necessary power, especially for essential services. However, it is also important to ensure that this power is provided in a way that minimizes the potential harmful effects of significant diesel emissions on the community that can be caused by the operation of BUGs. The potential statewide effects of this bill could be significant, especially for older BUGs that emit greater amounts of NOx and toxic emissions while operating, with these emissions occurring near sensitive receptors, such as children and the elderly."

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6/10/20 13:25:08

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

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THIRD READING

Bill No: SB 1102
Author: Monning (D)
Amended: 5/5/20
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 5/14/20
AYES: Hill, Jackson, Mitchell, Pan
NOES: Morrell

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Employers: Labor Commissioner: required disclosures

SOURCE: California Rural Legal Assistance Foundation

DIGEST: This bill requires employers to include in their written workplace rights notice to all employees, specified information in the event of a federal or state emergency or disaster declaration that may affect their health and safety. Additionally, this bill requires employers of agricultural employees coming to work in California under the federal H-2A Program for Temporary Agricultural Workers to give each employee an H-2A employee specific written notice on labor rights and obligations under federal and state law, including notice of emergency or disaster declarations.

ANALYSIS:

Existing law:

1) Empowers the Labor Commissioner's office, within the Department of Industrial Relations, with ensuring a just day's pay in every workplace in the state and promote economic justice through robust enforcement of labor laws. (Labor Code §79-107)

2) Establishes the federal H-2A Program for Temporary Agricultural Workers allowing U.S. employers or agents who meet specific requirements to bring

foreign nationals to the United States to fill temporary agricultural jobs. Among other things, existing federal law specifies that as a condition for approval of such a petition, the Secretary of Labor must certify that:

a) There are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services involved in the petition, and

b) The employment of the foreign agricultural worker in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.
(Title 8 U.S. Code Section §1188)

3) Requires that employers, at the time of hire, provide to each employee a written notice, in the language the employer normally uses to communicate employment-related information to the employee, containing, among other things, the following information:

a) The rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any applicable overtime rate.

b) Allowances, if any, including meal or lodging allowances.

c) The regular payday designated by the employer.

d) The name of the employer, including any "doing business as" names.

e) The physical address of the employer's main office or principal place of business, mailing address, if different, and the telephone number.

f) The name, address, and telephone number of the employer's workers' compensation insurance carrier.
(Labor Code §2810.5)

4) Specifies that an employer shall notify his or her employees in writing of any changes to the information set forth in the notice (per above) within seven calendar days after the time of the changes, unless one of the following applies:

a) All changes are reflected on a timely wage statement, as defined.

b) Notice of all changes is provided in another writing required by law within seven days of the changes.
(Labor Code §2810.5(b))

5) Requires the Labor Commissioner to prepare, and make available to employers, a template for employer use with the information specified above. (Labor Code §2810.5)

This bill:

1) Enacts "The California Legal Rights Disclosure Act for H-2A Farmworkers" requiring employers of California employees admitted under the federal H-2A program to provide each H-2A employee, on the first day of work with the original petitioner or transferred employer, a written notice that includes specified information relative to an H-2A employee's rights under law.

2) Specifies that the Labor Commissioner may combine this information with the template currently required under Labor Code Section 2810.5, or the Commissioner may create a separate template specifically for H-2A employers containing this information.

3) Requires every employer to also notify H-2A employees of any federal or state emergency or emergency disaster declaration then in effect, or within seven days after any new declaration is issued, that may affect the health and safety of H-2A employees, as specified.

4) Prohibits an H-2A employer from retaliating against an H-2A employee for raising questions about the declarations' requirements or recommendations.

5) Requires that this notice include a section titled "Summary of Key Legal Rights of H-2A Workers Under California Laws," that includes information on the following (with exact text as written in the bill):

   a) Mandatory Notice of Existence of Federal or State Emergency or Disaster Declarations.

   b) Mandatory Wage Rate*:* H-2A workers must be paid at the highest of: (A) the federal H-2A program wage rate (per the US Department of Labor); (B) the collective bargaining agreement rate; or (C) the state minimum wage rate. (per Code of Federal Regulations, 20 CFR § 655.120)

   c) Overtime Wage Rate for Employers of 26 or More Employees. (per LC § 857-864)

   d) Overtime Wage Rate for Employers of 25 or Fewer Employees. (per LC § 857-864)

e) Required Pay Periods. (per LC §205-205.5)

f) Employees Must Be Paid for All Hours Worked. (per LC §226.2)

g) Required Rest and Meal Periods. (per LC §512)

h) Charges for Meals: An H-2A employee shall not be charged for meals not taken. (per 20 CFR § 655.120)

i) Compensation while Being Transported by H-2A Employer from the Employee's Housing to the Employer's Worksite: employees must receive compensation at their regular rate of pay for time spent while being transported from the housing provided to the worksite.

j) Housing Protections and Tenant Rights: H-2A employees residing in employer-provided housing is considered a tenant under California law and, in addition to other rights, is permitted to receive guests of their choosing, is entitled to be provided housing that meets minimum habitability standards under law, and shall not be required to submit to any searches of the employee's housing. (per 20 CFR § 655.120; Healthy and Safety Code §17008.5)

k) No Retaliation for Exercise of Labor Rights. (per LC §96-98.6)

l) Itemized Wage Statements for Hourly and Piece-Rate Employees. (per LC §226)

m) Additional Required Itemized Wage Statement Information and Pay for Piece-Rate Employees. (per LC §226.2)

n) Required Sexual Harassment Training. (per LC §1684)

o) Required Toilets, Handwashing Facilities and Drinking Water (per CCR Title 8, Section 3457. Field Sanitation). During a declared state or federal emergency or disaster declaration, there may be additional requirements, or recommendations, respecting toilet, handwashing, or potable water that apply to H-2A employers.

p) Protections from High Heat Working Conditions (per CCR, Title 8, Section 3395. Heat Illness Prevention in Outdoor Places of Employment). During a declared state or federal emergency or disaster declaration, regarding wildfires or other natural disasters there may be additional requirements, or

recommendations, respecting protective gear or other practices that apply to H-2A employers.

q) Required Pesticide Exposure Protections. (per LC §6300-6721)

r) Required Workplace Safety Training (per CCR, Title 8, Section 3203. Injury and Illness Prevention Program). This training shall include health and safety procedures required or recommended under any federal or state emergency or disaster declarations.

s) Transportation in Defined "Farm Labor Vehicles": An H-2A employee being transported with eight or more workers in an employer's or agent's vehicle must be transported only in vehicles that have been annually inspected and certified by the Department of the California Highway Patrol and must have, at a minimum, a safety belt for each worker. (per 20 CFR 655.102)

t) No Employer Charges Permitted for Tools or Equipment: The H-2A employer must provide all necessary tools or equipment and an H-2A employee must be fully reimbursed for tools or equipment purchased by the employee. Employees may not be charged for lost, stolen, or damaged tools or equipment. (per 20 CFR 655.122)

u) Eligibility for Employee-Paid Health Insurance (per Covered California): Under a state or federal emergency or disaster declaration, an H-2A employee may also be eligible for sick leave. An H-2A employer shall not retaliate against an H-2A employee for raising questions about eligibility for sick leave, or seeking to avail themselves of sick leave protections.

v) Workers' Compensation for Injuries or Illness (per LC §3700): which may include an illness addressed by a state or federal emergency or disaster declaration. Prohibits an H-2A employer from retaliating against an H-2A employee for raising questions about eligibility for, or seeking to avail themselves of, workers' compensation.

w) Right to Complain to State Agencies & to Contact Others (for advice/ assistance). (per LC §98.6; §232, §1019)

x) Contact Information for H-2A Employer.

y) Additional Rights and Remedies: plainly state that these are only some of the H-2A workers' rights and remedies.

6) Authorizes the Labor Commissioner to revise the template, as necessary, to:

   a) Update overtime rates to reflect wage rates in effect pursuant to Labor Code Section 860.

   b) Provide, update, or expand useful agency contact information.

   c) Correct inconsistencies with current laws or regulations.

7) Requires the Labor Commissioner to prepare the template in Spanish and English, make it available to employers in the manner determined by the Commissioner, but also posted on the Commissioner's Internet Web site no later than January 2, 2021.

8) Requires the workplace rights notice under Labor Code Section 2810.5, which applies to employers in *all industries*, to also include notifying employees of the existence of either federal or state emergency or disaster declarations that may affect their health and safety.

9) Makes several findings and declarations pertaining to H-2A workers and their potential limited knowledge of basic legal rights and remedies under California law. Additionally, finds and declares that neither the US Department of Labor nor the California Employment Development Department require H-2A employers to inform H-2A farmworkers of the existence of either federal or state emergency or disaster declarations that may affect their health and safety during their employment.

Background

Please see the Senate Labor, Public Employment and Retirement Committee analysis on this bill for background information.

Comments

Need for this bill? According to the author, "The program was designed to address temporary labor shortages in the agricultural industry, and California growers and farm labor contractors have increased their reliance on H-2A workers more than 10 fold since 2012. In 2019, more than 23,000 H-2A workers were admitted to California, the fourth highest number of H-2A workers in the country and, according to both the U.S. Department of Labor and California Employment Development Department, use of the program continues to increase. Many recent H-2A workers are entering the United States, and California, for the first time, and are unfamiliar with basic state workplace protections, such as overtime and meal

and rest period guarantees. The written contract they are provided includes a summary of some federal protections, but does not include state law rights."

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

SUPPORT: (Verified 6/3/20)

California Rural Legal Assistance Foundation (source)
California Immigrant Policy Center
California Teamsters Public Affairs Council
Centro de los Derechos del Migrante, Inc.
Farmworker Justice
National Association of Social Workers – California Chapter
United Farm Workers
Worksafe

OPPOSITION: (Verified 6/10/20)

Agricultural Council of California
California Association of Winegrape Growers
California Chamber of Commerce
California Citrus Mutual
California Farm Bureau Federation
California Fresh Fruit Association
Family Winemakers of California
Grower-Shipper Association Central California
Ventura County Agricultural Association
Western Growers Association

ARGUMENTS IN SUPPORT: According to the sponsor, the California Rural Legal Assistance Foundation, neither the US Department of Labor nor the state Employment Development Department (which circulates H-2A job orders through the Cal-JOBS system) require H-2A employers to provide workers with information about the substantial body of California labor, housing, health and safety or other laws that protect them while they are here. In a review last year of more than 60 H-2A applications approved for circulation in California, the sponsor identified many which included terms and conditions inconsistent with California laws including the following:

- Meal deductions taken for all meals, and no rebate for meals not taken;
- No overtime rate stated (or incorrect overtime rate stated);
- Wage statements that do not meet California standards;

- Restrictions on housing that include, no female visitors; visitors must check in with housing manager; worker's housing subject to search; employees only in housing (no guests) and that no tenancy is established; and
- Failure to reflect that transportation time is compensable.

According to the sponsor, allowing these types of provisions in H-2A job orders in California directly leads to oppressive housing conditions, illegal deductions from wages, and outright wage theft.

ARGUMENTS IN OPPOSITION: A coalition in opposition to this bill argue that, SB 1102 is simply unnecessary and burdensome because H-2A employees are already afforded the same rights and protections under state and federal law as domestic employees. Employers are already required to provide H-2A employees with a written copy of the H-2A contract, in their native language, by the first day of work. Furthermore, the specified information that must be provided under the bill are already required to be provided to H-2A employees in the H-2A contract, or by law, including:

- The regular payday designated by the employer. (Labor Code sec. 2810.5.)
- The name of the employer, including any "doing business as" names used by the employer. (Labor Code sec. 226(a))
- The physical address of the employer's main office or principal place of business, and a mailing address, if different. (Labor Code sec. 226(a))
- The telephone number of the employer. (Labor Code sec. 2810.5)
- The name, address, and telephone number of the employer's workers' compensation insurance carrier. (Labor Code sec. 2810.5).
- That an employee: may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates. (LC sec. 2810.5)

Finally, SB 1102 requires employers to provide redundant information to employees, creating potential liability when the employer provides the information in one notice, but not another.

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
6/10/20 13:21:36

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

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CONSENT

Bill No: SB 1105
Author: Umberg (D)
Amended: 5/13/20
Vote: 21

SENATE JUDICIARY COMMITTEE: 8-0, 5/22/20
AYES: Jackson, Durazo, Lena Gonzalez, Jones, Monning, Stern, Umberg, Wieckowski
NO VOTE RECORDED: Borgeas

SUBJECT: Civil actions: settlement

SOURCE: California Judges Association

DIGEST: This bill amends the mechanics and process for the handling of settlements in civil cases.

ANALYSIS:

Existing law:

1) Requires that, when trial by jury has been had, judgment be entered by the clerk, in conformity to the verdict within 24 hours after the rendition of the verdict, whether or not a motion for judgment notwithstanding the verdict be pending, unless the court order the case to be reserved for argument or further consideration, or grant a stay of proceedings. (Code Civ. Proc. § 664.)

2) Requires that, if the trial has been had by the court, judgment must be entered by the clerk, in conformity to the decision of the court, immediately upon the filing of such decision. It further provides that a judgment is not effectual for any purpose until entered. (Code Civ. Proc. § 664.)

3) Provides that, if parties to pending litigation stipulate, in a writing signed by the parties outside the presence of the court or orally before the court, for settlement of the case, or part thereof, the court, upon motion, may enter judgment pursuant to the terms of the settlement. (Code Civ. Proc. § 664.6.)

4) Authorizes the court, if requested by the parties, to retain jurisdiction over the parties to enforce the settlement until performance in full of the terms of the settlement. (Code Civ. Proc. § 664.6.)

5) Provides, pursuant to the California Rules of Court, that if a settlement agreement conditions dismissal of the entire case on the satisfactory completion of specified terms that are not to be performed within 45 days of the settlement, including payment in installment payments, the notice of conditional settlement served and filed by each plaintiff or other party seeking affirmative relief must specify the date by which the dismissal is to be filed. If the party required to serve and file a request for dismissal within 45 days after the dismissal date specified in the notice does not do so, the court must dismiss the entire case unless good cause is shown why the case should not be dismissed. (Cal. Rules of Court, rule 3.1385(c).)

This bill:

1) Provides that if the settling parties or their counsel further stipulate in writing or orally before the court, the court may dismiss the case without prejudice and retain jurisdiction over the parties to enforce the settlement until performance in full of the terms of the settlement.

2) Authorizes the court, where a party or its counsel has filed a conditional notice of settlement pursuant to subdivision (c) of Rule 3.1385 of the California Rules of Court indicating that the settlement will not be performed within 90 days from the date the notice of settlement has been filed with the court, to dismiss the case without prejudice and retain jurisdiction to enforce the settlement without stipulation from the parties or their counsel.

Background

Section 664.6 of the Code of Civil Procedure (Section 664.6) authorizes courts to enter judgment pursuant to the terms of a settlement stipulated to by the parties to a civil action. Upon request by the parties, courts are authorized to retain jurisdiction over those parties in the event the court is needed to enforce the terms of such a settlement until full performance.

Currently the parties themselves must stipulate in writing or orally before the court to the terms of the settlement. This bill seeks to increase judicial efficiency by authorizing attorneys, on behalf of their clients, to request the court retain jurisdiction and making clear that the court may dismiss the case without prejudice upon granting a Section 664.6 request.

Comments

According to the author:

> SB 1105 would permit stipulations under CCP section 664.6 to be made by the counsel for the parties, in writing or orally before the Court. A change that will make it easier and less expensive for the parties if their attorneys can simply make an oral or written request to the court, typically when they are appearing for a case management or final status conference.
>
> Additionally, for any matters where the parties have filed a conditional notice of settlement pursuant to California Rule of Court 3.1385(c) indicating that the settlement will not be performed within three months, this bill would permit the court to dismiss the case without prejudice and retain jurisdiction to enforce the settlement. This will cut down on expenses for both the parties to attend status conferences and for the Court to hold them, without any harm.

Streamlining and clarifying the process for conditional settlements

Current law prescribes the manner of giving and entering judgment in civil actions. (Code Civ. Proc. § 664 et seq.) It lays out processes for entering judgment specific to whether a trial is had by a jury or by the court. It also lays out the process for when judgment comes pursuant to terms of a settlement agreed to by the parties.

Currently parties can stipulate in a writing signed by the parties or orally before the court for settlement of civil matters and request the court enter judgment pursuant thereto. (§ 664.6.) The parties can further request that the court retain jurisdiction over them, enabling the court to enforce the settlement until such time as its terms have been fully satisfied.

The California Supreme Court has detailed the history behind Section 664.6:

> Section 664.6 was enacted in 1981. As this court noted recently . . . , prior to 1981 the Courts of Appeal had expressed conflicting views concerning the proper procedures to enforce settlement agreements in pending litigation.
>
> Under one line of authority, settlement agreements preceding the enactment of section 664.6 in 1981 could be enforced only by a motion for summary judgment, a separate suit in equity, or an amendment to the pleadings. This became the dominant view. It was based on the theory that nonstatutory motions to enforce settlements were motions based on facts outside the pleadings and, under this court's decisions had to be treated as motions for

> summary judgment that could be granted only if all of the papers submitted showed there was no triable issue of fact.
>
> A second line of authority permitted motions to enforce settlements based on facts outside the pleadings if the fact of settlement and the terms of the settlement were not subject to reasonable dispute. The theory underlying this approach was that the statutory means of enforcing settlements by motions for summary judgment, separate suits in equity, or amendments to pleadings were inadequate, and that a court therefore must have authority to enforce settlements as a means of controlling proceedings before the court and protecting the interests of the parties.
>
> The conflict was resolved in 1981 when the Legislature enacted section 664.6, which created a summary, expedited procedure to enforce settlement agreements when certain requirements that decrease the likelihood of misunderstandings are met.

(*Levy v. Superior Court* (1995) 10 Cal. 4th 578, 584-586, internal citations omitted.)

Principles of efficiency and economy promote the settlement of civil disputes by the parties, involving the court and expending its resources only where absolutely needed. This bill seeks to streamline the procedure provided for in Section 664.6 in several ways, expediting the process still further.

Removing the requirement that parties stipulate to settlements for purposes of Section 664.6

The first amendment involves the requirement that the *parties* must stipulate to the settlement underlying the Section 664.6 motion. The California Supreme Court specifically addressed the issue of whether motions pursuant to Section 664.6 require the signature (or oral testimony) of the parties themselves, concluding that they do. As indicated in the quote above, the court found that the expedited procedure provided for by Section 664.6 required certain protective measures to "decrease the likelihood of misunderstandings." The court held that the "parties" had to "stipulate in writing or orally before the court that they have settled the case."

The Supreme Court specifically extolled the virtues of such a requirement:

> The litigants' direct participation tends to ensure that the settlement is the result of their mature reflection and deliberate assent. This protects the parties against hasty and improvident settlement agreements by impressing upon them the

> seriousness and finality of the decision to settle, and minimizes the possibility of conflicting interpretations of the settlement. It also protects parties from impairment of their substantial rights without their knowledge and consent.

(*Levy*, 10 Cal. 4th at 585.)

For these reasons, the court concluded "the term 'parties' as used in section 664.6 . . . means the litigants themselves, and does not include their attorneys of record." (*Id*. at 586.)

This bill eliminates the requirement that parties themselves must personally sign or orally stipulate to these settlements and instead allows counsel for the parties to so stipulate on their behalf. The virtues outlined by the Supreme Court notwithstanding, the author and the sponsor, the California Judges Association, now seek to streamline this process in order to meet the goals of efficiency and economy. They argue that the change is necessary to remove an "expensive and burdensome" barrier to settling civil matters.

To mitigate the loss of the procedural protection, there already exist clear legal guidelines in the Business and Professions Code and in the California Rules of Professional Conduct requiring attorneys to act in their clients' best interests and to avoid self-dealing. This bill, by allowing for counsel to make a request pursuant to Section 664.6, will streamline the process and obviate the need for counsel to track down their clients before progressing toward a settlement of a civil dispute. However, this shifts the burden to attorneys to "impress[] upon [their clients] the seriousness and finality of the decision to settle," and to "minimize[] the possibility of conflicting interpretations of the settlement."

Empowering courts to retain jurisdiction and dismiss without prejudice

This bill also provides that when the parties or their counsel stipulate, the court may dismiss the case without prejudice and retain jurisdiction. The California Judges Association explains: "This amendment reflects the current process that is taking place, whereby the court is dismissing the case without prejudice in conjunction with the granting of a request for the court retaining jurisdiction." Therefore, they argue such a change is simply a clarification of existing law. However, some concerns have been raised regarding this process and are discussed below.

This bill further provides that if a party has filed a conditional notice of settlement pursuant to Rule 3.1385 of the California Rules of Court indicating that the settlement will not be performed within 90 days from the filing of the notice of

settlement, the court may, on its own, without the consent of the parties or their counsel, dismiss the case without prejudice and retain jurisdiction to enforce the settlement.

The existing law allows parties to settle cases without the court's further substantive involvement but allows the parties to request the court retain jurisdiction should conflict arise in the performance of the terms of that settlement. According to the sponsor, this change reduces expenses and unclogs the court system, obviating the need for superfluous court appearances without impairing the rights of any party.

Additional considerations

Stakeholder feedback has raised some potential issues with the expedited procedure provided for by the bill. There are concerns that when cases are dismissed, even without prejudice, there is not an ease of access back to the courts for motions to enforce the judgment and other matters pertaining to the settlement process. For instance, anecdotal reports indicate that when parties have attempted to file motions for good faith settlement or petitions related to the compromise of a claim of a minor or a person with a disability in a case that has been dismissed without prejudice, they are being turned away, sent to different courtrooms, or being charged first paper filing fees. The Consumer Attorneys of California (CAOC) writes, in a letter of concern:

> SB 1105 seeks to allow courts to clear their dockets of cases involving settlement terms that must be performed over a period of several months, avoiding the required status conferences on court calendars. CAOC supports this idea but must ensure that procedural mechanisms remain in place for filing motions once a case is dismissed. Motions that further terms of the settlement like motions regarding medical liens or minors compromise agreements must be accepted by the court.

CAOC also expresses concern with potential conflicts between the bill and existing court rules governing class actions. It has committed to continue to work with the author and sponsor.

In response to these concerns, the author and sponsor have pledged to work with stakeholders and the relevant policy committees to include language in the bill that protects against such improper barriers to effectively and efficiently settling civil matters.

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

SUPPORT: (Verified 5/26/20)

California Judges Association (source)

OPPOSITION: (Verified 5/26/20)

None received

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
5/27/20 11:03:35

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

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THIRD READING

Bill No: SB 1117
Author: Monning (D)
Amended: 5/20/20
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 12-0, 5/14/20
AYES: Hueso, Moorlach, Bradford, Chang, Dahle, Dodd, Hertzberg, Hill, McGuire, Rubio, Stern, Wiener
NO VOTE RECORDED: Skinner

SUBJECT: Master-meter customers: electrical or gas service

SOURCE: Golden State Manufactured-home Owners League

DIGEST: This bill ensures existing consumer protections relative to electrical service provided via a master-meter customer are explicit for tenants of mobilehome parks, apartment buildings, or similar residential complexes, regardless of whether the electrical generation is provided by an entity other than an electrical corporation.

ANALYSIS:

Existing law:

1) Establishes the California Public Utilities Commission (CPUC) has regulatory authority over public utilities, including electrical corporations and gas corporations. (California Constitution, Article XII, §§3 and 4)

2) Establishes various provisions related to the responsibilities of a gas or electrical corporation and master-meter customer when gas or electrical service is provided by a master-meter customer to users who are tenants of a mobilehome park, apartment building, or similar residential complex. Requirements include that the master-meter customer charge each user at the same rate that would be applicable if the user were receiving gas or electricity

directly from the gas corporation or electric corporation. Existing law requires master-meter customers that receive a rebate for electrical or gas service to distribute the rebate to, or credit the rebate to the account of, current users served by the master-meter customer, as specified. (Public Utilities Code §739.5)

3) Provides in the "Mobilehome Residency Law" a private right of action to mobilehome park residents against park owners for failing to abide by requirements, including a requirement that park owners who provide master-meter and sub-meter utility service to separately state individual residents' charges and conspicuously post utility rate schedules. (Civil Code §798.40)

4) Establishes the California Global Warming Solutions Act of 2006 desginates the State Air Resources Board as the state agency charged with monitoring an regulating sources of emissions of greenhouse gases (GHG) and requires a statewide GHG emissions limit, as specified. Authorizes the State Board to include a market-based compliance mechanism to comply with the regulations which allow the direct allocation of GHG allowances to electric utilities, including electrical corporations. (Health and Safety Code §38500 et seq.)

5) Authorizes the CPUC, with respect to GHG allowances directly allocated to electrical corporations, to allocate fifteen percent of the revenues generated by the sale of the allowances for clean energy and energy efficiency projects and requires the CPUC to direct the balance of the revenues be credited directly to the residential, and other specified, customers. (Public Utilities Code §748.5)

This bill:

1) Replaces "electrical corporation" with "load-serving entity," defined as including electrical corporations, community choice aggregators (CCAs), and electric service providers, in many of the provisions relative to the responsibilities of an electrical corporation and master-meter customer when electrical service is provided by a master-meter customer to users who are tenants of a mobilehome park, apartment building, or similar residential complex.

2) Requires, explicitly, that any credit to customers from the revenues from the sale of GHG allowances directly allocated to electrical corporations must also be distributed to sub-metered customers by a master-metered customer.

3) Requires the CPUC to respond to complaints relative to sub-metered and master-metered customers involving electrical corporations.

Background

Master-metered mobilehome parks. Mobilehome park owners may have individual units that receive electric utility service directly with individual meters, or that receive service through a master meter to the entire property and then bill individual homeowners or tenants a portion of the charges. Current law, Public Utilities Code §739.5, requires the CPUC to require a master-meter customer, including mobilehome owners, to charge tenants at the same rate that would otherwise apply if the tenant received utility service directly. Mobilehome park owners are required to provide tenants an itemized billing of charges for utility service generally in accordance with the form and content of residential utility bills, including opening and closing readings for the meter, and identification of all rates and details of the applicable rate structure. Frankly, this is an additional challenge of master-metered services. In recent years, there have been more aggressive efforts convert master-meter mobilehome parks to individual meters. Nonetheless, there are still many mobilehome parks, apartment buildings, and others operating utility service as master-meters.

Electric load-serving entities (LSEs). In recent years, California has witnessed the growth of LSEs, including CCAs, who provide electric generation within the territory of the electric corporation. In the case of Pacific Gas & Electric (PG&E), about half of its service territory is now served by CCAs. Unlike electric investor-owned utilities (IOUs) who have their rates reviewed and approved by the CPUC, CCA electric generation rates are approved by the governing body of the respective CCA, usually consisting of local elected officials with no say by the CPUC. Master-metered customers, just as all other customers, continue to receive the electric utility bill from their electric IOU, even when a CCA provided the generation portion. The electric utility bill includes the generation, distribution, and transmission charges. As such, it may be difficult for master-meter customers to distinguish the electric generation portion is provided by a CCA, unless explained directly to the master-meter customer.

CCA files complaint… at CPUC? The sponsor of this bill cites a recent example in Placer County where the mobilehome park owner has been billing customers based on PG&E's electric generation rates instead of the lower electricity generation rates of the CCA, Pioneer Energy. The mobilehome park owners refusal to adjust the rates resulted in Pioneer Energy filing a formal complaint at the CPUC in

December of 2019. The complaint (C. 120-01-006) alleges that since March 2018, the mobilehome park owner has overbilled sub-metered residents of master-metered mobilehome parks that receive generation from Pioneer by billing at the higher PG&E rate. The parties involved in the complaint recently filed a settlement whereby the mobilehome park owners agreed to credit customers for the overbilling. However, the complaint spurred the desire for this bill in order to clarify in statute that the mobile home park owners who operate a master-meter must bill their sub-metered tenants at the LSE's generation rate corresponding to who is serving the load.

Comments

Need for consumer protections. The need to protect customers from overbilling is a consistent and basic tenant of utility ratemaking principles. The proposal in this bill to extend existing protections for sub-metered customers of electrical corporations to all sub-metered customers, regardless of the LSE procuring their generation, seems both just and reasonable. As the example in Placer County illustrates, there is a need to ensure that mobilehome park owners, and other master-meter customers, are billing sub-metered customers based on the generation rates provided by CCAs and not the electric IOU. Nonetheless, CCAs should make a good faith effort to help educate these master-meter customers about the differences in the generation rates. As the electric IOU continues to handle billing customers, it can be very difficult for even the savvy customer to be aware that the generation portion of the utility bill is procured by another LSE, not the electric IOU. It may also be case that CCA rates could be higher than the electric IOU. As such, there could be instances where master-meter customers would be subsidizing these costs of their sub-metered customers unknowingly.

Clarifies CPUC role to respond only to electrical corporation related complaints. The specific complaint that spurred the need for this bill raised to questions, the need to better protect customers and the broader questions about the role of the CPUC in resolving CCA customer disputes that do not involve the electric IOU. While the specific complaint is proposed to be settled by the parties, none of which involve the electric IOU, this committee may wish to limit the involvement of the CPUC in these complaints as the agency has no role in setting CCA rates or regulating third-parties. Additionally, there is private right of action to address these disputes. This bill ensures the CPUC must continue to respond to complaints involving the electrical corporation, but not those involving other providers.

Explicitly requires California Climate Credit is distributed to sub-metered customers. Pursuant to statute, every year, millions of California residents receive twice annual credits on their electric and natural gas bills identified as the "California Climate Credit." The Climate Credit is generated by the electrical corporations sale of allocated GHG allowances from the state's cap-and-trade program. The CPUC has noted that in some instances the Climate Credit issued by the electrical corporation is not always passed along to sub-metered customers. The twice-annual credit can be a sizeable, depending on the utility (around $25-30 twice a year). Appropriately, this bill explicitly requires master-metered customers to distribute the California Climate Credit to sub-metered tenants.

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

SUPPORT: (Verified 5/20/20)

Golden State Manufactured-home Owners League (source)
California Community Choice Association
California State Association of Electrical Workers
Coalition of California Utility Employees
Peninsula Clean Energy Authority
Sonoma Clean Power
Valley Clean Energy

OPPOSITION: (Verified 5/20/20)

None received

ARGUMENTS IN SUPPORT: According to the author:

> By clarifying existing law relating to master-meters, mobile/manufactured home residents, who have opted to have a Community Choice Aggregator provide electricity to them, will be able to fully realize lower energy costs.

Prepared by: Nidia Bautista / E., U., & C. / (916) 651-4107
5/21/20 10:08:42

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

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CONSENT

Bill No: SB 1123
Author: Chang (R)
Amended: 3/26/20
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 7-0, 5/20/20
AYES: Skinner, Moorlach, Bradford, Jackson, Mitchell, Morrell, Wiener

SUBJECT: Elder and dependent adult abuse

SOURCE: Coalition for Elderly and Disability Rights

DIGEST: This bill defines elder and dependent adult abuse in the Penal Code using cross-references to Welfare and Institutions Code definitions.

ANALYSIS:

Existing law:

1) Defines an "elder" to mean any person who is 65 years of age or older. (Pen. Code § 368, subd. (g).)

2) Defines "dependent adult" to mean any person who is between the ages of 18 and 64, who has physical or mental limitations which restrict his or her ability to carry out normal activities or to protect his or her rights, including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. "Dependent adult" also includes any person between the ages of 18 and 64 who is admitted as an inpatient to a 24-hour health facility. (Pen. Code § 368, subd. (h).)

3) Makes it a crime for a person, entrusted with the care of custody of any elder or dependent adult, to willfully cause the elder to be injured or permit them to be placed in a situation endangering their health. (Pen. Code § 368, subd. (b)(1).)

4) Authorizes local and state law enforcement agencies with jurisdiction to investigate elder and dependent adult abuse and all other crimes against elder victims and victims with disabilities. (Penal Code § 368.5 (a).)

5) Grants adult protective services agencies and local long-term care ombudsman programs also have jurisdiction within their statutory authority to investigate elder and dependent adult abuse and criminal neglect, and may assist local law enforcement agencies in criminal investigations at the law enforcement agencies' request, if consistent with federal law; however, law enforcement agencies retain exclusive responsibility for criminal investigations, notwithstanding any law to the contrary. (Penal Code § 368.5 (b).)

6) Defines elder and dependent adult abuse as "physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment resulting in physical harm, pain or mental suffering; or the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering." Provided by the Department of Justice's March 2015 policy and procedures manual. (Penal Code § 368.5 (D).)

This bill:

1) Amends Penal Code Section 368.5 to include cross-references to the Welfare and Institutions Code that defines elder and dependent adult abuse.

2) Requires law enforcement agencies to update their policy manuals with the new definition of elder and dependent adult abuse.

Background

Currently elder and dependent adult abuse is defined in Penal Code Section 368.5 as "physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment resulting in physical harm, pain or mental suffering; or the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering" by the Department of Justice's 2015 policy manual. This bill will replace this definition by cross referencing the Welfare and Institution Code's "elder and dependent adult abuse" definition in that Penal Code section instead. This allows for clarity and consistency of the definition across codes and for government agencies.

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

SUPPORT: (Verified 5/21/20)

Coalition for Elderly and Disability Rights (source)
Advocates for Vulnerable Adults
California District Attorneys Association
L.I.F.E.
Rights Rally
Riverside Sheriffs' Association
The ARC
United Cerebral Palsy California Collaboration

OPPOSITION: (Verified 5/21/20)

None received

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

"The Riverside Sheriffs' Association, representing over 4,000 county law enforcement professionals, supports SB 1123 that will align the definition of elder and dependent adult abuse with that currently found in the Welfare and Institutions Code and require that the updated definitions be included in updates of policy manuals and handbooks used by law enforcement agencies.

"By amending Penal Code 368.5 to align the definitions of elder and dependent adult abuse with those found in the Welfare and Institutions Code, law enforcement agencies will have accurate terms to use in the course of reporting or investigating claims of abuse."

Prepared by: Nikki Scott / PUB. S. /
5/26/20 10:16:55

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

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CONSENT

Bill No: SB 1126
Author: Jones (R)
Amended: 3/23/20
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 7-0, 5/20/20
AYES: Skinner, Moorlach, Bradford, Jackson, Mitchell, Morrell, Wiener

SUBJECT: Juvenile court records

SOURCE: California Judges Association

DIGEST: This bill authorizes specified sealed juvenile records to be accessed, inspected, or utilized by the probation department, the prosecuting attorney, counsel for the minor, and the court for the purpose of assessing the minor's competency in a subsequent proceeding if the issue of competency has been raised.

ANALYSIS:

Existing law:

1) Provides for specified procedures when a juvenile's competence is at issue. (Welf. & Inst. Code, § 709.)

2) Provides that, if a minor satisfactorily completes an informal program of supervision, probation, as specified, or a term of probation, then the court shall order the petition dismissed and order sealed all records pertaining to that dismissed petition in the custody of the juvenile court, and in the custody of law enforcement agencies, the probation department, or the Department of Justice. (Welf. & Inst. Code, § 786, subd. (a).)

3) Provides that upon the order of dismissal, the arrest and other proceedings in the case must be deemed not to have occurred and the person who is the subject of the petition may reply accordingly to an inquiry by employers, educational

institutions, or other persons or entities regarding the arrest and proceedings in the case. (Welf. & Inst. Code, § 786, subd. (b).)

4) Provides the circumstances under which a sealed juvenile record may be accessed, inspected, or utilized. (Welf. & Inst. Code, § 786, subd. (g).)

This bill:

1) Adds to the list of circumstances under which a sealed juvenile record may be accessed, inspected, or utilized. Specifically, this bill permits a juvenile's sealed records to be accessed, inspected, or utilized by the probation department, the prosecuting attorney, counsel for the minor, and the court when a new petition has been filed against the minor in juvenile court for the purpose of assessing the minor's competency in the proceedings on a subsequent petition against the minor if the issue of competency has been raised.

2) Limits access, inspection, or utilization of the sealed records to any prior competency evaluations submitted to the court, whether ordered by the court or not, all reports concerning remediation efforts and success, all court findings and orders relating to the minor's competency, and any other evidence submitted to the court for consideration in determining the minor's competency, including, but not limited to, school records and other test results.

3) Prohibits the information obtained from being disseminated to any other person or agency except as necessary to evaluate the minor's competency or provide remediation services, and shall not be used to support the imposition of penalties, detention, or other sanctions on the minor. Specifies that access to the sealed record under this subparagraph shall not be construed as a modification of the court's order dismissing the petition and sealing the record in the case.

Background

Juvenile Competency Statute

The Due Process Clause of the U.S. Constitution prohibits the criminal prosecution of a defendant who is not mentally competent to stand trial. An adult is mentally incompetent if "as a result of mental disorder or developmental disability, the defendant is unable to understand the nature of the criminal proceedings or to assist counsel in the conduct of a defense in a rational manner." (Pen. Code, § 1367, subd. (a).) While those same factors are considered in evaluating the competency

of a minor, a minor's developmental maturity is also considered when determining whether he or she is competent. Unlike an adult, a minor may be found to be incompetent based on developmental immaturity alone. (See *Timothy J. v. Superior Court* (2007) 150 Cal.App.4th 847.)

California's juvenile competency statute, which lays out the procedure and standards for handling incompetent minors before the juvenile court, was enacted in 2018 via AB 1214 (Stone, Chapter 991, Statutes of 2018). AB 1214 revised the then-existing statute to close procedural gaps regarding how a juvenile should be treated if they are found to be incompetent.

Juvenile Record Sealing

Existing law provides two mechanisms for an individual to seal his or her juvenile records. (Welf. & Inst. Code, §§ 781, 786.) If a minor has been found to have satisfactorily completed an informal program of supervision or probation, the juvenile court will dismiss the petition and order sealed all records. (Welf. & Inst. Code, § 786.) Welfare and Institutions Code section 707(b) offenses are excluded from sealing under Welfare and Institutions Code section 786 unless the finding has been dismissed or reduced to a lesser included offenses not on the 707(b) list.

Welfare and Institutions Code section 786 specifies the circumstances under which a sealed juvenile record may be accessed, inspected, or utilized. The following are some of the circumstances delineated in the statute:

- By the prosecuting attorney, the probation department, or the court for the limited purpose of determining whether the minor is eligible and suitable for deferred entry of judgment or is ineligible for specified programs of supervision.
- By the probation department for the limited purpose of identifying the minor's previous court-ordered programs or placements if a new petition has been filed against the minor for a felony offense to determine the individual's eligibility or suitability for remedial programs or services.
- Upon the prosecuting attorney's motion to initiate court proceedings to determine whether the case should be transferred to a court of criminal jurisdiction, by the probation department, the prosecuting attorney, counsel for the minor, or the court for the limited purpose of evaluating and determining if such a transfer is appropriate. Access, inspection, or use of a sealed record as provided under this subparagraph shall not be construed as a reversal or

modification of the court's order dismissing the petition and sealing the record in the prior case.

- By the county child welfare agency responsible for the supervision and placement of a minor or nonminor dependent for the limited purpose of determining an appropriate placement or service that has been ordered for the minor or nonminor dependent by the court.

Effect of This Bill

The sponsor of this bill argues that Welfare and Institutions Code section 786 needs to be amended to include the circumstance in which a new petition has been filed against a minor in juvenile court and the issue of competency has been raised in order to assess the minor's competency in the proceedings on the new petition. This bill provides that the accessing, inspection, and utilization of those sealed juvenile records may be done by the probation department, the prosecuting attorney, counsel for the minor, and the court. This bill further specifies that access, inspection, or utilization of the sealed records is limited to any prior competency evaluations submitted to the court, whether ordered by the court or not, all reports concerning remediation efforts and success, all court findings and orders relating to the minor's competency, and any other evidence submitted to the court for consideration in determining the minor's competency, including school records and other test results. This bill prohibits the information obtained from being disseminated to any other person or agency except as necessary to evaluate the minor's competency or provide remediation services, and provides that the information obtained shall not be used to support the imposition of penalties, detention, or other sanctions on the minor. Finally, this bill provides that access to the sealed record shall not be construed as a modification of the court's order dismissing the petition and sealing the record in the case.

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

SUPPORT: (Verified: 5/21/20)

California Judges Association (source)
Alameda County District Attorney's Office
California District Attorneys Association
California Public Defenders Association
Ella Baker Center for Human Rights
Peace Officers Research Association of California
San Francisco Public Defender's Office

OPPOSITION: (Verified 5/21/20)

None received

Prepared by: Stephanie Jordan / PUB. S. /
5/22/20 14:07:43

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: SB 1133
Author: Jackson (D)
Amended: 5/21/20
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 5/20/20
AYES: Moorlach, Jackson, Morrell, Wiener
NO VOTE RECORDED: Skinner, Bradford, Mitchell

SUBJECT: Peremptory challenges

SOURCE: California Judges Association

DIGEST: This bill extends a sunset provision which reduces the number of peremptory challenges that the prosecution and defense get in misdemeanor trials.

ANALYSIS:

Existing law:

1) Permits challenges to jurors under the following provisions:

   a) A want of any of the qualifications prescribed by this code to render a person competent as a juror.

   b) The existence of any incapacity which satisfies the court that the challenged person is incapable of performing the duties of a juror in the particular action without prejudice to the substantial rights of the challenging party. (Code of Civil Procedure § 228)

   c) A peremptory challenge exercised by a party to the action. (Code of Civil Procedure § 225(b))

2) Specifies a challenge for cause based upon bias may be taken for one or more of the following causes:

a) Consanguinity or affinity within the fourth degree to any party or to any alleged witness or victim in the case at bar.

b) Having the following relationships with a party: parent, spouse, child, guardian, ward, conservator, employer, employee, landlord, tenant, debtor, creditor, business partners, surety, attorney, and client.

c) Having served or participated as a juror, witness, or participant in previous litigation involving one of the parties.

d) Having an interest in the outcome of the event or action.

e) Having an unqualified opinion or belief as to the merits of the action founded on knowledge of its material facts or of some of them.

f) The existence of a state of mind in the juror evincing enmity against, or bias towards, either party.

g) That the juror is party to an action pending in the court for which he or she is drawn and which action is set for trial before the panel of which the juror is a member.

h) If the offense charged is punishable with death, the entertaining of such conscientious opinions as would preclude the juror finding the defendant guilty, in which case the juror may neither be permitted nor compelled to serve. (Code of Civil Procedure § 229)

3) Permits each party (prosecution and defense) in criminal cases 10 peremptory challenges. There are an additional five peremptory challenges in criminal matters to each defendant and five additional challenges, per defendant, to the prosecution when defendants are jointly charged. (Code of Civil Procedure § 231(a))

4) Specifies 20 peremptory challenges per party in criminal matters when the offenses charged are punishable with death, or life in prison. There are an additional five peremptory challenges in criminal matters to each defendant and five additional challenges, per defendant, to the prosecution when defendants are jointly charged. (Code of Civil Procedure § 231(a))

5) Allows parties in criminal matters punishable with a maximum term of one year or less six peremptory challenges each. When two or more defendants are jointly tried, their challenges shall be exercised jointly, but each defendant shall be also entitled to two additional challenges which may be exercised separately,

and the state shall also be entitled to additional challenges equal to the number of all the additional separate challenges allowed to the defendants. (Code of Civil Procedure § 231(b))

6) Provides that the provisions limiting misdemeanors to six peremptory challenges are due to sunset on January 1, 2021. If the provisions sunset misdemeanor offenses punishable by more than 90 days would revert to 10 peremptory challenges.

This bill extends, to January 1, 2024, the sunset provision which reduces the number of peremptory challenges that the prosecution and defense get in misdemeanor trials.

Background

The current process permits the parties to remove jurors from the panel in a criminal case by exercising both challenges for "cause" and "peremptory" challenges. These challenges are made during the voir dire phase of the trial, during which the court, with the assistance of the attorneys, inquires of the prospective jurors to determine the suitability of individuals to render a fair judgment about the facts of the case. At the commencement of voir dire, the jurors are asked to reveal any facts which may show they have a disqualification (such as hearing loss) or a relationship with one of the parties or witnesses. Some of these facts (such as employment by one of the parties) may amount to an "implied" bias which causes the juror to be excused from service. Other facts (such as having read about the case in the newspapers) may lead to questioning of the juror to establish whether an actual bias exists. A party usually demonstrates that a juror has an actual bias by eliciting views which show the juror has prejudged some element of the case. After any jurors have been removed from the panel for disqualification and bias, the parties may remove jurors without giving any reason, by exercising peremptory challenges.

In general, the number of peremptory challenges available to each side is:

- 20 in capital and life imprisonment cases;
- 10 in criminal cases where the sentence may exceed 90 days in jail;
- 6 in criminal cases with sentences less than one year in jail; or,
- 6 in civil cases.

Prior to passage of the state budget in 2016, misdemeanors were only limited to six peremptory challenges in cases where the defendant faced 90 days or less in county jail. Most misdemeanor offenses were given 10 peremptory challenges.

Peremptory challenges to jurors have been part of the civil law of California since 1851, and were codified in the original Field Codes in 1872. Their previous history in England dates back to at least the Fifteenth Century when persons charged with felonies were entitled to 35 peremptory challenges to members of the jury panel. Peremptory challenges have permeated other nations which have based their systems of justice on English Common Law. Today, nations with roots in English law, such as Australia, New Zealand, and Northern Ireland, continue to utilize peremptory challenges in jury selection.

In 1986, the United States Supreme Court decided *Batson v. Kentucky*, recognizing that the peremptory challenge could be a vehicle for discrimination. Subsequent cases have sought, with some difficulty, to define the limits of inquiry into the motives of the parties in exercise of challenges which might be based on race or gender. In California, under Civil Code Section 231.5, a party may not excuse a juror with a peremptory challenge based on race, color, religion, sex, national origin, sexual orientation or similar grounds. If questioned, the attorney who exercised the potentially discriminatory challenge must provide the court with a lawful and neutral reason for the use of the challenge.

Under the present system, a potential juror may be excused for cause under a number of specified circumstances (generally incompetence, incapacity, and apparent implied or actual bias). One common use of peremptory challenges is to remove potential jurors who meet the legal definition, but who the attorney suspects may be biased or incompetent.

- *Suspected Bias:* In general, many jurors come into the jury selection process with certain biases. Studies have shown that jury bias is particularly prevalent in criminal cases. In fact, this is one of the reasons we have the presumption of innocence.

  The jury process is set up to divulge and eliminate these biases through education in basic legal principles such as the presumption of innocence, right against self-incrimination and the burden of proof. Often, jurors begin their jury service with the belief that a defendant must prove his or her innocence. Other jurors may expressly state that they believe that it is incumbent upon the defendant to testify in order to obtain a not guilty verdict. Still others commonly state when questioned that they would vote guilty at the beginning of the case, despite the fact that the defendant is presumed innocent. Upon questioning, if the juror simply states that they can fairly apply the instructions

of the judge they meet the legal standard of unbiased.

- *Suspected Incompetence:* Jurors are expected to have basic competence in order to adequately judge the facts and circumstances of a case. For example, jurors are expected to have a basic understanding of the English language. Minimal ability to understand the language is generally accepted. One potential use of a peremptory challenge would be to remove a juror who can answer and communicate in yes and no responses, but who may not have the ability to read and comprehend the jury instructions. When a case depends on a complex understanding of the jury instructions, a juror who is less literate may not be sufficiently competent to decide the facts of the case. While this juror is not removable for cause, an attorney may choose to exercise a peremptory challenge.

- *Suspected Incapacity:* Jurors are expected to be physically and mentally capable of service. For example, a juror who is so physically infirm that they are unable to sit and comprehend the testimony and courtroom presentation may not be capable of serving on a jury. In instances where the judge determines that the potential juror's health is legally sufficient, an attorney may choose to remove said juror through use of a peremptory challenge. The attorney may feel that the potential juror's infirmity may be so distracting that they could not devote sufficient attention to the determination of the facts of the case.

The types of cases included in this bill are comparatively serious in nature compared to most civil matters. First, unlike civil matters, the prosecution must convince a unanimous jury by the highest legal standard under the law. Second, these cases involve matters which can result in imprisonment for up to one year. If multiple offenses are charged, a defendant could potentially be sentenced to consecutive multi-year stints. In addition to their liberty interests, criminal defendants must also carry a criminal record. Misdemeanors such as vehicular manslaughter, assault, battery, molestation and domestic violence would be covered under this legislation.

Pursuant to the 2016 budget provisions that limited peremptory challenges to six challenges, the Judicial Council was tasked with reporting to the Legislature in 2020. The Judicial Council published their report entitled "Peremptory Challenges in Criminal Misdemeanor Cases" on January 17, 2020.

The report found that the average number of peremptory challenges in criminal misdemeanor cases dropped to 8.4 from a prior average of 11.5. That shows a

modest drop in the number of peremptory challenges that are utilized after the limitation on challenges in misdemeanor cases.

The report also showed a virtually insignificant drop in jury panel sizes from 50.1 jurors to 47.1 per panel.

In terms of court time the report indicated there was no significant change. The in-session time in criminal misdemeanor cases ranged from 2.1 to 5.4 days in study courts prior to the reduction in peremptory challenges. While after the reduction in challenges, the in-session time ranged from 2.5 to 5.4 days. That is actually a slight increase in time. The report pointed to the passage of Proposition 47 in 2014 as the possible reason for the slight increase in court time.

What is not made clear in the report is whether the increase in time may be attributable to prosecutors and defense attorneys having to spend more time to probe jurors that they would have formerly used a peremptory challenge on in order to determine if the juror should be excused for cause.

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

SUPPORT: (Verified 5/21/20)

California Judges Association (source)
Fresno County Superior Court
Judicial Council of California
Orange County Superior Court
San Joaquin County Superior Court

OPPOSITION: (Verified 5/21/20)

California Attorneys for Criminal Justice
California Public Defenders Association

ARGUMENTS IN SUPPORT: According to the California Judges Association:

"SB 843 (Stats. 2016, ch. 33) temporarily reduced the number of peremptory challenges legal counsel may utilize in criminal misdemeanor cases, from 10 to 6, when defendants were tried alone. If defendants are tried together, additional challenges were reduced from 4 to 2. This provision is set to sunset January 1, 2021.

"Pursuant to SB 843, the Judicial Council conducted a study on the impact of the reduction of peremptory challenges. This report, published in January 2020, made the following findings:

- On average, fewer peremptory challenges were employed.
- Plaintiffs' counsel averaged 5.2 peremptory challenges per case prior to the passage of SB 843 and 3.9 challenges after its passage. Defendants' attorneys used an average of 5.7 challenges before SB 843 and 4.0 after its passage.
- Jury panels decreased in size from an average of 50.1 prospective jurors to 47.1.

"By applying these findings statewide, the reduction in the number of jurors sent to the courtroom for voir dire can be inferred to be in the thousands."

ARGUMENTS IN OPPOSITION: According to the California Public Defenders Association (CPDA):

"The Sixth Amendment guarantees Americans accused of a criminal offense the right to a trial by a fair and impartial jury. To ensure that the jury consists of fair-minded men and women, California law permits the prosecution and defense to 'challenge' jurors they believe are unable to fairly and impartially serve.

"Vitally, if a trial judge refuses to dismiss a patently biased juror, the law also grants both sides ten 'peremptory' challenges, through which the parties can challenge and remove a biased juror without judicial consent.

"From the defense perspective, this authority is vital because it ensures that a busy or hostile judge cannot simply deny every defense challenge and thereby stack the jury with jurors hostile to the defense.

"SB 1133, however, proposes to reduce the number of peremptory challenges by 40% (from 10 to 6) in the name of 'judicial efficiency.' In essence, the theory appears to be that jury trials will 'go more quickly' if defendants are not permitted to challenge and remove biased jurors.

"However, the Judicial Counsel's own recent study of this proposal disagreed, finding that reducing the number of peremptory challenges had a *negative* effect on the rapidity with which criminal trials were completed.

"Even were this not the case, CPDA finds it simply unacceptable to sacrifice the rights of indigent Californians facing significant, lifelong consequences if convicted, all in the name of speed. The goal of a jury trial, after all, is not to do it *quickly* -- it is to do it *right*, and SB 1133's misguided prioritization of efficiency over accuracy represents a meaningful threat to that goal."

Prepared by: Gabriel Caswell / PUB. S. /
5/22/20 14:07:44

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

SENATE RULES COMMITTEE SB 1146
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

CONSENT

Bill No: SB 1146
Author: Umberg (D)
Amended: 5/29/20
Vote: 21

SENATE JUDICIARY COMMITTEE: 8-0, 5/22/20
AYES: Jackson, Durazo, Lena Gonzalez, Jones, Monning, Stern, Umberg, Wieckowski
NO VOTE RECORDED: Borgeas

SUBJECT: Civil procedure: electronic filing and remote depositions

SOURCE: California Defense Counsel
Consumer Attorneys of California

DIGEST: This bill makes permanent two of the emergency measures adopted by the Judicial Council to ensure civil litigation can move forward during the COVID-19 pandemic: allowing parties to electronically serve documents on represented parties and to opt to have represented parties serve them electronically; and allowing depositions to be taken with the deposition officer at a different location than the deponent.

ANALYSIS:

Existing law:

1) Provides that electronic service of documents is permitted only under specified circumstances:

   a) When a party or other person has expressly consented to receive electronic service in the specific action (Code Civ. Proc., § 1010.6(a)(2)(A)(ii)); or

   b) The court has ordered electronic service on a represented party or other represented person in a jurisdiction that has adopted local rules permitting electronic filing of documents and related procedures. (Code Civ. Proc., § 1010.6(a)(2)(A)(ii), (c), (d).)

2) Suspends, for the duration of the COVID-19-related state of emergency and 90 days after, the limitations on electronic service listed above and provides for alternative electronic service procedures and requirements in cases where parties are not already required to provide or accept electronic service (Judicial Council, Emergency Rules Related to COVID-19, Emergency Rule 12):

   a) Parties represented by counsel must accept electronic service of notice and documents that may be served by mail, express mail, overnight delivery, or facsimile transmission. Before first serving a represented party electronically, the serving party must confirm by telephone or email the appropriate electronic service address for the counsel being served. (Judicial Council, Emergency Rules Related to COVID-19, Emergency Rule 12(b)(1).)

   b) Parties represented by counsel must, upon the request of any party who has appeared in the action or proceeding, and who provides an electronic service address and copy of the Emergency Rule, electronically serve the requesting party with any notice or document that may be served by mail, express mail, overnight delivery, or facsimile transmission. (Judicial Council, Emergency Rules Related to COVID-19, Emergency Rule 12(b)(2).)

   c) Self-represented parties may be electronically served if they provide written consent. (Judicial Council, Emergency Rules Related to COVID-19, Emergency Rule 12(c).)

3) Provides that a person may take, and any person other than the deponent may attend, a deposition by telephone or other remote electronic means. (Code Civ. Proc., § 2025.310(a).)

4) Provides that the court may expressly permit a nonparty deponent to appear at a deposition by telephone if it finds there is good cause and no prejudice to any party. (Code Civ. Proc., § 2025.310(b).)

5) Provides that a party deponent must appear at a deposition in person and in the presence of the deposition officer. (Code Civ. Proc., § 2025.310(b).)

6) Suspends, for the duration of the COVID-19-related state of emergency and 90 days after, the limitations on remote depositions listed at items 3-5, and permits a party or nonparty deponent, and/or the deposing party, to elect not to be present with the deposition officer at the time of the deposition. (Judicial Council, Emergency Rules Related to COVID-19, Emergency Rule 11.)

This bill:

1) Codifies certain portions of Emergency Rule 12's expansion of the circumstances in which represented parties may serve, or be served with, documents via electronic service, by:

   a) Requiring a party represented by counsel, who has appeared in an action or proceeding, to accept electronic service of a notice or document that may be served by mail, express mail, overnight delivery, or facsimile transmission, where the serving party has confirmed by telephone or email the appropriate electronic service address for the counsel being served.

   b) Requiring a party represented by counsel, upon the request of any party who has appeared in an action or proceeding and who provides an electronic service address and a copy of the statute, to electronically serve the requesting party with any notice or document that may be served by mail, express mail, overnight delivery, or facsimile transmission.

2) Codifies certain portions of Emergency Rule 11's expansion of the circumstances in which remote depositions may be conducted, by:

   a) Providing that the party noticing the deposition, or the deponent, may elect to have the deposition officer attend the deposition remotely; and

   b) Providing that the deponent is not required to be present with the deposition officer when being sworn in at the time of the deposition.

3) Provides that any party or attorney of record may, but is not required to, be physically present at the deposition at the location of the deponent.

4) Provides that the provisions allowing the deposition officer or other participants to appear remotely do not waive any other requirements regarding the time, place, or manner in which a deposition shall be conducted.

Comments

This bill seeks to make permanent two emergency rules enacted by the Judicial Council for the duration of the COVID-19 state of emergency: allowing electronic service on represented parties; and allowing deposition officers to appear and transcribe depositions from a remote location.

- *Electronic service*: In jurisdictions where courts have not adopted mandatory electronic service procedures, electronic service on represented parties is

permitted only if the party being served consents to electronic service.[1] There is no provision allowing a represented party to elect to be served electronically by other represented parties.[2]

This bill allows parties to elect to be served electronically by other represented parties, and to elect to serve represented parties electronically. This bill does not impose the same requirements on self-represented parties: self-represented parties would be able to serve represented parties electronically, and could opt into electronic service from represented parties on request, but they would not be required to accept electronic service of documents or serve documents electronically.

- *Depositions with the deposition officer appearing remotely*: By statute, the availability of remote depositions—depositions in which the deponent is at a different location than the deposition officer—is extremely limited. The court's express permission is required to conduct a remote nonparty deposition; party depositions cannot be conducted with a remote deposition officer under any circumstances.[3] This bill is intended to codify one of the Judicial Council's COVID-19-related emergency rules to allow, on a permanent basis, the party noticing a deposition or the deponent to elect to have the deposition officer attend the deposition remotely. The bill further clarifies that the deponent must appear in person as noticed, but that other participants may elect to appear remotely.

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

SUPPORT: (Verified 5/29/20)

California Defense Counsel (co-source)
Consumer Attorneys of California (co-source)
Deposition Reporters Association of California

OPPOSITION: (Verified 5/29/20)

Four individuals

ARGUMENTS IN SUPPORT: The author writes:

Due to the COVID-19 pandemic, California courts have either stalled all service to civil cases or are operating at a minimum level. In the face of this

[1] Code Civ. Proc., § 1010.6 (a)(2)(A).
[2] *See generally* Code Civ. Proc., § 1010.6.
[3] Civ. Code, § 2025.310(b).

backlog, court leaders are announcing their intent to delay many civil cases. California courts are struggling to find a way to operate during this pandemic and must better utilize technology. In order to facilitate this adaptation by the courts I have introduced language into SB 1146 that will allow for remote depositions and electronic service.

Unfortunately, during this pandemic, some parties to civil cases have refused to agree to electronic service and instead insist on service by mail or fax. These traditional methods are problematic as they conflict with stay-at-home orders. Without electronic service, attorneys are forced to choose between jeopardizing their own safety and that of staff or risk hindering their client's legal rights by abiding to stay-at-home orders. To prevent this problem, SB 1146 requires that any represented party accept electronic service of documents without needing to consent to electronic service. The bill also requires represented parties to serve others electronically if the other party provides notice of this rule and asks for electronic service.

Finally, SB 1146 will require parties to utilize existing remote and technological resources to conduct depositions. Without this requirement attorneys can face repercussions like sanctions when refusing to conduct an in-person deposition by instead offering to proceed remotely. This change is particularly important because current statute requires that the deposition officer be in the presence of the deponent. Without emergency orders or a change in the statute, no depositions could be able to safely take place during this pandemic.

The Consumer Attorneys of California, one of the co-sponsors of this bill, write:

As a result of the COVID-19 pandemic, legal offices are largely shut down, trials have been suspended and hearings are almost nonexistent. The civil courts are suffering their biggest hit possibly of all time. On March 27, the governor responded to civil justice issues raised by CAOC by authorizing Chief Justice Tani Cantil-Sakauye to "take any action she deems necessary to maintain the safe and orderly operation of that court." [4]

[…]

Chief Justice Tani Cantil-Sakauye and the Judicial Council responded to these requests during their April 6 emergency meeting, issuing a series of rules including Emergency Rule 11, which enacted rules for depositions through

[4] https://www.gov.ca.gov/wp-content/uploads/2020/03/3.27.20-N-38-20.pdf

remote electronic means.[5] . On April 17, the Judicial Council issued Emergency Rule 12 to expand use of electronic service of non-jurisdictional notices and documents between represented parties in general civil actions. […]

I. Electronic Service

During this pandemic, some parties have refused to agree to e-service and instead insist on the more traditional route of U.S. Postal mail, overnight delivery or facsimile. Such modes are problematic in light of the stay at home orders. Under the old approach, attorneys would be forced to either jeopardize their own safety and that of staff to retrieve documents from their closed law offices or risk undercutting their client's legal rights by abiding to mandatory stay-at-home order. Emergency Rule 12 requires that any represented party accept electronic service of documents without needing to consent to e-service. The rule also requires represented parties to serve others electronically if the other party provides notice of this rule and asks for e-service. Current timeframes in existing law CCP § 1010.6(b)(4) and (5) apply.

II. Remote Depositions

Emergency Rule 11 was adopted requiring parties to utilize remote and technological resources to conduct depositions. Attorneys are facing egregious actions such as the threat of sanctions when refusing to conduct an in person deposition and instead offering to proceed remotely.

Without the ability to conduct completely remote depositions, no depositions will be able to occur in the State of California because the statute requires the deposition officer to be in the presence of the deponent. Importantly, Emergency Rule 11 does not create new methods of conducting depositions. It instead utilizes methods already routinely used by the legal community by alleviating the restrictions placed on remote attendances.

SB 1146 will codify Judicial Council emergency rules making permanent remote depositions and e-service. For these reasons CAOC is proud to sponsor SB 1146. Please contact us with any questions.

The Deposition Reporters Association of California writes in support:

As amended, SB 1146 would permit California's attorneys, legal clients, and freelance deposition reporters to participate in depositions held remotely with

[5] https://jcc.legistar.com/View.ashx?M=F&ID=8234474&GUID=79611543-6A40-465C-8B8B-D324F5CAE349

the deposition officer-court reporter in one location, counsel in other locations, and the deponent in another. This bill will therefore ensure that licensed California court reporters, no matter where they live, are permitted to transcribe and report depositions, immediately addressing the current shortage of licensed California freelance court reporters by instantly increasing the number of reporters available for depositions to include all California licensed reporters for every deposition. For example, a licensed freelance reporter who lives in Yolo County, who may not have work, will be permitted to transcribe and report a deposition occurring in Santa Barbara County when no other reporter in Santa Barbara County would otherwise be available. Freelance court reporters, attorneys, clients, and the efficient and timely administration of justice all will benefit.

Notably, a court reporter would still under this bill be able during the deposition to ensure that what is said is transcribed and reported accurately. Just as a court reporter in the same room as the deponent and counsel will intervene during a vigorous argument between counsel to ensure the accuracy of the record, so, too, will a reporter under this proposed law be able to perform the same record-accuracy function, albeit remotely. And the bill would critically safeguard against witness tampering by giving all noticed counsel the right to be in the presence of the deponent during the deposition. As well, this bill does not disturb the essential consumer-protecting backstop requirement that if a transcript is at some later point to be admitted in court as evidence automatically, without the necessity of a foundation being laid for it, only a transcript stenographically prepared by a California licensed (or, as the Business & Professions Code refers to it, "certified shorthand") reporter qualifies.[6]

In sum, as the only trade association devoted solely to freelance court reporting in California, and the largest such organization in the nation, our experience with remote depositions especially during the COVID-19 crisis is that remote depositions (i) with protections against witness tampering and (ii) along with current law's backstop requirement of transcripts being admitted in California

[6] If a deposition is recorded electronically without a licensed court reporter simultaneously transcribing what was said, only a transcript later prepared stenographically by a California licensee from the recording is trustworthy enough automatically be admitted at trial. (*See*, e.g., CCP section 2025.340(m):"…[i]f no stenographic record of the deposition testimony has previously been made, the party offering an audio or video recording of that testimony … shall accompany that offer with a ***stenographic transcript prepared from that recording***." (Emphasis added.) "If the testimony is recorded stenographically, it must be recorded by a certified shorthand reporter." *Serrano v. Stefan Merli Plastering Co.* (2008) 162 Cal.App.4th 1014, 1033, citing Bus. & Prof. Code section 8020. *See also* Bus. & Prof. Code section 8017 (scope of practice of licensed court reporter includes stenography). *Accord*: Assembly Judiciary Committee Analysis of AB 424 (Gabriel) (2019) https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200AB424

courts only if prepared stenographically by a California certified court reporter, can usefully supplement current California deposition practice.

ARGUMENTS IN OPPOSITION: The individuals opposing this bill express concern over a prior version of this bill's deposition provisions, and it appears that the opponents' concerns were dealt with in the Senate Judiciary Committee's amendments. Specifically, the opponents were concerned that this bill's language stating that "[a]ny person may take or attend a deposition by telephone or other electronic means" was ambiguous and would allow *deponents* to opt to appear remotely, regardless of the location for which the deposition was noticed or the deposing party's desire to take the deposition in person. They are further concerned that, in connection with the above language, the provision at subdivision (b) could force other participants in the deposition—such as the deposing attorney or party who wished to attend—to go to wherever the deponent opted to be, again, regardless of the location at which the deposition was noticed. The opponents emphasized the importance of being able to conduct a deposition in person, and the havoc that could be wrought on the discovery process if deponents could opt to appear remotely or from difficult locations.

The Committee's amendments, however, struck the provision that could be interpreted to allow a deponent to elect to appear remotely. Those amendments clarified that the *deposition officer* and *other participants* may attend remotely. And to emphasize that this bill does not intend to alter the requirement that a deponent appear at a deposition as noticed, the Committee's amendments also added a provision stating that allowing the deposition officer or non-deponent participants does not alter any of the other time, place, and manner requirements for depositions. It is therefore likely that the opponents' concerns about the prior version of this bill have been resolved.

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

Office of Senate Floor Analyses
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CONSENT

Bill No: SB 1148
Author: Jones (R)
Amended: 5/26/20
Vote: 21

SENATE JUDICIARY COMMITTEE: 8-0, 5/22/20
AYES: Jackson, Durazo, Lena Gonzalez, Jones, Monning, Stern, Umberg, Wieckowski
NO VOTE RECORDED: Borgeas

SUBJECT: Mortgages and deeds of trust: foreclosure

SOURCE: Author

DIGEST: This bill alters the default geographic range in which a mortgage trustee may publish a notice of foreclosure sale in a nonjudicial foreclosure—which will, in some circumstances, expand the scope of permissible newspapers in which to publish—with the goal of increasing competition among newspapers and a reduction in publication costs. This bill also prohibits courts from charging a filing fee for a declaration of nonmonetary status, filed when a mortgage trustee is a party to an action solely by virtue of their status as trustee.

ANALYSIS:

Existing law:

1) Permits nonjudicial foreclosure of mortgages and deeds of trust secured by an interest in real property by the beneficiary of the loan (the lender) or the trustee (the party holding the property for the beneficiary), or their agents (collectively, "the trustee"), when the trustor (the borrower) is in default. (Civ. Code, § 2924.)

2) Sets forth procedures for the trustee to sell the real property securing the mortgage or deed of trust to satisfy the defaulted-on obligation, where permitted by a power of sale clause contained in the mortgage or deed of trust. (Civ. Code, § 2924.)

3) Requires the trustee to publish, at least once a week for three consecutive weeks starting at least 20 days before the sale (Civ. Code, § 2924f(b)(1)), notice of the sale in a newspaper of general circulation, the location of which is determined as follows:

   a) If the property, or any part of it, is located in a city with at least one newspaper of general circulation, the notice must be published in a newspaper of general circulation published within that city. (Civ. Code, § 2924f(b)(2).)

   b) If the property is located in a city without a newspaper of general circulation, or is not located in a city, the notice must be published in a newspaper of general circulation published within the public notice district in which the property or some part of it is located. (Civ. Code, § 2924f(b)(2).)

   c) If the property is located in a public notice district without a newspaper of general circulation, the notice must be published in a newspaper of general circulation published within the county in which the property or some part of it is located. (Civ. Code, § 2924f(b)(2).)

   d) If the property is located in a county without a newspaper of general circulation, the notice must be published in a newspaper of general circulation published in a county in California that is contiguous to the county in which the property is located, and, in comparison to the other contiguous counties, has the highest county population. (Civ. Code, § 2924f(b)(1).)

4) Does not cap the cost of publishing a notice of sale. (Civ. Code, § 2924c(c).)

5) Permits the trustee to recover from the trustor certain expenses incurred during the foreclosure process, including the cost of publishing the notice of sale, in two circumstances:

   a) When the trustor is able to cure the default, reinstate the mortgage, and keep their home by repaying all amounts in default plus certain costs expended by the trustee in connection with the foreclosure sale; the costs that must be reimbursed by the trustor to the trustee include the cost of publishing the notice of sale (Civ. Code, §§ 2924c(a)(1), 2924d(a)); or

   b) When the trustee sells the home at the foreclosure sale and the sales price exceeds the unpaid amount of the loan, the excess is first used to pay the trustee’s costs; the costs taken from the excess include the cost of publishing

the notice of sale, resulting in a lower payment back to the trustor. (Civ. Code, § 2924k.)

6) Permits the trustee to recover the expenses incurred, including publication costs, from the beneficiary, if the trustor does not cure the default and the property is sold for a price at or lower of the amount remaining on the loan. (Civ. Code, §§ 2924d(b), 2924k.)

7) Permits a trustee, where the trustee has been named in an action or proceeding in which that deed of trust is the subject, and the trustee maintains a reasonable belief that it has been named in the action or proceeding solely in its capacity as trustee and not arising out of the wrongful acts or omissions on its part in the performance of its duties as trustee, to file a declaration of nonmonetary status in the action. (Civ. Code, § 2924*l*(a).)

   a) The declaration of nonmonetary status must set forth the status of the trustee as trustee under the deed of trust; that the trustee knows or maintains a reasonable belief that it has been named as a defendant in the proceeding solely in its capacity as a trustee under the deed of trust; the trustee's reasonable belief that it has not been named as a defendant due to any acts or omissions on its part in the performance of its duties as trustee; the basis for that knowledge or reasonable belief; and that the trustee agrees to be bound by whatever order or judgment is issued by the court regarding the subject deed of trust. (Civ. Code, § 2924*l*(b).)

   b) The parties to the action have 15 days from service of a declaration of nonmonetary status to object to the declaration. If no objection is served, the trustee shall not be required to participate in the proceeding (including discovery) and shall be bound by any court order relating to the deed of trust at issue. If a timely objection is served, the trustee shall be required to participate in the action. (Civ. Code, § 2924*l*(c)-(e).)

8) Does not specify whether a declaration of nonmonetary status constitutes a responsive pleading or motion for purposes of determining the appropriate filing fee under Government Code sections 70600-70640.

This bill:

1) Eliminates the requirement that, for properties located all or in part in a city in which at least one newspaper of general circulation is published, the notice of sale must be published in a newspaper of general circulation within that city.

Instead, the notice could be published in any newspaper of general circulation within the public notice district in which the property is located all or in part.

2) Prohibits courts from charging a filing fee for a declaration of nonmonetary status filed by a trustee.

Background

Existing law requires a mortgage trustee in a nonjudicial foreclosure proceeding to publish a notice of sale three times prior to the sale of the foreclosed property. The notice must be published in a newspaper of general circulation, the location of which is determined by statute. The default requirement is that the notice be published in a newspaper of general circulation in the city in which the property is located all or in part. If the property is not located in a city, or there is no newspaper of general circulation published there, the notice must be published in a qualifying newspaper located in the public notice district where the property is located; if there is no qualifying newspaper in the public notice district, the notice must be published in the county where the property is located; and if there is no qualifying newspaper in the county, the notice must be published in an adjacent county. Existing law is also ambiguous as to the proper filing fee (if any) for a trustee's declaration of nonmonetary status, filed when a trustee believes they have been named as a party solely because of their status as a trustee; if no party objects to the trustee's declaration of nonmonetary status, the trustee is excused from participation in the lawsuit.

Comments

According to the author:

> SB 1148 proposes two changes to the Civil Code provisions relating to nonjudicial foreclosures of mortgages and deeds of trust. The Civil Code contains comprehensive procedures for nonjudicial foreclosures, which must be strictly complied with. […]
>
> […]
>
> Although maximum trustee fees are specified in the statute, there are no limits on publication costs. All allowable fees, including the trustee fees and publication fees, must be paid by borrowers in order to cure defaults and redeem their properties, so it is important that all fees be reasonable. The sponsor believes that publication costs vary significantly around the state, from as low as a few hundred dollars to over $4000. It appears that areas where there [are] only one allowable newspaper of general circulation contribute[] to higher

rates; SB 1148 is designed to incrementally encourage competition, thereby helping keep costs reasonable, by eliminating the reference to newspapers of general circulation in cities. If enacted, trustees would first look to public notice districts for a newspaper of general circulation, and then to counties. The California News Publishers Association has been consulted about this proposal and is neutral.

Second, SB 1148 proposed to amend Civil Code section 2924*l*, relating to the filing of a document known as the "declaration of nonmonetary status." For many years the law has allowed trustees to record this declaration, when they believe they have been named in a lawsuit simply because of their status as trustees, and not because of any act or omission. In the declaration, trustees indicate that they will be bound by any order or judgment issued by the court. The declaration is served on the parties, who have 15 days to object, in which case the trustee is required to participate in the action or proceeding.

Courts differ on how they treat the filing of this declaration, which is basically a paper withdrawing from any defense in the underlying action. Some courts treat the filing as an answer subject to the first filing fee, while others accept the document without fee. SB 1148 clarifies that the declaration is not a motion or responsive pleading. Of course, should the trustee be required to participate in the action, an answer would be required.

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

SUPPORT: (Verified 5/26/20)

United Trustees Association

OPPOSITION: (Verified 5/26/20)

None received

ARGUMENTS IN SUPPORT: In support, the United Trustees Association writes:

SB 1148 makes two narrow changes to the law of nonjudicial foreclosures contained in the California Civil Code. Those changes are as follows:

- Current law requires publication of notices of sale in newspapers of general circulation prior to conducting trustee's sales of property. The law is very prescriptive in defining where the publication must occur. In descending order, publication must occur in newspapers of general circulation in the city

where the property is located if the property is in a city; if not, publication must occur in "public notice district" where the property is located, and if no such newspaper exists, then in the county where the property is located. Because the publication requirements are so prescriptive, sometimes only one newspaper is eligible to do the publication, tending to drive up publication costs, which are not regulated. To encourage competition, SB 1148 proposes to eliminate the city publication, in favor of public notice districts and counties. While this sounds complicated, the proposal is simple: allowing more newspapers to compete to do the publications should lower costs, which is critical because homeowners must pay these publication costs in order to stave off foreclosure and keep their homes.

- Trustees conducting foreclosures are frequently named in lawsuits not because of any act or omission on their part, but simply because of their status as trustees. In this circumstance, current law permits trustees to file with courts a "declaration of nonmonetary status." This tells the parties to the action, and the court, that the trustee does not intend to defend the action and will be bound by any decision of the court. This effectively removes trustees from the underlying action. This declaration should not be treated by courts as an answer or other responsive pleading; it literally is a non-pleading. Most courts permit filing these declarations without fee, while a small number require payment of a first-paper filing fee. SB 1148 standardizes practice throughout the state that these declarations are not motions or responsive pleadings.

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5/27/20 11:03:36

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

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THIRD READING

Bill No: SB 1157
Author: Bradford (D)
Amended: 5/29/20
Vote: 21

SENATE JUDICIARY COMMITTEE: 7-0, 5/22/20
AYES: Jackson, Durazo, Lena Gonzalez, Monning, Stern, Umberg, Wieckowski
NO VOTE RECORDED: Borgeas, Jones

SUBJECT: Tenancy: credit reporting: lower income households

SOURCE: Credit Builders Alliance
Mission Asset Fund
Prosperity Now Fund

DIGEST: This bill requires, beginning July 1, 2021, any landlord of an assisted housing development to offer the tenant or tenants obligated on the lease of each unit in that assisted housing development the option of having the tenant's rental payments reported to a consumer reporting agency, as provided, and authorizes a landlord to require the tenant to pay a fee not to exceed the lesser of the actual cost to the landlord to provide the reporting service or $10 per month.

ANALYSIS: Existing law defines an "assisted housing development" as a multifamily rental housing development that receives governmental assistance under specified federal laws and programs, such as the Below-Market-Interest-Rate Program under Section 221(d)(3) of the National Housing Act (12 U.S.C. § 1715 l(d)(3) and (5)), and specified state laws and local programs, such as local housing trust funds, as referred to in paragraph (3) of subdivision (a) of Section 50843 of the Health and Safety Code. (Gov. Code § 65863.10(a)(3))

This bill:

1) Requires, beginning July 1, 2021, any landlord of an assisted housing development to offer the tenant or tenants obligated on the lease of each unit in

that housing development the option of having the tenant's rental payments reported to at least one nationwide consumer reporting agency or other consumer reporting agency, as defined. Requires the election by the tenant to be made in writing.

2) Requires the offer of rent reporting, for leases entered into on and after July 1, 2021, to be made at the time of the lease agreement and at least once annually thereafter, and, for leases outstanding as of July 1, 2021, made no later than October 1, 2021, and at least once annually thereafter.

3) Authorizes a landlord to charge a fee to a tenant who elects to have the tenant's rental payments reported to a consumer reporting agency in an amount equal to the actual cost to the landlord to provide the service or $10 per month, whichever is less.

4) Authorizes a tenant who elects to have the tenant's rental payments reported to a consumer reporting agency to subsequently file a written request with the tenant's landlord to stop that reporting; however, a tenant that does so will not be allowed to elect rent reporting again for a period of at least six months from the date of the tenant's written request.

5) Provides that a tenant who elects to have rent reported does not forfeit any rights under Sections 1941 to 1942, inclusive, of the Civil Code, and the deduction or withholding of rent as authorized by those sections will not constitute a late rental payment. A tenant invoking the right to deduct or withhold is required to notify the landlord of the deduction or withholding prior to the date rent is due.

Comments

1) *Lack of credit history as a self-perpetuating barrier to economic mobility*

Low-income Californians are often unbanked or underbanked, meaning that they have few if any fixed or formal financial accounts. As a result, they may have little or no established credit history. Having an established credit history is vital to accessing many consumer services and obtaining loans. Credit checks are frequently required for things like: renting an apartment, buying a house, obtaining basic utility services or a cell phone, getting a credit card, and borrowing money from a bank. Some employers even check an applicant's consumer credit record as part of the hiring process.

Some people are fortunate to be able to begin establishing a credit history early in their lives through things like convincing someone with good credit to co-sign on a loan or simply getting added to a parent's credit card account. For those who do not have these options, establishing a credit history can be enormously challenging because enrolling in services or obtaining loans that would establish a credit history often requires *having* a credit history. This catch-22 shuts many low-income individuals out of the formal economy, forcing them to make inflated deposits to obtain things like housing or utility services, steering them away from keeping money in interest-bearing accounts, and driving them into the hands of financial services with hefty fees and high interest rates, like pay-day lenders and check-cashing companies.

Statistics show that a lack of credit impacts a large segment of our population and disproportionately affects those with low income and communities of color. According to a Consumer Financial Protection Bureau report on the topic:

> As of 2010, 26 million consumers in the United States were credit invisible, representing about 11 percent of the adult population. An additional 19 million consumers, or 8.3 percent of the adult population, had credit records that were treated as unscorable by a commercially-available credit scoring model. […]
>
> There is a strong relationship between income and having a scored credit record. Almost 30 percent of consumers in low-income neighborhoods are credit invisible and an additional 15 percent have unscored records. […]
>
> Blacks and Hispanics are more likely than Whites or Asians to be credit invisible or to have unscored credit records. About 15 percent of Blacks and Hispanics are credit invisible (compared to 9 percent of Whites and Asians) and an additional 13 percent of Blacks and 12 percent of Hispanics have unscored records (compared to 7 percent of Whites). These differences are observed across all age groups, suggesting that these differences materialize early in the adult lives of these consumers and persist thereafter.[1]

[1] Brevoort, Grimm, and Kambara, *Data Point: Credit Invisibles* (May 2015) U.S. Consumer Financial Protection Bureau **https://files.consumerfinance.gov/f/201505_cfpb_data-point-credit-invisibles.pdf** (as of May 7, 2020) at p. 6.

2) *Reporting rental payments of tenants in assisted housing developments*

a) *Concept behind the proposal, similar pilots and their outcomes*

A little over 45 percent of Californians rent their housing—the second highest in the nation after New York and 10 percent higher than the national average.[2] Most Californians who make on-time rent payments fail to receive any benefit to their credit scores for making those on-time payments even though failure to pay one's rent has a negative impact on one's credit. This is because most landlords are not submitting their tenants' "full-file" (positive and negative) rental payment history to any of the major consumer reporting agencies (Equifax, Experian, or TransUnion; also referred to as credit bureaus). Several studies and pilot programs have shown that reporting the full rental history of low-income tenants to the major consumer reporting agencies will have a positive impact on most of those tenants' credit scorability and credit scores.

Credit Builders Alliance (CBA), one of the sponsors of this bill, and Citi Foundation conducted a pilot in collaboration with eight affordable housing providers nationwide, including one in California: the East Bay Asian Local Development Corporation. A total of 1,255 tenants opted to participate in the pilot. After two years, CBA analyzed the resulting impact on tenant credit and reached the following conclusions:

- All residents participating in the pilot who initially had no credit score had either a high nonprime or prime score with the inclusion of their rental payment history.
- A large majority (79 percent) of participants experienced an increase in credit score, with an average increase of 23 points.
- A small number of pilot participants (14 percent) experienced no change in their credit score after including the rental trade line, and an even smaller number (7 percent) experienced a decrease in credit score.[3]

General studies of the impact of rent payment reporting on credit conducted by the credit reporting agencies Experian, TransUnion, and RentTrack

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[2] Campbell, *Is it More Common to Rent or Own in Each State?* (Jan. 21, 2019) Move.org **https://www.move.org/states-with-highest-lowest-owner-occupied-homes/** (as of May 11, 2020).

[3] Chenven and Schulte, *The Power of Rent Reporting Pilot: A Credit Building Strategy* (2015) Credit Builders Alliance and Citi Foundation **https://creditbuildersalliance.org/wp-content/uploads/2019/06/CBA-Power-of-Rent-Reporting-Pilot-White-Paper.pdf** (as of May 1, 2020) at p. 5.

showed similarly positive results,[4] though it should be noted that these companies have a financial incentive to encourage greater use of their services.

A study was commissioned by the U.S. Department of Housing and Urban Development that conducted a series of simulations using rental payment data from three public housing authorities (PHAs) in Seattle, Washington; Louisville, Kentucky; and Cook County, Illinois to assess the impact of reporting full rental history of residents in the PHAs on their credit scores.[5] The study did not actually report rent payments to credit agencies but simulated the reporting of rent payments. Key findings from the study include that the "addition of the full-file PHA rental payment data tended to dramatically reduce unscorability"[6] and the "addition of the full-file PHA rental payment data both raised and lowered credit scores, with more score increases than decreases."[7]

In light of the above described studies and pilot programs, this bill seeks to make California the first state in the nation to require landlords of assisted housing developments to offer tenants the option of having their rental payments reported to at least one of the major credit reporting agencies.

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[4] *See, Credit for Renting* (2014) Experian **http://www.experian.com/assets/rentbureau/white-papers/experian-rentbureau-credit-for-rent-analysis.pdf** (as of May 11, 2020) (analysis of data on 20,000 subsidized housing residents "demonstrates the impact of positive rent reporting on credit file thickness, risk segment migration and credit scores for subsidized housing residents" at p. 6); *TransUnion Analysis Finds Reporting of Rental Payments Could Benefit Renters in Just One Month* (June 19, 2014) TransUnion **https://newsroom.transunion.com/transunion-analysis-finds-reporting-of-rental-payments-could-benefit-renters-in-just-one-month** (as of May 11, 2020) ("reporting of rental payment information to the credit bureaus in a manner similar to other financial obligations could have a positive effect for the majority of subprime consumers' credit"); *RentTrack Study Shows Positive Impact of Rent Reporting* (Mar. 6, 2015) RentTrack **https://www.renttrack.com/blog/renttrack-six-month-review-rent-reporting-impact/** (as of May 11, 2020) ("Residents who reported rent went up an average of 9 points on the tri-bureau Vantage Score. For subprime consumers, or those with credit scores below 650, the average point increase was 29 points. 100% of residents without a score became score-able, with an average starting Vantage Score of 639.").

[5] Turner and Walker, *Potential Impacts of Credit Reporting on Public Housing Rental Payment Data* (Oct. 2019) Policy and Economic Research Council as commissioned by the U.S. Department of Housing and Urban Development **https://www.huduser.gov/portal/sites/default/files/pdf/Potential-Impacts-of-Credit-Reporting.pdf** (as of May 11, 2020).

[6] *Id.* at 8 (The study found that the "rate of unscorability fell from 49 percent to 7 percent in one model and fell from 11 percent to 0 percent in the other model with the addition of full-file rental payment data").

[7] *Id.* at 7 (The study found "[i]n one scoring model the score changes were nearly symmetric with 23 percent of tenants having score increases and 20 percent having score decreases. For the second model, 61 percent had credit score increases while only 22 percent had score decreases.")

b) *Credit agencies, third-party servicers, and fee for participation*

Unfortunately, tenants and landlords cannot report rental payments to the major consumer reporting agencies themselves; they must do so through a third-party servicer or via a subscription with a consumer reporting agency. There are several third-party servicers that will report a tenant's rental payments to one or more of the major consumer reporting agencies but most charge fees to do so: Rent Reporters (one-time enrollment fee of $94.95 and $9.95 monthly fee); Rental Kharma (initial setup fee of $25 and $6.95 monthly fee); LevelCredit ($6.95 monthly fee); Rock the Score (enrollment fee of $25 and $8.95 monthly fee); PayYourRent (fees vary depending on how rent is paid); CreditMyRent (setup fee between $25 and $145, depending on tier of service, and monthly $6.95 fee).[8] ClearNow does not charge a fee but requires a person's rent be debited from their checking or savings account and Zingo requires a person's financial accounts to be linked, which may not be feasible for those who are unbanked or underbanked.[9] Esusu allows landlords to report a tenant's rent and, according to one article, does not charge a fee, though it was hard to verify this from their website.[10] Many of these servicers require landlord participation for verification.

Some opponents of the bill raised concerns that the administrative cost of reporting was being placed solely on the landlord. In order to address these concerns, the author amended this bill to authorize a landlord to charge a fee to a tenant who elects to have the tenant's rental payments reported in an amount equal to the actual cost to the landlord to provide the service or $10 per month, whichever is less.

3) *Protections for tenant's rights in relation to the warranty of habitability*

Under California law, tenants are lawfully entitled to withhold rental payments from their landlords when the landlord has breached the warranty of habitability. (Civ. Code § 1940.1; *Green v. Superior Court of San Francisco* (1974) 10 Cal.3d 616.) Similarly, a California tenant that tires of waiting for a landlord to make certain repairs may, by following specified procedures, pay for or make the repair directly and lawfully deduct the cost of the repair from

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[8] O'Shea, *How to Report Your Rent to Credit Bureaus* (Jan. 28, 2020), Nerdwallet **https://www.nerdwallet.com/blog/finance/credit-report-rent-payments-incorporated/** (as of May 11, 2020).
[9] *Id*.
[10] *Id*.

the following month's rental payment. (Civ. Code § 1942.) If a landlord could report a tenant exercising these rights as late on the rent payment, the tenant would be forced to choose between their legal rights and their credit history. For this reason the bill specifies that a tenant who elects to have rent reported does not forfeit any rights under Sections 1941 to 1942 of the Civil Code, inclusive. The bill also specifies that a tenant who makes deductions from rent or otherwise withholds rent as authorized by those sections is not making a late rental payment. The bill is not intended to alter the landlord's obligation to maintain habitable premises in any way.

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

SUPPORT: (Verified 5/29/20)

Credit Builders Alliance (co-source)
Mission Asset Fund (co-source)
Prosperity Now (co-source)
California Coalition for Rural Housing
Community Financial Resources
Housing and Economic Rights Advocates
MyPath
National Coalition of Asian Pacific American Community Development
New Economics for Women
Western Center on Law & Poverty

OPPOSITION: (Verified 5/29/20)

Affordable Housing Management Association-Pacific Southwest
Apartment Association, California Southern Cities
Apartment Association of Orange County
California Association of Realtors
East Bay Rental Housing Association

ARGUMENTS IN SUPPORT: The author writes, "Low-income individuals and people of color are more likely than others to be credit invisible or have damaged credit scores. As a result, they often pay more to borrow money and to obtain certain basic services whose cost is based on creditworthiness. However, many of these same individuals regularly pay their rent on time and in full. Housing costs are the single biggest component of most Californians' monthly budgets; responsibly paying those costs should reflect positively on a person's credit score, regardless of whether they rent or own. SB 1157 gives renters credit for paying their rent on time."

Credit Builders Alliance, one of the co-sponsors of the bill, writes, "[…] Rent reporting has high impact because it is place-based, simple, and scalable through housing providers. As a first-in-the nation bill that requires landlords who own or manage subsidized multi-family residential properties to offer their tenants the option of having their rent payments reported to a major credit bureau, SB 1157 could move the needle on helping Californians in an estimated 500,000 households establish or improve their credit scores."

Another sponsor of this bill, Mission Asset Fund, writes, "[…] SB 1157 is setting an unprecedented path for supporting the expansion of credit-building opportunities for California tenants, especially those in low-income households. Rent reporting to the major credit bureaus would offer low-income renters an opportunity to build credit as a financial asset without the need of taking on any additional debt."

ARGUMENTS IN OPPOSITION: The California Association of Realtors (CAR) writes in opposition stating that CAR will oppose SB 1157 until it is amended to exempt small rental housing property owners of "assisted housing developments" with 15 units or less.

The Affordable Housing Management Association-Pacific Southwest, the Apartment Association, California Southern Cities, the Apartment Association of Orange County, and the East Bay Rental Housing Association also write in opposition to this bill, citing several issues including: that the option of whether to report rent to a credit agency lies solely with the tenant; the bill creates an environment of unequal bargaining power, unconscionability and oppression; the landlord has to bear administrative costs and liability of reporting; there could be a negative impact for low-income tenants who don't live in assisted housing developments; this bill places additional financial strains on landlords who choose to participate in assisted housing development programs; and that landlords receive no net benefit for the remedy this bill requires them to provide.

Prepared by: Amanda Mattson / JUD. / (916) 651-4113
6/1/20 15:44:20

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

SENATE RULES COMMITTEE SB 1177
Office of Senate Floor Analyses
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CONSENT

Bill No: SB 1177
Author: Jones (R)
Introduced: 2/20/20
Vote: 21

SENATE VETERANS AFFAIRS COMMITTEE: 7-0, 5/27/20
AYES: Archuleta, Grove, Hurtado, Nielsen, Roth, Umberg, Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Veterans' Home of California system

SOURCE: Author

DIGEST: This bill requires the California Department of Veterans Affairs (CalVet) to define what types of short-term uses of veterans' homes are in the best interests of the homes, and to only approve short-term uses of veterans' home property that meet this definition. This bill also requires CalVet to develop and implement a fee schedule for short-term third-party uses of veterans' home property.

ANALYSIS:

Existing law:

1) Establishes the Veterans' Homes of California system [MVC §1010].

2) Authorizes the Director of the Department of General Services (DGS) to lease or let any real property held by the department for a home, as specified, to any entity or person upon terms and conditions determined to be in the best interests of the home [MVC §1023(b)].

3) Authorizes the Director of DGS, with the consent of the state agency concerned, to let for a period of not to exceed five years, any real or personal

property that belongs to the state, the letting of which is not expressly prohibited by law, if he or she deems the letting to be in the best interest of the state [GOV §14670(a)(1)].

This bill:

1) Requires CalVet to promulgate regulations that define the types of short-term uses of veterans' home property that are in the best interests of the homes, including the interests of the residents of the homes, and shall not approve short-term use agreements that do not meet that definition.

2) Requires CalVet to include conditions that protect the state's best interests in all short-term use agreements of veterans' home property.

3) Requires CalVet to develop and implement a fee schedule for short-term third-party uses of veterans' home property.

Background

CalVet oversees eight veterans' homes across the state. The homes provide rehabilitative, residential and medical services to the veterans who reside there. Any veteran who is disabled or over 55 years of age and a resident of California is eligible to apply for admission to the homes. Each home provides different levels of care, including skilled nursing care and memory care.

DGS has general authority to lease state owned real property, including veterans' home properties, with the consent of the agency responsible for the property. DGS has specific authority to lease veterans' home property as long as the property is not needed for any direct or immediate purpose and the terms and conditions of the lease are in the best interests of the home.

State Audit. In January 2019, the California State Auditor released an audit of CalVet and DGS subtitled "The Departments' Mismanagement of the Veterans Home Properties Has Not Served the Veterans' Best Interests and Has Been Detrimental to the State." Among its major conclusions were the following:

1) CalVet and DGS had not ensured that leases of veterans' home property were in the best interests of the home, allowing leases whose duration terms exceeded what was allowable under state law.

2) CalVet allowed four entities to occupy veterans' home property without a written agreement and without collecting rent, exposing the state to greater risk of liability and missing an opportunity to collect revenue that could be used to support the home.

3) Most of the leases for employee housing lacked key terms protecting the state's interests, such as terms protecting the state against liability.

4) CalVet's lack of oversight allowed third parties to use veterans' home properties on a short-term basis without written agreements that would protect the State from liability and without compensating the home.

5) CalVet had not adequately monitored compliance with the terms of the lease agreements. Most egregiously, for several years the golf course lessee was launching hot air balloons from Yountville, which was not allowed under the lease agreement, and was not an appropriate use of the home.

The Auditor recommended to the Legislature that "to protect the interests of the State and veterans homes, the Legislature should amend state law to do the following:

a) Require CalVet to promulgate regulations that define what types of short-term uses of veterans home property are in the best interests of the homes, including the interests of the residents of the homes, and to include in all short-term use agreements conditions that protect the State's best interests.

b) Prohibit CalVet from approving any short-term uses of the veterans home property that do not meet its definition of the best interests of the home.

c) Require CalVet to develop and implement a fee schedule for short-term third-party uses of veterans home property."

In response to the audit, CalVet stated that in May 2018, headquarters directed all authority for approving property use be revoked from the Veterans Home and centralized within CalVet's executive leadership in headquarters. They also directed the development of a new property use policy to better comply with state law and to ensure effective management of the Veterans Home property. Criteria for this policy drew from federal legislation concerning the appropriate uses of the Greater Los Angeles campus of the U.S. Department of Veterans Affairs.

Related/Prior Legislation

AB 2349 (Irwin, 2020) creates the Veterans' Home Fund and require moneys received in connection with the leasing or letting of a home to be deposited in the fund. Upon appropriation by the Legislature, funds would be available for the maintenance of existing homes and for the acquisition or construction of new or replacement homes, as specified. (Currently in Assembly Committee on Veterans Affairs.)

AB 240 (Irwin, 2019) limits a lease of real property at a CalVet Veterans Home to five years, requires that the use of property at a Veterans Home meets specified criteria, including that it provide a benefit to the home and its members, and requires the use to be governed by a written agreement. (Currently in Senate Third Reading.)

AB 653 (Bloom, Chapter 263, Statutes of 2019) authorized the Director of DGS, with the approval of the Adjutant General, to lease for a term of 25 years, the West Los Angeles National Guard Armory to the County of Los Angeles.

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

SUPPORT: (Verified 6/8/20)

AMVETS, Department of California
California Association of County Veterans Service Officers
California State Commanders Veterans Council
Military Officers Association of America, California Council of Chapters

OPPOSITION: (Verified 6/8/20)

None received

ARGUMENTS IN SUPPORT: According to the author, "SB 1177 implements a State Auditor's recommendations by requiring CalVet to define what short-term uses are in the best interest of veterans' home, and prohibiting CalVet from approving any short-term uses of the homes that do not meet that definition. These requirements will ensure that short-term uses benefit veterans' homes and its residents. Additionally, SB 1177 will require CalVet to develop and implement a fee schedule for short-term third-party uses of veterans' home property. With this fee schedule, CalVet and DGS will be able to adequately oversee rental fees and payments. The fee schedule will also guarantee that veterans' homes receive a

reasonable market-based rate for use of the facilities to ensure the veterans' best interests are being served."

Prepared by: Veronica Badillo / V.A. / (916) 651-1503
6/10/20 13:25:08

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

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
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CONSENT

Bill No: SB 1181
Author: Committee on Education
Introduced: 2/20/20
Vote: 21

SENATE EDUCATION COMMITTEE: 6-0, 5/12/20
AYES: Leyva, Wilk, Chang, Durazo, McGuire, Pan
NO VOTE RECORDED: Glazer

SUBJECT: Elementary and secondary education: omnibus bill

SOURCE: Author

DIGEST: This bill, the annual K-12 education policy omnibus bill, makes technical, clarifying, conforming, and other non-controversial revisions to a number of provisions in the Education Code.

ANALYSIS:

Existing law:

1) Prohibits a person from being eligible from holding a position as city superintendent, district superintendent, deputy superintendent, associate superintendent, or assistant superintendent of schools unless "he" is the holder of both a valid school administration certificate and a valid teacher's certificate. (Education Code § 35028)

2) Authorizes the county auditor to examine each order and requisition on school district funds transmitted to "him" by the county superintendent of schools. (EC § 42639)

This bill makes technical changes to various sections of the Education Code to remove gendered references to the Superintendent of Public Instruction, one gendered reference to the county auditor, and one gendered reference to a city superintendent, district superintendent, deputy superintendent, associate superintendent, or assistant superintendent of schools.

Background

The Education Code includes numerous references to the Superintendent of Public Instruction relative to regulations, role on the State Board of Education, role as designated state official, role on educational advisory committees, the destruction of school district records, forms for severance aid, notice by school district governing boards of the employment of people requiring certification qualifications, and violations of the employment of minors. (EC § 1703, § 12501, § 33004, § 33501, § 35253, § 41962, § 44843, § 49180)

Comments

1) *Purpose of the elementary and secondary education omnibus bill.* Each year, there is typically a K-12 education omnibus bill that makes various technical, conforming, clarifying, and non-controversial revisions to the Education Code. Typically, staff with the Senate and Assembly education policy, fiscal and budget committees (and their minority consultants), the Department of Finance, the California Department of Education, the Legislative Analyst's Office, and other similarly situated state government offices, identify statutes in existing law which need updating or correcting and propose corrections. Custom and practice provide that if offices or entity object to a proposed provision in the omnibus bill, that particular provision is prohibited from inclusion.

2) *Updated terminology*. Gendered references, particularly to positions of power, are outdated and inappropriate. These references can easily be replaced by stating the position or office rather than the gender of a person who may occupy that position or office.

3) *Necessary to accomplish this Session*? No. Gendered references are outdated and inappropriate but it is not critical that those statutory changes occur this year. As part of the process described in 1) above, legislative and agency staff will continue to review additional technical and non-controversial proposals to determine if those statutory changes must occur this legislative session. Once proposals have been identified and agreed upon for inclusion in this omnibus bill, those proposals will replace the current contents of this bill.

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

SUPPORT: (Verified 5/12/20)

None received

OPPOSITION: (Verified 5/12/20)

None received

Prepared by: Lynn Lorber / ED. /
5/13/20 10:23:01

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

SENATE RULES COMMITTEE SB 1185
Office of Senate Floor Analyses
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THIRD READING

Bill No: SB 1185
Author: Moorlach (R)
Amended: 5/26/20
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-0, 5/29/20
AYES: Allen, Hertzberg, Hill, McGuire, Wieckowski
NO VOTE RECORDED: Bates, Dahle

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Emergency backup generators: emergency variance: operation during deenergization events

SOURCE: Author

DIGEST: This bill requires a facility permittee, when applying for an emergency variance from backup generator runtime rules, to demonstrate that they are using the cleanest, feasible, available backup power source, including, but not limited to, natural gas-powered generators; and requires reporting from utility providers to local and state air regulators.

ANALYSIS: Existing federal law sets, through the Federal Clean Air Act (FCAA) and its implementing regulations, National Ambient Air Quality Standards (NAAQS) for six criteria pollutants and requires states to prepare, submit, and adopt a State Implementation Plan (SIP) to limit air pollution and attain federal standards. (42 U.S.C. §7401 et seq.)

Existing state law:

1) Establishes the Air Resources Board (ARB) as the air pollution control agency in California and requires ARB, among other things, to coordinate, encourage, and review the efforts of all levels of government as they affect air quality. (Health and Safety Code (HSC) §39500 et seq.)

2) Creates the 35 air pollution control and air quality management districts (air districts) to be responsible for regional air quality planning, monitoring, and stationary source and facility permitting. (HSC §40000 et seq.)

3) Defines "emergency use" as providing electrical power during specified events, including the loss of normal electrical power for reasons beyond the control of the operator. (Title 17 of the California Code of Regulations §93115.4)

4) Allows any person to apply to an air district's hearing board for a variance from the district's rules, regulations, and orders (HSC §42350 et seq.), and makes specifications for the issuance of that variance, including:

    a) That no variance shall be granted unless it is found that compliance would otherwise result in either an arbitrary or unreasonable taking of property, or the practical closing and elimination of a lawful business.

    b) Requiring a hearing board to (when the petitioner is a public agency) consider whether immediate compliance would otherwise impose an unreasonable burden on an "essential public service"—specifically, a prison, detention facility, police or firefighting facility, school, health care facility, landfill gas control or processing facility, sewage treatment works, or water delivery operation, if owned and operated by a public agency.

5) Requires an air district's hearing board, except in the case of an emergency, to hold a hearing the determine under what conditions and to what extent a variance shall be granted. (HSC §42359)

6) Allows for the issuance of emergency variances by the chairman or any other member of a district hearing board (without notice and hearing), provided that the emergency variance be issued for a good cause and not remain in effect for longer than 30 days. (HSC §42359.5)

This bill:

1) Requires a facility permittee, when applying for an emergency variance from backup generator (BUG) runtime rules, to demonstrate that they are using the cleanest, feasible, available backup power source, including but not limited to natural gas-powered generators.

2) Requires electric utilities (whether a corporation, cooperative, or publically owned entity) to report annually to affected air districts and ARB on the area and duration of any Public Safety Power Shutoff (PSPS) events they utilized.

Background

1) *Public safety power shutoffs*. California's wildfires have become more frequent, threatened more residents, and happened throughout more of the year in recent decades. More than 25 million acres of California wildlands are classified as under very high or extreme fire threat. Roughly a quarter of the state's residents live in this area. Climate change has exacerbated the hot, dry conditions that support catastrophic fires, and while California attempts to mitigate its contributions to global climate change, the state is also taking immediate actions to protect its residents from wildfires.

   To better protect safety and public health from uncontrolled wildfires, utility providers have adopted the use of PSPS events. Electricity transmission and distribution systems have sparked a number of wildfires, and this risk can be reduced by de-energizing the power lines during extreme weather events. During October of 2019, California utility providers conducted a dozen PSPS events. These affected millions of residents across 30 counties. While being an important public safety tool, power loss also has many negative impacts, especially to vulnerable populations (including residential customers that rely on reliable electric service to power life-saving medical devices), medical and emergency service providers (including hospitals, fire departments and police stations), and important public service providers (such as water agencies, gas stations, and grocery stores).

2) *Backup generators*. In order to mitigate the damage of power loss, many of these critical service providers may rely on BUGs to replace lost grid power. Additionally, many businesses may use BUGs to avoid catastrophic system disruptions and to minimize economic disruption that could result from prolonged power outages. However, this use of BUGs may result in air quality and public health impacts.

   According to estimates from ARB, nearly 125,000 BUGs were used in California during PSPS events in October 2019. Assuming an average of 50 hours of operation each, those generators released a cumulative total of 166.4 tons of nitrogen oxides (NOx), 19.4 tons of particulate matter (PM), and 8.9 tons of diesel PM. The diesel PM release was roughly equivalent to 29,000

additional heavy-duty diesel trucks being used for the month.

3) *Natural gas versus diesel generators*. The emissions from a natural gas powered internal combustion engine do still emit some air pollutants and greenhouse gases. However, they lack the acute health impacts of diesel particular matter, which is a known carcinogen (among other negative health impacts). Neither type of generator burns purely renewable fuel. However, at this time, the upfront costs for renewable-and-storage backup power are beyond the reach of many facilities that may rely on backup power during a PSPS.

   Renewable-and-storage notwithstanding, natural gas powered BUGs are preferable to diesel powered BUGs from an environmental perspective. ARB's guidance document on PSPS back-up power includes natural gas fueled engines as technologies that would improve emissions from BUG use statewide as compared to diesel- and gasoline-powered engines.

4) *Air district permitting rules*. Each of the state's 35 air districts adopts their own sets of regulations and rules tailored to the sources and air quality challenges of its region and are overseen by ARB. Ultimately, these actions are designed to achieve NAAQS set by the FCAA. Collectively, these strategies (i.e. emission standards, fuel regulations, emission limits, etc.) are included in the SIP. ARB is the lead agency in California for achieving the emission reductions goals and timelines described in the SIP. The 35 air districts, as well as other agencies, prepare SIP elements to be reviewed and approved by ARB before being integrated into the SIP.

   With few exceptions, anyone constructing or operating a facility that emits air pollutants must obtain an appropriate permit from the local air district. Each air district establishes its own fee schedule, and may maintain different requirements. An air district uses these permits to assess the air pollution impacts of stationary sources within its jurisdiction, and it may require additional standards or control technologies be used to align permitted entities' emissions with the SIP.

5) *Air district rules during emergencies*. Air districts provide for administrative exemption from established rules and regulations through the variance process. If a permitted facility anticipates they will need to exceed their authorized emissions due to reasons outside their control, they may submit a request for a variance to the board of the air district, who will hear and vote on the request at

a public meeting. Should an interruption arise without time for the normal variance and hearing process, there is also an established emergency variance process. When an emergency variance is requested, it can be granted by the chair of the air district board (or a designee) without the board convening.

Comments

1) *Purpose of bill.* According to the author, "In recent years, California has faced wildfires of catastrophic proportion. As a response to increased liability for wildfires and as a precautionary measure, California utility providers have begun the practice of shutting off electrical service in certain areas during peak wildfire risk times to mitigate the potential for a utility line to spark a wildfire.

   "Many facilities rely on back-up generators during PSPS events to remain powered and functional. Natural gas service remains in place and functional during these events and is cleaner and more feasible than traditional diesel generation. In many cases, PSPS events have qualified as cause for an emergency variance to a back-up generator permit. However, without clear statute regarding the issuance of emergency variance permits during PSPS events, many critical facilities have expressed fear of hefty fines and compliance issues when utilizing back-up generators.

   "Senate Bill 1185 clarifies existing statute to ensure that operators of back-up generators can apply for an emergency variance to their permit during a public safety power shut-off (PSPS) event while also encouraging the use of natural-gas-backup generation where applicable.

   "When back-up generation occurs, it is far more favorable to utilize natural gas infrastructure, as opposed to bringing in and storing large amounts of diesel fuel—presenting a serious safety concern and elevating the risk for disaster. In addition, natural gas generation releases significantly less pollutants than diesel generation. However, natural gas generation is not always available, and as such, this bill provides flexibility for emergency variances for other sources of generation."

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

SUPPORT: (Verified 6/9/20)

California Cable & Telecommunications Association
San Diego County Water Authority
Sempra Energy Utilities
Utility Workers Union of America

OPPOSITION: (Verified 6/9/20)

Association of California Water Agencies
Sierra Club

ARGUMENTS IN SUPPORT: According to the San Diego County Water Authority, "Without proper regulatory, statutory, and administrative structure, the increased frequency of PSPS events could have significant impacts on critical facilities including water and wastewater treatment agencies. Some of these consequences include the inability to pump water, inadequate fire flows, sewage backups, and air conditioning shutoffs in facilities with temperature-sensitive equipment. If water agencies cannot access reliable electricity, communities could face a public health crisis if they lack safe drinking water for consumption, cooking, and sanitation.

"To mitigate these effects and ensure reliable electricity during a PSPS event or other catastrophic loss of power like a wildfire, many critical facilities, including water agencies, must depend on their onsite emergency generators. However, state and local air quality management district restrictions for some existing generators adopted prior to the widespread use of PSPS do not provide enough time for proper testing in advance of an event or enough run time during an event."

ARGUMENTS IN OPPOSITION: According to the Association of California Water Agencies (ACWA), "Although this bill is well intended, the current version of the bill may have unintended consequences. Under existing law, any permittee can apply for an emergency variance from their local air district; under the provisions of this bill it could be interpreted that only natural gas powered generators should qualify for an emergency variance for a PSPS event. While ACWA supports the intent of the bill, the current version could be detrimental to the efforts of critical service providers to ensure continued service to the public during PSPS events.

"ACWA appreciates the author's sincere commitment to have ongoing discussions to clarify the bill and ensure that it will help critical services providers. For these reasons, ACWA must regretfully oppose SB 1185 until it is amended."

Prepared by: Eric Walters / E.Q. / (916) 651-4108
6/10/20 13:25:09

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

SENATE RULES COMMITTEE SB 1192
Office of Senate Floor Analyses
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THIRD READING

Bill No: SB 1192
Author: Bradford (D)
Amended: 5/26/20
Vote: 21

SENATE INSURANCE COMMITTEE: 11-0, 5/14/20
AYES: Rubio, Jones, Archuleta, Dodd, Galgiani, Glazer, Hueso, Mitchell, Moorlach, Portantino, Roth
NO VOTE RECORDED: Bates, Borgeas

SENATE APPROPRIATIONS COMMITTEE: 7-0, 6/9/20
AYES: Portantino, Bates, Bradford, Hill, Jones, Leyva, Wieckowski

SUBJECT: Firefighters', police officers', or peace officers' benefit and relief associations

SOURCE: California Department of Insurance

DIGEST: This bill requires firefighters', police officers', and peace officers' benefit and relief associations that administer self-funded long-term disability and long-term care plans to periodically file an actuarial opinion with the California Department of Insurance (CDI). This bill requires these associations to provide a notice in its contracts and certificates that the all or a portion of the benefits are not subject to regulation by CDI or guaranteed by the California Insurance Guarantee Association, and to provide a copy of a plan document that describes member benefits within 30 days of a written request.

ANALYSIS:

Existing federal law:

1) Provides, through the Employee Retirement Income Security Act (ERISA), for the formation of any employment welfare benefit plan established by an employer, employee organization, or both (29 U.S.C. §§ 1001 et seq.);

2) Establishes detailed standards applicable to ERISA plans regarding reporting and disclosures, vesting of benefits, funding, fiduciary responsibilities, prohibited transactions, and other protections for plan members. (29 U.S.C. §§ 1021 – 1191c.)

3) Preempts states laws from regulating a qualified ERISA plan as an insurer but allows states to continue to regulate the "business of insurance". (29 U.S.C. § 1144.)

Existing state law:

1) Prohibits a person, generally, from transacting insurance without a license from CDI and establishes laws and standards applicable to the business of insurance.

2) Provides that firefighters', police officers' or peace officers' benefit and relief associations formed for the purpose of aiding their members and dependents in case of sickness, accident, distress, or death shall not be subject to any other provision of the Insurance Code nor any state law relating to insurance (referred to collectively as "associations").

3) Requires associations to obtain a certificate of authority from CDI.

4) Limits membership to members of police departments and fire departments; regular and salaried peace or law enforcement officers; and emergency medical services personnel employed by a fire department of a city, county, or districts. (A member may remain if they are no longer in a qualifying position but did qualify at the time they joined.)

5) Requires that the trustees, directors, or governing body be elected by the membership.

6) Prohibits the use of money or property from being paid out as benefits to anyone other than its members, their dependents, or nominated beneficiaries.

7) Provides that associations shall be supported mainly by contributions from its members and by donations.

This bill:

1) Requires associations that issue long-term disability or long-term care policies or contracts to submit an actuarial opinion and supporting memorandum to CDI, no later than July 1, 2021, as to whether the reserves and related actuarial

items are adequate to support benefits and are based on reasonable assumptions and recognized actuarial standards.

   a) Permits an association to submit a previously prepared opinion if it had been completed no earlier than December 31, 2019.

   b) Requires an association to submit a new opinion no more than 4 years from the date of its last opinion on file.

   c) Exempts associations that offer benefits through an admitted insurer.

2) Provides that an association seeking a certificate of authority to file, if feasible, an actuarial opinion that it would have adequate resources to provide the benefits promised in its contracts.

   a) Requires CDI to notify an association if a filing fails to meet the standards required by the bill and specify issues that are deficient to be addressed in an amended filing.

   b) Recognizes documents, materials, or other information as proprietary and to contain trade secrets, and exempts those materials and information contained within from the public disclosure requirements, including the California Public Records Act.

3) Requires an association that self-funds all or a portion of its benefits to include the following language in contracts and certificates evidencing coverage under those contracts: "THE BENEFITS PROVIDED BY THIS CONTRACT ARE NOT SUBJECT TO REGULATION BY THE CALIFORNIA DEPARTMENT OF INSURANCE, AND THE CONTRACT IS NOT GUARANTEED BY THE CALIFORNIA INSURANCE GUARANTEE ASSOCIATION."

4) Requires an association that issues long-term disability and long-term care policies to provide a copy of a plan document that describes plan benefits within 30 days of a written request.

5) Recognizes, expressly, that the laws governing these associations apply only to the extent that they are not preempted by ERISA.

Background

Police, peace officer, and firefighter benevolent associations have been around in the United States for well over 150 years. Originally, these associations were formed as "widows and orphans" funds and evolved to provide aid and assistance

to either injured public safety employees or their dependents. As associations grew more sophisticated, the nature of benefits developed as well. Now they offer any number of health care, disability, and related benefits, and in many ways look like insurers. As of 2017, CDI identified 83 associations with certificates of authority providing coverage to approximately 100,000 firefighters, police officers, peace officers, and their spouses.

Some associations offer fully-insured benefits backed by an admitted insurer. Others offer self-funded benefits primarily funded by membership contributions and not subject to most Insurance Code provisions or oversight by CDI. This bill applies to associations that offer self-funded plans that provide (1) long-term disability income benefits that replace lost income when the insured develops a qualifying disability and (2) long-term care benefits that pay for services for persons who need assistance to eat, bathe, dress, etc.

Associations share losses among members and are not insurers, although the plans they offer may look like an insurance policy. So long as they meet specified administrative requirements, they are not treated as insurers under California law. Because of this long-standing regulatory exemption, self-funded plans are allowed to make riskier investments and use more optimistic assumptions than insurers. Self-funded associations do not participate in a guarantee association and there is no back-up to pay for benefits in case of insolvency.

Self-funded plans may be subject to ERISA, a federal law governing certain employee benefit plans. ERISA preempts many state laws, but does not interfere with those that apply to the "business of insurance." The contours of ERISA preemption can be complex and evolving. This bill expressly provides that the portion of the Insurance Code governing these associations apply to the extent it is not preempted by ERISA.

Comments

Senate Judiciary Committee. This bill touches on various issues within the jurisdiction of the Senate Judiciary Committee, such as establishing that certain actuarial opinions and supporting documents required to be submitted to the Insurance Commissioner or the Department of Insurance are exempt from disclosure under the California Public Records Act (CPRA) and would not be subject to subpoena, discovery, or be admissible as evidence in any private party civil action.

This bill is largely identical to AB 1072 (Daly, Chapter 503, Statutes of 2015), which was allowed to sunset in 2018. The Senate Judiciary Committee heard and

passed AB 1072 in its final form with a unanimous vote. In particular, the CPRA and discovery exemptions in this bill are the same as the ones in the bill considered by the Senate Judiciary Committee and ultimately signed by the Governor. Here, as in AB 1072, these protections from disclosure ensure the critical cooperation and full disclosure of insurers and affiliates who otherwise may be forced to seek protection under other law. This bill also adds two consumer-protection requirements not currently in place: a requirement that insurance contracts not regulated by the Department of Insurance include a disclaimer to that effect in at least 12-point font; and a requirement that any association holding a certificate of authority and issuing long-term disability or long-term care policies or contracts shall make certain plan information available to a member within 30 days of a written request from that member.

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

According to the Senate Appropriations Committee, CDI anticipates minor costs of $2,000 in 2020 21, $22,000 in 2021-22, and $4,000 ongoing associated with the review of the required actuarial opinions.

SUPPORT: (Verified 6/10/20)

California Department of Insurance (source)
California State Firefighters' Association
National Peace Officers and Fire Fighters Benefit Association

OPPOSITION: (Verified 6/10/20)

None received

ARGUMENTS IN SUPPORT: The California State Firefighters' Association explains that our Safety Personnel deserve the surety that adequate reserves and funding are present to pay future long term benefits. Actuarial review of the plan's reserves and finances along with CDI oversight provides this assurance.

Prepared by: Hugh Slayden / INS. / (916) 651-4110
6/10/20 13:25:10

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

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THIRD READING

Bill No: SB 1207
Author: Jackson (D)
Amended: 5/19/20
Vote: 21

SENATE HEALTH COMMITTEE: 8-0, 5/13/20
AYES: Pan, Lena Gonzalez, Grove, Hurtado, Leyva, Mitchell, Monning, Rubio
NO VOTE RECORDED: Nielsen

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Skilled nursing facilities: backup power system

SOURCE: California Advocates for Nursing Home Reform
Long Term Care Ombudsman Services of San Luis Obispo County

DIGEST: This bill requires skilled nursing facilities to have an alternative source of power to protect resident health and safety for no less than 96 hours during any type of power outage that complies with specified federal requirements.

ANALYSIS:

Existing law:

1) Licenses and regulates long term care (LTC) facilities by the Department of Public Health (DPH). LTC facilities include skilled nursing facilities (SNFs), intermediate care facilities (ICFs), ICF/developmentally disabled (ICF/DD), ICF/DD-habilitative, ICF/DD-nursing, and congregate living health facilities. [HSC §1250, et seq., and §1418]

2) Defines an "SNF" as a health facility that provides skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis. [HSC §1250(c)]

3) Requires DPH, in addition to any inspections conducted pursuant to complaints, to conduct inspections annually for LTC facilities that have specified violations within the past 12 months. LTC facilities with no violations within the past 12 months are required to be inspected at least once every two years. [HSC §1422(b)]

4) Requires inspections and investigation of LTC facilities that are certified by the Centers for Medicare and Medicaid Services (CMS) to determine compliance with federal standards and California statutes and regulations to the extent that California statutes and regulations provide greater protection to residents, or are more precise than federal standards. [HSC §1422(b)]

5) Requires an SNF to provide and maintain an emergency electrical system in safe operating condition, which is required to serve all lighting, signals, alarms, and equipment required to permit continued operation of all necessary functions of the facility for a minimum of six hours. [22 CCR §72641]

This bill:

1) Requires an SNF to have an alternative source of power to protect resident health and safety for no less than 96 hours during any type of power outage that complies with federal requirements for long-term care facilities, including, but not limited to, Sections 483.73 and 483.90 of Title 42 of the Code of Federal Regulations.

2) Specifies that the federal requirements listed in 1) above include maintaining a safe temperature for residents and staff.

Comments

1) *Author's statement.* According to the author, this bill is necessary to help save the lives of nursing home residents during power outages that may result from public safety power shutoffs (PSPS), emergencies, natural disasters and other causes. California's nursing home residents have always faced serious risks from disaster-related emergencies. Today, however, the dangers they face have magnified exponentially due to massive blackouts triggered by PG&E and other utility companies to prevent wildfires during periods of extreme weather. In 2019, dozens of California nursing homes lost power – sometimes for days – due to public safety power shutoffs. Public officials are warning that the dangerous blackouts are likely to continue for a decade or more. Nursing homes without power are a grave threat to their residents. Most residents are

extraordinarily vulnerable, many are completely dependent on their caregivers due to poor health and some rely on electrical-powered life support systems to stay alive. Unsafe temperatures, unrefrigerated medications, and medical devices without power can have deadly consequences for facility residents. Yet California law is silent on backup power requirements for nursing homes, the state's regulations are weak and outdated, and key federal requirements have been rolled-back. This bill will set meaningful standards on backup power to help keep residents safe.

2) *PSPS.* After two consecutive years of multiple catastrophic wildfires, at least some of which caused by electric utility infrastructure, in the fall of 2019 broad swaths of California experienced widespread intentional power outages. Electric utilities proactively "de-energized" millions of customers, sometimes for long periods of time, to reduce the risk of igniting wildfires during periods with projected high winds. The Senate Energy, Utilities and Communications Committee held an oversight hearing in November of 2019, entitled "Electric Utility Power Shutoffs: Identifying Lessons Learned and Actions to Protect Californians." According to the background paper prepared for this hearing, the duration and frequency of PSPS events varied, but in many cases the power was out for multiple days, and in some cases over a week at a time. The power shutoffs resulted in numerous school closures, loss of phone and Internet service for many, and challenges for medical providers in all settings. According to a September 2019 article in *California Healthline*, nursing home operators were concerned about their ability to keep residents cool and food at safe temperatures during a power outage. The article quoted the disaster preparedness manager for the California Association of Health Facilities as saying that SNFs are required to maintain generators for critical medical needs, but some homes do not have air conditioning or refrigerators connected to backup power. The article stated that in the event of a shutoff, nursing homes have to weigh the risks of staying put versus evacuating their residents, some of whom may be cognitively impaired.

3) *Federal standards for emergency power.* In order to participate in the Medicare or Medicaid programs, facilities are required to be certified by CMS as meeting all federal requirements. DPH is the designated agency in California to provide CMS certification of health care facilities. There are two federal standards that relate to the requirement that LTC facilities, including SNFs, have backup power for emergencies. The primary federal regulation for how facilities are required to prepare for emergency is contained in 42 CFR §483.73 on emergency preparedness. In addition to this, there are also federal regulations

on how facilities are to be constructed and maintained, contained in 42 CFR §483.90 relating to the physical environment of facilities.

Under the "emergency preparedness" regulations of §483.73, LTC facilities are required to develop and implement emergency preparedness policies and procedures based on a risk assessment and emergency plan. At a minimum, these policies and procedures must address the provision of subsistence needs for staff and residents, whether they evacuate or shelter in place, including food, water, medical and pharmaceutical supplies, and alternative sources of energy to maintain the following: a) temperatures to protect resident health and safety and for the safe and sanitary storage of provisions; b) emergency lighting; c) fire detection, extinguishing, and alarm systems; and d) sewage and waste disposal. In addition, the policies and procedures must include plans for the safe evacuation from the LTC facility, and a means to shelter in place for residence, staff, and volunteers who remain in the facility. The regulation goes on to require that LTC facilities "must implement emergency and standby power systems based on the emergency plan" they are required to develop. With regard to fuel, the regulation states "LTC facilities that maintain an onsite fuel source to power emergency generators must have a plan for how it will keep emergency power systems operational during the emergency, unless it evacuates."

Under the "physical environment" regulations of §483.90, LTC facilities are required to be designed, constructed, equipped, and maintained to protect the health and safety of residents, personnel, and the public, and as part of this requirement, facilities are required to meet specified applicable provisions of the Life Safety Code of the National Fire Protection Association (NFPA). Various NFPA life safety standards are cross referenced in this regulation, and among them is a requirement for "facilities considering seismic events to maintain a minimum 96 hour fuel supply," and that where the probability of interruption of off-site sources is high, to maintain onsite storage of an alternative fuel source. This regulation also specifies that an emergency power system must supply power "adequate at least for lighting all entrances and exits; equipment to maintain the fire detection, alarm, and extinguishing systems; and life support systems in the event the normal electrical supply is interrupted.

However, CMS also publishes guidance documents for these regulations to guide surveyors who are inspecting for compliance. In the guidance document for the emergency power systems of LTC facilities, the guidance points out that the relevant NFPA standard contains emergency power requirements for

emergency lighting, fire detection and extinguishing systems, and alarms, but do not require heating in general patient rooms during the disruption of normal power. Therefore, the guidance states that "facilities should include consideration for design to accommodate any additional electrical loads the facility determines to be necessary to meet all substance needs required by emergency preparedness plans, policies and procedures, unless the facility's emergency plans, policies and procedures…determine that the facility will relocate patients internally or evacuate in the event of an emergency."

4) *Inspector General Report.* In November of 2019, the Office of Inspector General (OIG) of the United States Health and Human Services Agency issued a report entitled: *California Should Improve Its Oversight of Selected Nursing Homes' Compliance With Federal Requirements for Life Safety and Emergency Preparedness.* According to this report, in June of 2018 there were 1,202 SNFs in California that were certified by CMS. The OIG selected a nonstatistical sample of 20 of these nursing homes based on various factors, including the number of high-risk deficiencies that the DPH report to CMS, and the potential risk of environmental threats such as wildfire, earthquake, and extreme heat. The OIG conducted unannounced site visits at the 20 SNFs during the fall of 2018, checking for life safety violations and reviewing the facilities' emergency preparedness. The OIG found that DPH did not ensure that the nursing homes complied with CMS requirements for life safety and emergency preparedness, and found 137 instances of noncompliance with life safety requirements related to building exits, smoke barriers, and smoke partitions; fire detection and suppression systems, hazardous storage areas; smoking policies and fire drills; and electrical equipment testing and maintenance. The OIG additionally found 188 instances of noncompliance with emergency preparedness requirements related to written emergency plans; emergency power; plans for evacuation, sheltering in place, and tracking residents and staff during and after an emergency; emergency communications plans; and emergency plan training and testing. According to the OIG, the identified deficiencies occurred because nursing homes lacked adequate management oversight and had high staff turnover. In addition, DPH did not adequately follow up on deficiencies previously cited, or ensure that surveyors were consistently enforcing CMS requirements.

   With regard to emergency power, the OIG report pointed out that nursing homes located in certain seismic zones must maintain a 96-hour fuel supply. Of the nursing homes visited, nine had one or more deficiencies related to emergency power, including eight that had not properly inspected, tested, and

maintained their generators. Two nursing homes located in certain seismic zones did not have sufficient generator fuel on hand to last 96 hours. With regard to emergency plans, 12 nursing homes had one or more deficiencies related to their emergency plans for evacuations, sheltering in place, or tracking residents and stuff during and after emergencies.

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

SUPPORT: (Verified 6/3/20)

California Advocates for Nursing Home Reform (co-source)
Long Term Care Ombudsman Services of San Luis Obispo County (co-source)
California Solar & Storage Association
Consumer Federation of California
Disability Rights California
National Association of Social Workers, California Chapter

OPPOSITION: (Verified 6/3/20)

California Association of Health Facilities
LeadingAge California

ARGUMENTS IN SUPPORT: This bill is co-sponsored by California Advocates for Nursing Home Reform and the Long Term Care Ombudsman Services of San Luis Obispo County. The co-sponsors state that in October 2019, more than 100 SNFs lost power, sometimes for days, during PG&E's badly mismanaged blackouts that were aimed at preventing destructive wildfires. Public officials are warning that the dangerous power shutoffs may continue for a decade or more. According to the co-sponsors, nursing homes without power are a grave threat to their residents, and that unsafe temperatures, unrefrigerated medications, and medical devices without power can have deadly consequences for facility residents. The co-sponsors state that in March 2019, DPH stopped surveying SNFs for a federal 96-hour fuel supply standard that is tied to NFPA requirements, claiming the federal standard had been repealed by CMS. However, CMS is reporting that the standard is still in place and has not been modified. According to the co-sponsors, this bill would codify and clarify the federal 96-hour standard on backup power fuel supply, and in doing so, it will ensure that the standard is well known and enforceable, regardless of any changes in federal regulations.

Disability Rights California states in support that nursing home residents are in harm's way from the frightening PSPS events that are aimed at preventing wildfires. It is critical that nursing homes be prepared for these new threats and

have the capacity to keep all residents safe. The California Solar & Storage Association states in support that with multiple extended power shutoffs expected every year for the foreseeable future, SNFs must be prepared, and that facilities lacking at least 96 hours of backup capability would put their residents at risk.

ARGUMENTS IN OPPOSITION: The California Association of Health Facilities (CAHF) is opposed to this bill unless amended. CAHF states they are heavily reliant on government funding, with 67% of patients statewide on Medi-Cal, and much higher in some facilities. CAHF states that most SNFs were built in the 1960s and 1970s, and because Medi-Cal does not pay for facility improvements, CAHF argues that while owners and administrators do their best to upgrade them and keep them as nice as possible, this bill imposes significant costs that facilities will be unable to afford. According to CAHF, current federal guidance requires SNFS to have 96 hours of fuel for generators or facilities may evacuate. Therefore, CAHF requests that this bill be amended to mirror this ability to evacuate as an alternative to purchasing and accommodating a larger generator and 96 hours of fuel storage. Finally, CAHF states that as written, this bill would require most SNFs to purchase and install new generators and/or HVAC systems. CAHF estimates the cost of new generators at $500,000, and a similar cost for new HVAC systems, and argues these facilities simply do not have the necessary funds to afford these new requirements. CAHF suggests that either this bill should be narrowed to minimize costs, or this bill should identify a funding source to pay for these upgrades, and notes that a minimum of five years will be needed for new generators and/or HVAC systems to be installed at all facilities around the state.

LeadingAge California is also opposed unless amended, and makes similar arguments, requesting that this bill be amended to continue to allow SNFs to evacuate, or include a state resource to pay for the excess cost of backup generators of this caliber.

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
6/4/20 9:58:15

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

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CONSENT

Bill No: SB 1212
Author: Rubio (D), et al.
Amended: 5/18/20
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 7-0, 5/21/20
AYES: McGuire, Moorlach, Beall, Hertzberg, Hurtado, Nielsen, Wiener

SUBJECT: Joint powers authorities: San Gabriel Valley Regional Housing Trust: board of directors

SOURCE: San Gabriel Valley Council of Governments

DIGEST: This bill makes changes to the San Gabriel Valley Housing Trust's board of director membership and term requirements.

ANALYSIS:

Existing law:

1) Allows two or more public agencies to use their powers in common if they sign a joint powers agreement. Sometimes an agreement creates a new, separate government called a joint powers agency or joint powers authority (JPA). Agencies that can exercise joint powers include federal agencies, state departments, counties, cities, special districts, school districts, federally recognized Indian tribes, and even other joint powers authorities.

2) Creates the San Gabriel Valley Housing Trust, a JPA, and allows it to:

   a) Fund the planning and construction of all types and tenures of housing for the homeless population and persons and families of extremely low, very low, and low income, including permanent supportive housing;

   b) Receive public and private financing or funds; and

c) Authorize and issue bonds, certificates of participation, or other debt instruments repayable from public and private financing and funds it receives.

3) Requires seven members of the board of directors to be a member of the governing board of the San Gabriel Valley Council of Governments (SGVCOG) and represents either a city that is a party to the SGVCOG or is a County of Los Angeles board of supervisor district that is located wholly or partially within the territory of the SGVCOG.

4) Requires the remaining two members of the board of directors to the Housing Trust to be experts in experts in homeless or housing policy.

5) Requires the members of the board of directors to the Housing Trust to serve a term of two years.

This bill:

1) Requires seven members of the board of directors to be local elected officials from the County of Los Angeles or members of a city council from a city that is a member of the SGVCOG and represents either a city that is a party to the SGVCOG or is a County of Los Angeles board of supervisors district that is located wholly or partially within the territory of the SGVCOG.

2) Requires the remaining two board members who are experts in homelessness or housing policy to meet the following criteria:

   a) Are not local elected officials or employees of a city that currently has a representative on the board of directors;

   b) Have regional experience with affordable housing projects in multiple San Gabriel Valley cities; and,

   c) Have at least five years of experience in homeless or housing policy.

3) Requires staggered terms for the nine board members to be established by drawing lots at the first meeting of the board so that a simple majority of the members will initially serve a two-year term, and the remainder will initially serve a one-year term.

Background

The San Gabriel Valley in Southern California contains more than two million people, with 30 incorporated cities. Like numerous areas in California, many individuals in the San Gabriel Valley experience homelessness, recently estimated at 4,489 individuals, according to a Los Angeles Homeless Service Authority 2019 point-in-time estimate.

Last year, the Legislature enacted Senate Bill 751 (Rubio, Chapter 670, Statues of 2019) which authorized the creation of the San Gabriel Valley Housing Trust. The Regional Housing Trust has been formed, but it is not operational. In late 2019, SGVCOG held a series of meetings to identify community members concerns, suggestions, and ideas to support the development of the Regional Housing Trust.

Comments

1) *Purpose of the bill.* According to the author, "California faces a serious affordable housing and homelessness crisis. That is why I authored Senate Bill 751 in 2019 to create the San Gabriel Valley Regional Housing Trust, a critical tool for the cities of the San Gabriel Valley to participate in and collaborate together with private and public entities to address the housing and homeless crisis in the region. Since then, over a dozen cities have joined the Regional Housing Trust with an additional 7 cities expressing their intent to join soon. SB 1212 strengthens the San Gabriel Valley Regional Housing Trust by making three changes. First, it will guarantee continuity of experience by staggering the 2-year terms of the Trust's board members. Second, it will maximize expertise on the board by prescribing background qualifications for board members. Third, it will ensure board decisions are equitable by requiring city representatives on the board be from different cities. The economic circumstances created by the COVID-19 pandemic make it critically important to ensure that housing does not become even more unaffordable. Residents that were already rent-burdened – devoting significantly more than 30% of their income towards rent – are struggling even more as they face job losses. As the pandemic continues, it is critically important to ensure that everyone is housed. The fastest, most effective, and cost-effective way to accomplish this is to mobilize and build upon existing coalitions of local governments, private entities, and service providers. The San Gabriel Valley Regional Housing Trust does exactly that and the changes to strengthen its board in this bill can serve as a model for other regions across the state."

2) *Rules and regulations.* SB 1212 expands eligibility for the seven elected officials who sit on the Housing Trust board. Currently, only those individuals

who are both elected officials of a city that is a party to SGVCOG and SGVCOG board members can serve on the Housing Trust board. SB 1212 attempts to address this limitation by modifying the requirements to allow these seven board members to be either a member of a city council from a city that is a member to the SGVCOG or a local elected official from the County of Los Angeles. For instance, a city councilperson who represents a city that is a member to the SGVCOG, but is not the board member of the SGVCOG for their respective city could now become a board member of the Housing Trust. While it expands eligibility for elected officials, SB 1212 places additional restrictions for the remaining two policy expert seats on the board. SB 1212 requires that the homelessness or housing policy experts to have regional experience with affordable housing in multiple cities while also having at least five years of experience with homelessness or housing policy. For example, if an individual from a state agency who specializes in affordable housing policy and has the minimum year qualification wanted to serve on the Housing Trust board, they could not because they may not have the specific regional expertise in the San Gabriel Valley.

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

SUPPORT: (Verified 5/22/20)

San Gabriel Valley Council of Governments (source)
City of Alhambra
City of Claremont
City of Covina
City of Glendora
City of La Verne

OPPOSITION: (Verified 5/22/20)

None received

Prepared by: Gustavo Medrano / GOV. & F. / (916) 651-4119
6/10/20 14:24:12

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

SENATE RULES COMMITTEE SB 1231
Office of Senate Floor Analyses
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CONSENT

Bill No: SB 1231
Author: Monning (D), et al.
Amended: 5/6/20
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 7-0, 5/19/20
AYES: Stern, Jones, Allen, Caballero, Hertzberg, Hueso, Monning
NO VOTE RECORDED: Borgeas, Jackson

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Endangered species: take: Santa Cruz long-toed salamander

SOURCE: Transportation Agency for Monterey County

DIGEST: This bill authorizes, under specified conditions, the Department of Fish and Wildlife (CDFW) to issue a permit for the take of the fully protected amphibian species known as the Santa Cruz long-toed salamander (SCLTS). Such take would result from impacts attributable to construction projects along the State Route (SR) 156 thoroughfare to the US 101 interchange near the Elkhorn and Moro Cojo Soughs in Monterey County.

ANALYSIS:

Existing law:

1) Designates certain species of fish, amphibians, reptiles, birds, and mammals as fully protected, meaning they cannot be taken or possessed at any time except in the case of scientific research toward the conservation or benefit of the listed species.

2) Designates the SCLTS as a fully protected amphibian. (Fish and Game Code (FGC) §5050)

3) Establishes the California Endangered Species Act (CESA) which prohibits unauthorized take of endangered or threatened species listed on either CESA or

the federal Endangered Species Act (ESA) unless permitted to do so by the state or federal government.

a) The SCLTS is listed as endangered on both CESA and ESA.

4) Authorizes CDFW to permit the take of certain fully protected species in specific cases including, for example, the following projects:

a) The take of rough sculpin during the replacement of Spring Creek Bridge in the County of Shasta (FGC §2081.4).

b) The take of unarmored threespine stickleback for riparian habitat restoration and improvement projects on Bouquet Creek (FGC §2081.6).

This bill:

1) Allows CDFW to authorize take of SCLTS due to construction along SR 156 corridor near the Moro Cojo Slough if take occurs as part of a lawful activity, the impacts are minimized or fully mitigated, adequate funding exists to implement mitigation measures, and that take authorization occurs alongside state and federal monitoring.

2) Defines conservation activities as those with the final goal of bringing the species to a state such that it can confidently be removed from CESA listing.

3) Prohibits a permit from being issued by CDFW if doing so would jeopardize the continued existence of the species based on scientific review of population trends, threats to the species, and foreseeable impacts from other related projects.

Comments

SCLTS in the Moro Cojo Slough. The SCLTS is one of four long-toed salamander species whose geographic ranges extend from Oregon up through Alaska; however, the range of the SCLTS is diminutive compared to the other three, existing solely in Santa Cruz and northern Monterey Counties. Of the 22 breeding ponds in Santa Cruz County, 21 are within range of the proposed project site. Unfortunately, the U.S. Fish and Wildlife Service's five-year survey noted that, specifically to the Moro Cojo Slough, mechanical failures on a tide-gate resulted in ocean water flowing upstream, increasing the salinity of that breeding site. An emergency coastal development permit was issued to remedy the issue in November 2019, but, until a weir is completed, the higher salt concentrations may be fatal to larvae. While the SR 156 Project's Environmental Impact Report (EIR)

confirmed the presence of SCLTS within the project site in 2011, the status of the population was unknown to the U.S. Fish and Wildlife Service in 2019.

Requirements per the SR 156 project's final EIR. The lead agency (Department of Transportation) evaluated 11 different build alternatives with varying environmental impact to salamander habitat, with the project selected having the least permanent impact to aquatic habitat (less than 1 acre). As part of mitigation and detailed in the certified EIR, the Transportation Agency of Monterey County is required to:

1) Ensure onsite biological monitoring by a U.S. Fish and Wildlife Service-approved biologists.

2) Construct retaining walls and restore wetland areas within the Caltrans right-of-way after construction.

3) Restrict construction to the dry season when SCLTS are typically inactive in underground burrows.

Related/Prior Legislation

There have been six successful one-time exemptions for the take of fully protected species in recent years for various construction and related projects. Listed chronologically, these exemptions include:

FGC Section 2081.9 (Olson, Chapter 121, Statutes of 2012) allowed the take of limestone salamander.

FGC Section 2081.6 (Lackey, Chapter 620, Statutes of. 2015) allowed the take of unarmored threespine stickleback.

FGC Section 2081.4 (Dahle, Chapter 293, Statutes of 2016) allowed the take of rough sculpin.

FGC Section 2081.10 (Dababneh, Chapter 387, Statutes of 2016) allowed the take of unarmored threespine stickleback.

FGC Section 2081.11 (Wood, Chapter 586, Statutes of 2018) allowed the take of Lost River sucker and shortnose sucker.

FGC Section 2081.12 (Vidak, Chapter 224, Statutes of 2018) allowed the take of blunt-nosed leopard lizard.

This bill's requirements are substantially similar to those in recent exemptions (e.g. FGC §2081.4 and §2081.12).

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

SUPPORT: (Verified 6/2/20)

Transportation Agency for Monterey County (source)
Association of Monterey Bay Area Governments
City of King
City of Monterey
City of Pacific Grove
City of Sand City
City of Soledad
Community Housing Improvement Systems and Planning Association
Grower-Shipper Association
Land Watch Monterey County
Monterey Bay Economic Partnership
Monterey County
Monterey County Farm Bureau
Monterey County Hospitality Association
Monterey-Salinas Transit
North County Recreation & Park District
North Monterey County Unified School District
Salinas Valley Chamber of Commerce

OPPOSITION: (Verified 6/2/20)

None received

ARGUMENTS IN SUPPORT: According to the author:

> SR 156 is a major thoroughfare used by residents, commuters, tourists, and commercial trucks traveling to and from the Monterey Peninsula and California's Central Coast. This dangerous two-lane highway sees more than 32,000 vehicles each weekday, and it has a history of fatal accidents. From 2005 to 2010 this stretch of highway has had 378 reported collisions, a rate that was 20% higher than the state average
>
> SB 1231 will allow the issuance of an incidental take permit for the Santa Cruz Long-toed salamander along SR 156 for highway improvements. The issuance of an incidental take permit will allow the Transportation Agency of Monterey

> County to move forward with their plans to fix the dangerous stretch of highway, while providing enhanced mitigation for an endangered species.

Additionally, according to Land Watch Monterey County:

> The salamander already has a very restricted range in southern Santa Cruz and northern Monterrey counties. If the salamander can survive the extraordinarily dramatic climate changes projected for the Central Coast…it will likely migrate north out of the Northern Monterey County and the project area.

Prepared by: Grayson Doucette / N.R. & W. / (916) 651-4116
6/4/20 9:58:16

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

SENATE RULES COMMITTEE SB 1244
Office of Senate Floor Analyses
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THIRD READING

Bill No: SB 1244
Author: Bradford (D)
Introduced: 2/20/20
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-0, 5/18/20
AYES: Glazer, Chang, Archuleta, Dodd, Galgiani, Hill, Leyva, Pan, Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Cannabis testing laboratories

SOURCE: City of Los Angeles, City Attorney's Office

DIGEST: This bill authorizes a testing laboratory to receive and test samples of cannabis or cannabis products from state or local law enforcement, or a prosecuting or regulatory agency.

ANALYSIS:

Existing law:

1) Establishes the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) to regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of both medicinal and adult-use cannabis. (Business and Professions Code (BPC) § 26000)

2) Establishes various licenses for the purposes of regulating the recreational and medical cannabis industry, including a Type 8 license for a medical and recreational cannabis testing laboratory. (BPC § 26050)

3) Requires all commercial cannabis activity to be conducted between licensees, with specified exemptions. (BPC § 26053)

4) Prohibits any cannabis or cannabis product from being sold unless a representative sample of the cannabis or cannabis product has been tested by a licensed testing laboratory, unless otherwise provided by law. (BPC § 26100)

5) Permits a licensee to perform testing on the licensee's premises for the purposes of quality assurance of cannabis or a cannabis product in conjunction with reasonable business operations, and permits a licensee to perform testing on cannabis or cannabis products obtained from another licensee. However, onsite testing by the licensee shall not be certified by the Bureau of Cannabis Control (Bureau) and does not exempt the licensee from the requirements of quality assurance testing at a testing laboratory. (BPC § 26100 (l))

6) Specifies the procedures by which a testing laboratory acquires or receives cannabis or cannabis products. (BPC § 26104(c))

7) Permits a testing laboratory to receive and test samples of cannabis or cannabis products from a qualified patient or primary caregiver if presented with the qualified patient's valid physician's recommendation for medicinal cannabis; prohibits a testing laboratory from certifying samples from a qualified patient or primary caregiver for resale or transfer to another party or license; and requires the name of the qualified patient or primary caregiver and the amount of cannabis or cannabis product received to be recorded for all tests done by a testing laboratory. (BPC § 26104(d))

8) Permits a testing laboratory to receive and test samples of cannabis or cannabis products from a person over 21 years of age when the cannabis has been grown by that person and will be used solely for his or her authorized personal use; prohibits a testing laboratory from certifying samples for resale or transfer to another person or licensee; and requires the name of the person and the amount of cannabis or cannabis product received to be recorded for all tests done by a testing laboratory. (BPC § 26104(e))

This bill authorizes a testing laboratory to receive samples of cannabis or cannabis products from state or local law enforcement, or a prosecuting or regulatory agency in order to test the cannabis or cannabis products.

Background

Cannabis in California. In 1996, California voters approved Proposition 215, the Compassionate Use Act, which exempted patients and their primary caregivers from criminal liability under state law for the possession and cultivation of cannabis. In 2015, Governor Brown signed into law three bills that created a

comprehensive state licensing and regulatory framework governing the commercial cultivation, manufacture, retail sale, transport, distribution, delivery, and testing of medical cannabis in California. AB 243 (Wood, Chapter 688, Statutes of 2015), AB 266 (Bonta, Chapter 689, Statutes of 2015), and SB 643 (McGuire, Chapter 719, Statutes of 2015) collectively established the Medical Marijuana Regulation and Safety Act (later renamed to the Medical Cannabis Regulation and Safety Act (MCRSA)). In 2016, California voters passed Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), legalizing the distribution, sale, and possession of cannabis for adult use. In June 2017, MCRSA and AUMA were combined to form one system for the regulation of Cannabis, the MAUCRSA.

Cannabis Testing Requirements. MAUCRSA requires specific testing procedures for cannabis. A Testing Laboratory (Type 8) license from the Bureau allows a laboratory, facility, or entity in the state California to offer or perform testing of cannabis goods. Before a distributor can transport cannabis or cannabis products to a retailer, a licensed testing laboratory must test samples for potency, foreign materials, heavy metals, microbial impurities, mycotoxins, residual pesticides, and residual solvents and processing chemicals. Testing laboratories also check cannabinoid potency levels such as THC and CBD. Current law authorizes licensed testing laboratories to test cannabis from other licensees, medicinal cannabis consumers, and individuals growing for personal use. This bill also allows licensing testing laboratories to test cannabis from state or local law enforcement, or a prosecuting or regulatory agency.

Use of Laboratories for Law Enforcement Purposes. Traditionally, law enforcement and prosecution agencies use professional crime labs for evidence testing purposes. According to information provided by the sponsor, the use of existing crime labs is not currently feasible. The sponsor indicates that the Los Angeles Police Department (LAPD) Forensic Science Division (FSD) is not currently capable of conducting quantitative analysis of the amount of THC present in a substance necessary to prove through direct evidence that a substance is cannabis. The sponsor notes that LAPD will not be able to conduct this testing until at least fall 2020. The sponsor further argues that LAPD FSD is not currently capable of conducting the contaminant testing required to prove the presence of certain contaminants in cannabis (such as pesticides or vitamin E acetate).

Ensuring Proper Handling of Criminal Evidence. Cannabis testing laboratories are not currently trained in the handling criminal evidence. Further, this bill does not require laboratories to receive specific training, nor does it require the Bureau to enforce new standards relative to testing for criminal enforcement purposes.

According to the sponsor, the Los Angeles City Attorney's Office will work with LAPD FSD to train cannabis testing laboratories regarding chain of custody to ensure laboratories handle evidence in an appropriate manner.

Laboratory Choices. As currently drafted this bill allows, but does not require, cannabis testing laboratories to test products from law enforcement or prosecution agencies. According to the sponsor, this is consistent with the intent of the bill-to allow laboratories to choose whether or not to take law enforcement as a client.

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

SUPPORT: (Verified 6/10/20)

City of Los Angeles, City Attorney's Office (source)
Americans for Safe Access
California Cannabis Industry Association
California District Attorneys Association
City of Los Angeles
Southern California Coalition
United Cannabis Business Association
United Food and Commercial Workers Union

OPPOSITION: (Verified 6/10/20)

None received

ARGUMENTS IN SUPPORT: Supporters say that this bill provides an important deterrent to the selling of illicit and untested cannabis by putting operators on notice that prosecutors have an efficient means to test cannabis and cannabis products for chemical profile and contaminants.

Prepared by: Elissa Silva / B., P. & E.D. /
6/10/20 13:25:11

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

SENATE RULES COMMITTEE SB 1271
Office of Senate Floor Analyses
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THIRD READING

Bill No: SB 1271
Author: Morrell (R)
Amended: 5/19/20
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-0, 5/18/20
AYES: Glazer, Chang, Archuleta, Dodd, Galgiani, Hill, Leyva, Pan, Wilk

SENATE APPROPRIATIONS COMMITTEE: 7-0, 6/9/20
AYES: Portantino, Bates, Bradford, Hill, Jones, Leyva, Wieckowski

SUBJECT: Private investigator Act: licensure: limited liability companies

SOURCE: California Association of Licensed Investigators

DIGEST: This bill authorizes a licensed private investigator (PI) to continue to organize as a limited liability company (LLC) until January 1, 2024.

ANALYSIS:

Existing law:

1) Licenses and regulates private investigators by the Bureau of Security and Investigative Services (BSIS) within the Department of Consumer Affairs (DCA) under the Private Investigator Act (Act) and makes a violation of the Act a crime. (Business and Professions Code (BPC) § 7512 *et seq.*)

2) Authorizes BSIS to issue a private investigator license and allow licensees to operate as a LLC until January 1, 2021. (BPC §7512.3)

3) Requires, as a condition of the issuance, reinstatement, reactivation, or continued valid use of a private investigator license, a LLC to maintain a liability insurance for damages due to acts, errors, or omissions arising out of the private investigator services it provides in the following amounts: (BPC § 7520.3(b))

a) Requires no less than $1 million in liability insurance for a licensee that has up to five managing members.

b) Requires an additional $100,000 in coverage for each additional managing member up to five million dollars ($5,000,000) in total insurance.

4) Provides that an LLC may render services that may be lawfully rendered only pursuant to a license, certificate, or registration authorized by the BPC if the applicable provisions of the BPC authorize a LLC to hold that license, certificate, or registration. (CC § 17701.04(a))

This bill extends the sunset date for the BSIS to issue a license to a licensed private investigator organized as an LLC until January 1, 2024 and makes other minor technical and clarifying changes.

Background

Licensed Private Investigators. PI licenses are company licenses, which can be held by a sole proprietor or by a corporation. If an individual intends to work as a licensed PI, they must pass a test to become a Qualified Manager, where they will then be the sole proprietor of their license. In all licensing scenarios—individual, partnership, corporation, or LLC—within the PI Act, a Qualified Manager is tied to a license.

Limited Liability Company (LLC). Formation and operation of LLCs in California was authorized in 1994 through the Beverly-Killea Limited Liability Company Act (SB 469, Chapter 1200, Statutes of 1994). Current law (CORP § 17701.04(b)) prohibits an LLC from providing "professional services" unless it is expressly authorized to do so in the BPC. "Professional Services" is defined to mean any type of professional services that may be lawfully rendered only pursuant to a license, certification, as specified, (CORP) § 13401(a)). Concerns have been expressed with LLCs being formed for businesses offering professional services because of the potential for consumer harm without recourse, as an LLC's liability is limited. As a result, in order for PI businesses to organize as LLCs, legislative authorization is necessary. Without this bill, the authority for the BSIS to issue a license to an LLC would sunset on January 1, 2019.

Since the early 2000s, there have been a number of bills passed by the Legislature, and chaptered into law, which have authorized a variety of professions to organize as LLCs and LLPs including, alarm companies, contractors, private investigators, engineers, land surveyors, and architects, among others. Historically, the

authorizing or re-authorizing legislation has included a mechanism to ensure consume protection and recourse for consumer harm through liability insurance and sunset dates. In 2017, the Legislature passed SB 559 (Morell, Chapter 569, Statutes of 2017) which among other things extended the BSIS's authorization to issue private investigator licenses to LLCs. That bill contained a sunset date of January 1, 2021. This bill extends that sunset date until January 1, 2024.

Comments

This bill touches upon various issues within the jurisdiction of the Senate Judiciary Committee, including consumer protection and limited liability. The Senate Judiciary Committee has historically tended to favor policies that strike a balance between allowing professional licensed service providers to operate in a manner offering both tax and liability-limiting advantages while preserving, to an appropriate degree, the ability of a party injured by professional negligence to recover damages for that injury.

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

According to the Senate Appropriations Committee, assuming that the BSIS licensing and enforcement program resource needs have not changed, the ongoing costs for this bill will likely remain $110,000 per year for increased costs in the licensing and enforcement program of the BSIS.

SUPPORT: (Verified 6/10/20)

California Association of Licensed Investigators (source)

OPPOSITION: (Verified 6/10/20)

None received

ARGUMENTS IN SUPPORT: The California Association of Licensed Investigators says that approximately four dozen licensed private investigators have organized as LLCs and it is anticipated that dozens more would do so if the statutory authorization is extended. The organization notes, "We are not aware of

any problems or negative consumer impacts having been reported since this authorization was enacted into law."

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
6/10/20 14:27:16

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

SENATE RULES COMMITTEE SB 1276
Office of Senate Floor Analyses
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CONSENT

Bill No: SB 1276
Author: Rubio (D)
Amended: 4/2/20
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 7-0, 5/27/20
AYES: Skinner, Moorlach, Bradford, Jackson, Mitchell, Morrell, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: The Comprehensive Statewide Domestic Violence Program

SOURCE: California Partnership to End Domestic Violence

DIGEST: This bill eliminates a cash or an in-kind match requirement for domestic violence centers receiving state funding.

ANALYSIS:

Existing law:

1) Establishes the Comprehensive Statewide Domestic Violence Program in the Office of Emergency Services (OES) to, among other things, provide local assistance to existing service providers and to establish a targeted or directed program for the development and establishment of domestic violence services in currently unserved and underserved areas. OES will also provide financial and technical assistance to centers implementing services like 24 hour hotlines, counseling, emergency shelters and more. (Pen. Code, § 13823.15, subds. (a) & (b).)

2) Authorizes OES and the advisory committee to manage and allocate state funds to centers that meet criteria for funding under the Comprehensive Statewide Domestic Violence Program. The centers receiving funding are required to

provide 10 percent cash or an in-kind match of the funds received. (Pen. Code, § 13823.15, subd. (c).)

3) Provides in order to be eligible for funding, a domestic violence shelter-based program shall demonstrate its ability to receive and make use of any funds available from governmental, voluntary, philanthropic, or other sources that may be used to augment any state or county funds appropriated for the purposes of this chapter. Each domestic violence shelter-based program shall make every attempt to qualify the domestic violence shelter-based program for any available federal funding. (Welf. & Inst. Code, § 18293, subd. (a).)

4) Establishes a funding process for OES to distribute grants to Domestic Violence Shelter Service Providers (DVSSPs). (Pen. Code, § 13823.15, subd. (f).)

5) Defines a DVSSP as an entity that provides safe emergency housing like hotels, safe houses and more, to victims of domestic violence and their children on a 24-hour basis. (Pen. Code, §13823.15, subd. (f)(15)(B).)

This bill:

1) Includes the following findings and declarations:

   a) Current state funding requirements for domestic violence shelter service providers require 10 percent matching funds, using either cash or in-kind matching funds. This state law requirement is in addition to matching fund requirements from federal funding sources.

   b) Domestic violence programs rely on private funding, in-kind donations, or volunteer hours to meet this match requirement. In this time of crisis, flexibility is needed as programs adapt to the changing needs of the survivors, families, and communities they serve.

   c) During the COVID-19 crisis, service providers have been forced to cancel large annual fundraisers, and small business and individual donors who have been impacted by the crisis are unable to donate to the program, reducing the availability of private funds to meet the match requirement.

   d) During the COVID-19 crisis, volunteers are staying home and in-kind donations are dwindling severely. Securing, documenting, and reporting funding matches would be a significant burden for programs who are shifting operations and service delivery in a crisis. Programs need to focus on keeping survivors and their staff safe and healthy,

not on administrative requirements such as matching fund documentation.

e) In recognition of the need for flexibility during this crisis, the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act signed into law on March 27th, 2020, provided increased funding for domestic violence services through the Family Violence Prevention and Services Act (FVPSA) and waived the funding match requirement for these funds.

2) Removes the match requirement for domestic violence centers to provide cash or an in-kind match of 10% of the funds received from the state.

Background

Match requirements

Statewide domestic violence programs began with the passage of SB 91 (Presley, Chapter 892, Statutes of 1977), which created the first state funding for the programs. The Domestic Violence Shelter Based Programs Act requires any domestic violence shelter based program, in order to be eligible for state funds, to demonstrate its ability to receive and make use of funds from the federal government, donations, or through volunteer hours. AB 225 (La Follette, Chapter 705, Statutes of 1985) established the Comprehensive Statewide Domestic Violence Program and added Section 13823.15 to the Penal Code. This code section includes the 10% matching fund requirement for domestic violence programs that this bill would eliminate. The sponsor of this bill argues that the match requirement has generally been difficult for many service providers to satisfy, and COVID-19 has made it even more difficult due to the stay-at-home and social distancing orders. There are currently state-funded victim services programs, including programs that support rape victims and human trafficking victims, which are not required to match funds given to them by the state. Both of these programs offer similar services to domestic violence centers like 24-hour crisis intervention, counseling services, temporary housing and much more.

Through the Coronavirus Aid, Relief, and Economic Security (CARES) Act 2020, the federal government provided $45 million dollars to the Family Violence Prevention and Services Act (FVPSA), and waived matching requirements to fund recipients. The FVSPA supports domestic violence services like emergency shelter and assistance programs for victims. There is also a bill in Congress, H.R 6685, that will waive non-federal match requirements on FVSPA grant funds during the COVID-19 pandemic. The mandated 20% match requirement is being removed

due to the reality that many programs meet the match requirement through volunteer hours. As a result of the stay-at-home order, programs will not be able to garner enough volunteer hours or fundraise to meet the match requirement.

The elimination of matching requirements removes financial burdens posed by COVID-19 and beyond. It allows grant recipients to use the cash, or other donations they had reserved for match requirements, for other pressing needs. The removal of this requirement also alleviates concerns about maintaining volunteer services while complying with stay at home and social distancing orders. Domestic violence centers can use these funds to continue supporting and providing direct services to domestic violence victims in need.

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

SUPPORT: (Verified 6/8/20)

California Partnership to End Violence (source)
Peace Officers Research Association of California

OPPOSITION: (Verified 6/8/20)

None received

Prepared by: Nikki Scott / PUB. S. /
6/10/20 14:32:35

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

Office of Senate Floor Analyses
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CONSENT

Bill No: SB 1285
Author: Nielsen (R), et al.
Amended: 3/26/20
Vote: 21

SENATE HEALTH COMMITTEE: 9-0, 5/13/20
AYES: Pan, Nielsen, Lena Gonzalez, Grove, Hurtado, Leyva, Mitchell, Monning, Rubio

SUBJECT: Local health emergencies: navigable waters

SOURCE: Author

DIGEST: This bill permits a local health officer to declare a local health emergency in the jurisdiction whenever he or she determines that there is an immediate threat to the public health due to the presence of waste within the navigable waters of the state.

ANALYSIS:

Existing law:

1) Requires the Department of Public Health (DPH) to examine the causes of communicable disease in man and domestic animals occurring or likely to occur in this state. Gives the State Public Health Officer (PHO), as the director of DPH, broad authority to detect, monitor, and prevent the spread of communicable disease in the state. [HSC §120125 and 120130, et seq.]

2) Permits the PHO or local health officer (LHO) to declare a health emergency whenever a release, spill, escape, or entry of waste occurs and the DPH director or the LHO reasonably determines that the waste is a hazardous waste or medical waste, or that it may become a hazardous waste or medical waste because of a combination or reaction with other substances or materials, and the PHO or LHO reasonably determines that the release or escape is an immediate threat to the public health, or whenever there is an imminent and proximate

threat of the introduction of any contagious, infectious, or communicable disease, chemical agent, noncommunicable biologic agent, toxin, or radioactive agent. Prohibits such a local health emergency from remaining in effect for more than seven days unless it has been ratified by the board of supervisors or city council. [HSC §101080]

3) Permits LHOs to issue, and first responders to execute, an order for immediate isolation of exposed individuals that may have been exposed to biological, chemical, toxic, or radiological agents that may spread to others. Prohibits such an order from being in effect for more than two hours and can only be issued if the means are both necessary and the least restrictive possible to prevent human exposure. [HSC §101080.2]

This bill permits LHOs to declare a local health emergency in the jurisdiction whenever he or she determines that there is an immediate threat to the public health due to the presence of waste within the navigable waters of the state.

Comments

1) *Author's statement.* According to the author, illegal camping along the state's gorgeous parks and waterways has been steadily increasing over the last several years – providing individuals at these sites access to clean water suitable for drinking, bathing, and meeting their other needs. However, these encampments have also used the nearby waterways for the purpose of dumping garbage and human waste, making these areas not only highly dangerous for local residents to use for their own recreational purposes, but as a threat to public health. The COVID-19 pandemic has meant that these populations also serve as a potential hotspot for vector-borne and human-borne diseases. Providing LHOs with the explicit ability to declare a public health emergency along these waterways would allow counties to take decisive action to remediate such pollution and make broad regulatory action to halt that pollution's source. This role for LHOs has been seen with the response to COVID-19 pandemic, and has shown that a local emergency provides many more tools to local government to respond in a timely fashion.

2) *Homeless encampments and water pollution.* In September 2019, federal Environmental Protection Agency Administrator Andrew Wheeler sent a letter to Governor Gavin Newsom expressing concern that he is failing to enforce the Clean Water Act. The letter stated that California is not acting with enough urgency to address environmental problems related to homelessness. According to a January 6, 2020 article in the *California Healthline*, some of

California's most prized rivers, beaches and streams are contaminated with levels of fecal bacteria that exceed state limits. This is usually the result of problems with sewer systems and septic tanks. But water quality officials agree that the source of at least some of the fecal bacteria is California's growing homeless population, most of whom don't have reliable access to toilets. Human fecal contamination is particularly dangerous because it can transmit diseases that affect people, including hepatitis A and cholera. The article states that most people are not at risk of getting sick unless they drink the water, or if pathogens enter open cuts or sores. Homeless people face the highest risk because they are more likely to wash or wade in the water and have less access to toilets and showers.

3) *California's public health system*. In California, DPH is charged with protecting the health of the state's residents. DPH is comprised of more than 200 programs, which are responsible for a wide range of functions, including: enforcing California's tobacco control law; assisting in the response to local emergencies; administering federal HIV funds; conducting newborn screening; licensing and certification for health facilities, labs, and certain health care professionals; maintaining vital records for California's 38 million residents; and, conducting surveillance and research of chronic disease. In addition, DPH is the entity responsible for ensuring the tracking and control of communicable disease for the state. According to DPH's Web site, its Division of Communicable Disease Control works to promptly identify, prevent and control infectious diseases that pose a threat to public health, and works with LHOs to implement infectious disease control at the local level through the 61 legally-appointed physician LHOs in California (one from each of the 58 counties and three cities of Berkeley, Long Beach, and Pasadena).

4) *LHOs.* LHOs have a broad mandate to take measures necessary to preserve and protect public health. While LHOs administer many of the programs identified under DPH, LHOs have a fundamental role as the front line for delivery of public health services to California's communities. The structure and size of LHOs vary by jurisdiction, and some include operations such as public hospitals, primary care clinics, and animal control services. Select core functions include:

    a) *Infectious disease control*. LHOs prevent and control the spread of infectious diseases through immunizations, epidemiologic surveillance, disease investigation, laboratory testing and response activities.

b) *Emergency preparedness and response*. LHOs work to ensure communities are informed, supplies and medications are accessible, and that there is capacity to expand medical services in large events. In addition, LHOs utilize public health labs to investigate and identify potential bioterrorism threats. In the event of a disaster, LHOs may staff shelters, screen for infectious diseases, and address the needs for medically fragile residents.

c) *Maternal, child, and adolescent health*. LHOs work to identify, disseminate, and promote emerging and evidence-based information about early interventions in prenatal and early childhood periods that promote lifelong health, positive social-emotional development, and reduce health disparities.

5) *Policy comment.* Existing law already permits the PHO or LHOs to declare a public health emergency whenever a release, spill, escape, or entry of waste occurs. It does not appear that this bill is providing LHOs with any new authority that they do not already possess. As a result, it is unclear what the effect of this bill will be, other than possibly placing more emphasis on this authority and thereby encouraging more action by LHOs.

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

SUPPORT: (Verified 5/14/20)

Northern California Water Association

OPPOSITION: (Verified 5/14/20)

None received

Prepared by: Melanie Moreno / HEALTH / (916) 651-4111
5/20/20 8:38:15

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

SENATE RULES COMMITTEE SB 1290
Office of Senate Floor Analyses
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THIRD READING

Bill No: SB 1290
Author: Durazo (D) and Mitchell (D), et al.
Introduced: 2/21/20
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-1, 5/20/20
AYES: Skinner, Bradford, Jackson, Mitchell, Wiener
NOES: Morrell
NO VOTE RECORDED: Moorlach

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Juveniles: costs

SOURCE: Western Center on Law and Poverty
Youth Justice Coalition

DIGEST: This bill vacates certain county-assessed or court-ordered costs imposed before January 1, 2018, for the parents or guardians of wards in specified circumstances, minors who were ordered to participate in drug and substance abuse testing, and adults who were 21 years of age and under at the time of their home detention.

ANALYSIS:

Existing law:

1) Prohibits, since January 1, 2018, the imposition of financial liability on the parents or guardians of a minor who has been adjudged a ward of the juvenile court for certain county-assessed or court-ordered costs, such as transportation to a juvenile facility, legal assistance, and home supervision. (Welf. & Inst. Code, §§ 207.2, 903, 903.1, 903.2, 903.25, 903.4, 903.5.)

2) Does not require, since January 1, 2018, minors who are required to submit to drug and substance abuse testing to pay for the costs associated with testing. (Pen. Code, § 1203.1ab.)

3) Requires, since January 1, 2018, only adults over 21 years of age pay an administrative fee associated with a home detention program. (Pen. Code, § 1203.016.)

This bill:

1) Provides that the unpaid outstanding balance of any county-assessed or court-ordered costs imposed before January 1, 2018, pursuant to Section 207.2, 903, or 903.1, former Section 903.15, or Section 903.2, 903.25, 903.4, or 903.5 against the parent, guardian, or other person liable for the support of a minor is vacated and shall be unenforceable and uncollectable if the minor was adjudged to be a ward of the juvenile court, was on probation pursuant to Section 725, was the subject of a petition filed to adjudge the minor a ward, or was the subject of a program of supervision undertaken pursuant to Section 654. Applies to dual status children for purposes of delinquency jurisdiction.

2) Provides that the unpaid outstanding balance of any county-assessed or court-ordered costs imposed before January 1, 2018, pursuant to Section 729.9 against a minor is vacated and shall be unenforceable and uncollectable. Applies to dual status children for purposes of delinquency jurisdiction.

3) Provides that the unpaid outstanding balance of any county-assessed or court-ordered costs imposed before January 1, 2018, pursuant to Sections 1203.016, 1203.1ab, and 1208.2 of the Penal Code against adults who at the time were not adults who were over 21 years of age and were under the jurisdiction of the criminal court is vacated and shall be unenforceable and uncollectable.

Background

SB 190 (Mitchell, Chapter 678, Statutes of 2017) was enacted by the Legislature in 2017 and eliminated a number of fees counties were previously authorized to charge for a youth's involvement in the juvenile justice system. Specifically, SB 190 prohibited counties from assessing new fees for a youth's detention, representation by counsel, electronic monitoring, probation supervision, and drug testing. In addition, SB 190 prohibited counties from assessing new fees for home

detention, electronic monitoring, and drug testing for individuals under 21 years of age and prosecuted in the adult criminal system.

Although SB 190 prohibited counties from assessing new fees after January 1, 2018, it did not require counties to stop collecting previously assessed fees or to vacate existing fee judgments. A recent report published by the University of California, Berkeley Law School's Policy Advocacy Clinic found that 36 of the state's 58 counties had voluntarily stopped collecting juvenile fees assessed prior to January 1, 2018. (UC Berkeley Law School Policy Advocacy Clinic, *Fee Abolition and the Promise of Debt-Free Justice for Young People and Their Families in California: A Status Report on the Implementation of Senate Bill 190* (2019) p. 7 <https://www.law.berkeley.edu/wp-content/uploads/2019/10/SB-190-Implementation-Report11_10_31_19.pdf [as of May 12, 2020].) The report also found that slightly more than half of those 36 counties had formally discharged outstanding fee accounts, agreements, and civil judgments. (*Id*.) The report noted that the state's remaining 22 counties were continuing to collect those outstanding juvenile fees, with five counties—San Diego, Orange, Riverside, Stanislaus, and Tulare—continuing to collect more than 95% of all outstanding fees. (*Id*.) This Committee was recently informed that four counties have taken action to end the collection of or to discharge the outstanding fees following Governor Newsom's state of emergency declaration in March 2020. (*See* <http://riversidecountyca.iqm2.com/Citizens/Detail_LegiFile.aspx?Frame=&MeetingID=2277&MediaPosition=5078.301&ID=12316&CssClass= ; <http://www.stancounty.com/bos/agenda/2020/20200505/DIS01.pdf .)

The sponsors of this bill argue that ending collection of and formally discharging fees assessed prior to January 1, 2018 will relieve families and youth from the hardships imposed by the outstanding fees, including negative impacts on credit scores and wage garnishment. This bill vacates those county-assessed or court-ordered costs imposed prior to January 1, 2018, and makes them unenforceable and uncollectable.

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

SUPPORT: (Verified 6/8/20)

Western Center on Law and Poverty (co-source)
Youth Justice Coalition (co-source)
A New Way of Life Reentry Project
Asian Americans Advancing Justice, California
California Attorneys for Criminal Justice

California Coalition for Youth
California Public Defenders Association
Californians for Safety and Justice
Center for Responsible Lending
Coalition of California Welfare Rights Organizations, Inc.
Community Legal Services in East Palo Alto
County of San Diego
Drug Policy Alliance
East Bay Community Law Center
Ella Baker Center for Human Rights
Fines and Fees Justice Center
GLIDE
Homeboy Industries
Initiate Justice
Insight Center for Community Economic Development
Legal Services for Prisoners with Children
Los Angeles County Public Defenders Local 148
National Association of Social Workers, California Chapter
National Center for Youth Law
National Compadres Network
Resilience Orange County
Root & Rebound
Rubicon Programs
San Francisco Financial Justice Project
San Francisco Public Defender
Young Women's Freedom Center

OPPOSITION: (Verified 6/8/20)

None received

Prepared by: Stephanie Jordan / PUB. S. /
6/10/20 13:25:13

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

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CONSENT

Bill No: SB 1291
Author: Committee on Transportation
Amended: 4/3/20
Vote: 27 - Urgency

SENATE TRANSPORTATION COMMITTEE: 13-0, 5/29/20
AYES: Beall, Allen, Dahle, Dodd, Galgiani, Lena Gonzalez, Grove, McGuire, Melendez, Morrell, Roth, Rubio, Wieckowski
NO VOTE RECORDED: Skinner, Umberg

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Federal Statewide Transportation Improvement Program: submissions

SOURCE: Author

DIGEST: This bill suspends the 2020 requirement that a Metropolitan Planning Organization (MPO) submit a Federal Transportation Improvement Program (FTIP) to the Department of Transportation (Caltrans).

ANALYSIS:

Existing federal law:

1) Requires, every four years, each MPO to develop an FTIP, which is a list of upcoming transportation projects covering a period of at least four years.

2) Requires, under the Federal Clean Air Act (FCAA), that in areas experiencing air quality problems, transportation planning including FTIPs must be consistent with air quality goals as determined through the transportation conformity process.

Existing state law:

1) Requires every MPO and transportation planning agency to, no later than October 1 of each even-numbered year, submit its FTIP to Caltrans for incorporation into the Federal Statewide Transportation Improvement Program (FSTIP).

2) Requires Caltrans to prepare the FSTIP in accordance with federal law to be submitted to the United States Secretary of Transportation no later than December 1 of each even-numbered year.

This bill:

1) Specifies that an MPO or transportation planning agency shall not be required to submit a FTIP to Caltrans for 2020.

2) Specifies that Caltrans shall not be required to submit a FSTIP to the United States Secretary of Transportation for 2020.

3) Contains an urgency clause and explanation that, due to changes in federal law, many MPOs and transportation planning agencies are unable to comply with existing law, which requires to entities to submit FTIPs to Caltrans for 2020.

Comments

1) *Purpose.* This bill ensures that transportation projects, and their associated safety benefits and jobs, can proceed despite months of uncertainty around FTIP approval.

2) *Emissions modeling is part of transportation planning.* Federal law requires each MPO to develop an FTIP, which is a list of upcoming transportation projects covering a period of at least four years. For most MPOs in California, adoption of a new FTIP requires use of California's emissions model, EMFAC, to accurately estimate future transportation emissions and demonstrate that the FTIP conforms with FCAA criteria pollutant standards.

3) *SB 1291 mitigates the impacts of the Federal Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule on transportation planning and project delivery.* The new Federal SAFE Vehicles Rule Parts One and Two roll back greenhouse gas emission and fuel economy standards and revoke California's authority to set more stringent emissions standards. In light of these rules, state and federal

agencies determined what adjustments to EMFAC were needed to reflect changes in future emissions, concluding this process in mid-May. However, this process took place during the crucial window MPOs need to prepare FTIPs for the state's October 1, 2020 deadline. On average, FTIPs take over six months to complete, and not all MPOs meet during the summer months. SB 1291 eliminates the 2020 FTIP requirement. This enables MPOs to continue delivering on projects in their 2018 FTIPs before returning to the regular two-year FTIP cycle by 2022 at the latest.

4) *Urgency Clause.* This bill includes an urgency measure and shall go into effect immediately upon passage by the Legislature and signed by the Governor.

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

SUPPORT: (Verified 6/8/20)

Association of Monterey Bay Area Governments
California Association of Council of Governments
Council of Fresno County Governments
Council of San Benito County Governments
Madera County Transportation Commission
Placer County Transportation Planning Agency
Sacramento Area Council of Governments
San Diego Association of Governments
San Luis Obispo Council of Governments
Santa Barbara County Association of Governments
Santa Cruz County Regional Transportation Commission
Shasta Regional Transportation Agency
Southern California Association of Governments
Stanislaus Council of Governments
Transportation Agency for Monterey County

OPPOSITION: (Verified 6/8/20)

None received

Prepared by: Amy Gilson / TRANS. / (916) 651-4121
6/10/20 13:25:14

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

SENATE RULES COMMITTEE SB 1305
Office of Senate Floor Analyses
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CONSENT

Bill No: SB 1305
Author: Roth (D)
Amended: 5/13/20
Vote: 21

SENATE JUDICIARY COMMITTEE: 8-0, 5/22/20
AYES: Jackson, Durazo, Lena Gonzalez, Jones, Monning, Stern, Umberg, Wieckowski
NO VOTE RECORDED: Borgeas

SUBJECT: Revocable transfer on death deeds

SOURCE: Author

DIGEST: This bill extends the sunset date for the statutory scheme governing revocable transfer on death deeds (RTODD) from January 1, 2021 to January 1, 2022.

ANALYSIS:

Existing law:

1) Authorizes, until January 1, 2021, the use of an RTODD to transfer real property with four or fewer residential dwelling units, a condominium unit, or a single tract of agricultural real estate consisting of 40 acres or less with a single-family residence. (Prob. Code §§ 5600(c) & 5610.)[1]

2) Defines an RTODD as an instrument that does all of the following:

   a) makes a donative transfer of real property to a named beneficiary;
   b) operates on the transferor's death; and
   c) remains revocable until the transferor's death. (§ 5614(a).)

[1] All further statutory references are to the Probate Code.

3) Provides that an owner who has the capacity to contract may make an RTODD, which must identify the beneficiary by name, be signed by the transferor, and duly notarized. (§§ 5620, 5622 & 5624.)

4) Sets forth requirements for execution, revocation, implementation, and challenging the validity of RTODD. (§§ 5620, 5630, 5650, 5690.)

This bill extends the sunset date for RTODDs from January 1, 2021 to January 1, 2022.

Background

An RTODD is a deed of real property that designates a beneficiary to receive the property when the transferor dies. An RTODD enables a homeowner to deed the property directly to a desired beneficiary without the expense of a trust or a probate proceeding.

Following the California Law Revision Commission's recommendation to adopt legislation providing for RTODDs and a few failed attempts at legislation, the Legislature passed AB 139 (Gatto, Chapter 293, Statutes of 2015) as a five-year pilot program, set to expire January 1, 2021, with a requirement that the Commission study the effect of RTODDs and make recommendations for the reform of the law based on its findings. The Commission has completed its study and issued tentative recommendations.

However, because legislative efforts have been concentrated on addressing the COVID-19 pandemic, there has not been a sufficient opportunity to fully consider these recommendations. This bill extends the sunset date for RTODDs from January 1, 2021 to January 1, 2022, so that the Legislature may vet these issues next session.

Comments

The author writes:

> SB 1305 ensures that the [RTODD] process is not repealed before an adequate exploration of the California Law Revision Commission's recommendations can be discussed in the legislature—a conversation which must be postponed due to the impact of COVID-19. This bill will allow RTODDs, a useful and accessible tool for many Californians, to continue for an additional year and give the legislature more time to discuss how to best improve them.

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

SUPPORT: (Verified 5/22/20)

None received

OPPOSITION: (Verified 5/22/20)

None received

Prepared by: Josh Tosney / JUD. / (916) 651-4113
5/26/20 10:16:57

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

SENATE RULES COMMITTEE SB 1307
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

CONSENT

Bill No: SB 1307
Author: Rubio (D)
Introduced: 2/21/20
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 7-0, 5/11/20
AYES: McGuire, Moorlach, Beall, Hertzberg, Hurtado, Nielsen, Wiener

SUBJECT: Street lighting systems: City of Rosemead

SOURCE: City of Rosemead

DIGEST: This bill allows the Landscaping and Lighting District of the City of Rosemead to perform maintenance and make improvements under the Landscaping and Lighting Act of 1972.

ANALYSIS:

Existing law:

1) Allows for the imposition of a "benefit assessment," which is a charge that property owners pay for a public improvement or service that provides a special benefit to their property. The amount of the assessment must be directly related to the amount of the benefit that the property receives. Benefit assessments can finance public projects like flood control, street improvement, streetlights, and public landscaping, among many others.

2) Authorizes local agencies to adopt a wide variety of assessments through the formation of assessment districts. An assessment district is not a separate government agency but rather a defined area containing the property that especially benefits from certain public improvements. Within this defined area, the special assessments are apportioned and levied according to a benefit formula approved by the legislative body of the local agency.

3) Ensures that all new or increased taxes and charges on property owners are subject to property owner approval, and curbs the use of these revenue-raising tools to pay for general governmental services rather than property-related services.

4) Enacts the Street Lighting Act of 1919 (1919 Act) to allow cities to finance streetlight improvements. When a city council finds it is in the public's best interest to do so, it can order any street lighting system to be maintained along one or more of the streets in the city, or order electric current or another power source to be furnished for a street lighting system. Funds from the 1919 Act can only be used for lighting maintenance and cannot be used for the installation of city owned public lighting facilities, including traffic signals or landscape maintenance.

5) Enacts the Landscaping and Lighting Act of 1972 (1972 Act) to allow local agencies to fund some improvements and activities that the 1919 Act does not. In particular, installation of public lighting facilities is not an authorized use of assessment revenue under the 1919 Act.

This bill allows the Landscaping and Lighting District of the City of Rosemead to, in addition to funding maintenance and improvements under the 1919 Act, perform maintenance, and make improvements pursuant to the 1972 Act.

Background

The City of Rosemead receives 1919 Act revenue for the purpose of funding the operation and maintenance of its street lighting system under the authority of the Landscaping and Lighting District of Rosemead. The City can only use funds from the 1919 Act for lighting maintenance, not for other necessities it may have, such as the installation of city-owned public lighting facilities, including traffic signals, or for landscape maintenance, which would be allowed if the city collected these funds under the 1972 Act. The City reports a balance of over $2 million collected under the 1919 Act that it could use for one-time improvements and installation of city-owned public lighting facilities such as traffic signals or landscaping maintenance.

Comments

1) *Purpose of the bill.* According to the author, "The City of Rosemead has accumulated unspent ad valorem funds due to the limitations on the permissible uses from that revenue source, and at the same time has had to defer or reduce

the maintenance of those improvements allowed under the Landscape and Lighting Act of 1972. This has created an imbalance in the city, with unusable fund balance currently projected at over $2 million. The issue is that funds from the Street Lighting Act of 1919 can only be used for lighting maintenance and cannot be used for the installation of city owned public lighting facilities including traffic signals or landscaping maintenance. This bill will allow these funds to be used for improved maintenance on city streets, street trees, and medians. This would greatly improve Rosemead, which is located in my district, by providing the city the ability to perform critical, much needed maintenance upgrades."

2) *Limitations under the 1919 Act.* After the passage of Proposition 218 (1996), maintenance districts formed under the 1919 Act became a less beneficial tool for funding local infrastructure projects. Proposition 218 requires local agencies to gain property owner approval through a protest process if a new assessment is created or an existing one is increased. In addition, the 1919 Act does not allow as wide of a variety of uses for funds collected as the 1972 Act does. For instance, the 1919 Act does not allow a local agency to finance streetlight installation. As a result, local agencies have turned away from using the 1919 Act to levy benefit assessments. But some districts are left with unspent funds collected under the 1919 Act. SB 1307 authorizes Rosemead maintenance districts to take a wider variety of actions than currently allowed, potentially making better use of these funds. By authorizing Rosemead districts to use the powers under the 1972 Act, SB 1307 could lead to Rosemead using funds already collected for purposes not initially intended.

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

SUPPORT: (Verified 5/12/20)

City of Rosemead (source)

OPPOSITION: (Verified 5/12/20)

None received

Prepared by: Gustavo Medrano / GOV. & F. / (916) 651-4119
5/13/20 10:23:01

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: SB 1347
Author: Galgiani (D), et al.
Amended: 5/22/20
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 8-0, 5/18/20
AYES: Glazer, Archuleta, Dodd, Galgiani, Hill, Leyva, Pan, Wilk
NO VOTE RECORDED: Chang

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Veterinary medicine: authorized care and registration

SOURCE: California Animal Welfare Association

DIGEST: This bill expands exemptions to the practice of veterinary medicine to include specified functions performed at a shelter by an employee or volunteer who has obtained specified training.

ANALYSIS:

Existing law:

1) Establishes the Veterinary Medical Board (VMB) under the Department of Consumer Affairs, to license and regulate veterinarians, registered veterinary technicians (RVTs), to issue premises permits for veterinary hospitals, and to issue Veterinary Assistant Controlled Substances Permits. (BPC § 4800 *et seq*.)

2) Exempts certain practices from the California Veterinary Medicine Practice Act (Act), including: (a) practicing veterinary medicine as an owner of one's own animals and applies to the owner's bona fide employees, and any person assisting the owner, provided that the practice is performed gratuitously; (b) lay testing of poultry by the whole blood agglutination test, as specified; (c) making any determination as to the status of pregnancy, sterility, or infertility upon livestock, equine, or food animals at the time an animal is being inseminated,

providing no charge is made for this determination; and (d) administering sodium pentobarbital for euthanasia of sick, injured, homeless, or surrendered domestic pets or animals without the presence of a veterinarian when the person is an employee of an animal control shelter and its agencies or humane society.

This bill:

1) Adds providing necessary and prompt veterinary care to animals lawfully deposited with or impounded by a shelter, to the list of exemptions to the practice of veterinary medicine for purposes of the Act.

2) Defines "veterinary care" to mean any of the following:

   a) Administering, for the purposes of preventing the spread of communicable diseases, preventative or prophylactic nonprescription vaccinations to the animal without the presence of a veterinarian when the person has received proper training pursuant to protocols written by a licensed veterinarian.

   b) Administering nonprescription medications, pursuant to protocols written by a veterinarian licensed in this state, to the animal for the control or eradication of apparent or anticipated internal or external parasites, including, but not limited to, fleas, ticks, or worms, without the presence of a veterinarian when the person has received proper training. A person's decision to administer these medications may not be construed to mean the person has made a diagnosis of the animal's medical condition.

   c) Administering medication prescribed by a veterinarian to the animal without the presence of a veterinarian when the shelter has received a written treatment plan from the veterinarian and has a dispensing protocol in place to track prescribed medication that is dispensed.

   d) Administering basic first aid to the animal without the presence of a veterinarian when the person has received proper training.

   e) Changing bandages or dressings and performing similar wound care in accordance with the directions of a veterinarian, and upon examination of a veterinarian, without the presence of a veterinarian, when the shelter has received a written treatment plan from the veterinarian and has a wound care protocol in place to track care provided.

3) Specifies that a person's decision to change bandages or dressings or to perform similar wound care cannot be construed to mean the person has made a diagnosis of the animal's medical condition.

4) States that the exemptions described in 2) above apply only to a duly authorized officer, employee, or volunteer of the shelter; and requires the shelter to maintain records of the veterinary care, as specified.

5) States that nothing in this bill relieves a duly authorized officer of a shelter from the obligation to convey an injured animal to a veterinarian, as specified, or otherwise necessary to provide the animal with the veterinary care that the shelter is unable to perform.

6) Defines "first aid" to mean temporary treatments for purposes of stabilizing an animal so the animal can be transported to a veterinarian for treatment or so that transportation to a veterinarian is not necessary. First aid includes, but is not limited to, controlling hemorrhage with direct pressure and bandaging wounds to stop bleeding.

7) Defines "shelter" to mean a public animal shelter, shelter operated by a society for the prevention of cruelty to animals, or humane society.

8) States that a premises where any activity described in 2) above is performed, is not required to register with the VMB, provided that no other veterinary medicine, dentistry, or surgery, or a branch thereof, is practiced at that premises.

Background

Veterinarians. To practice veterinary medicine in California, an applicant must graduate from a degree program offered by an accredited postsecondary institution approved by the VMB, pass both a national veterinarian examination, and an examination provided by the VMB to test the knowledge of the laws and regulations related to the practice of veterinary medicine in California.

Business and Professions Code Section 4827 outlines specific exemptions to the practice of veterinary medicine, including: practicing veterinary medicine on one's own animals; specified poultry testing; determining the status of pregnancy, sterility, or infertility in livestock or food animals; and administering sodium pentobarbital to euthanize sick, injured, homeless, or surrendered animals without the presence of a veterinarian when the person is an employee of an animal control shelter and has received proper training. This bill seeks to add additional exemptions to the practice of veterinary medicine, to include other treatments provided by shelter personnel or volunteers.

Shelters. Current law (FAC § 17005(a)) states that the policy of the state is not to euthanize an animal if it can be adopted into a suitable home. California's shelter

laws provide a mechanism for owners of lost pets to have a timeframe in which to find their lost animal before the animal is placed for adoption, sale, or even euthanized. There are approximately 200 private and public shelters in California. Shelters are only a repository for the animals, they are not considered to be "owned" by the shelter, and therefore do not meet any of the exemptions to the practice of veterinary medicine. This bill specifies that treatments such as nonprescription flea and tick medications, nonprescription vaccinations, wound care, providing medications prescribed by a veterinarian, under protocols of a veterinarian, and rendering basic first aid would be exempt from the practice of veterinary medicine as long as it is done by a public animal shelter or humane society employee or volunteer who has received the appropriate training to provide the treatments.

The Act and the Veterinary Medical Board. The VMB is the regulatory entity responsible for the licensure and regulation of veterinarians, RVT, schools and programs along with veterinary premises and hospitals through the enforcement of the Act. The VMB is provided with enforcement authority to take actions against both licensed and unlicensed persons for any violation of the Act, including unlicensed practice. The practice of veterinary medicine is specified in statute (BPC § 4826) and includes actions such as diagnosing or prescribing a drug, medicine, appliance, application, treatment of whatever nature, for the cure or relief of a wound, fracture, bodily injury or disease of animals (including those actions of an RVT or a veterinary assistant under the supervision of a licensed veterinarian). Further, the law requires that any premises where veterinary medicine, dentistry, or surgery is being practiced is required to obtain a premises permit from the VMB.

When animals are impounded or taken in at an animal shelter, the shelter is responsible for providing care and treatment of the animals including vaccinations, medication, spay and neuter, preventive medications including flea and tick treatments and de-wormers, among others. However, those treatments are considered the practice of veterinary medicine and must be done by a veterinarian or RVT or veterinary assistant under direction of a veterinarian, and further because veterinary medicine is being practiced, the shelter is required to register with the VMB and obtain a premises permit.

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

SUPPORT: (Verified 6/8/20)

California Animal Welfare Association (source)
Best Friends Animal Society

California State Sheriffs' Association
Human Society Silicon Valley
Los Angeles County Board of Supervisors
Rural County Representatives of California
San Diego Humane Society and SPCA
San Francisco SPCA

OPPOSITION: (Verified 6/8/20)

California Veterinary Medical Association
California Veterinary Medical Board

ARGUMENTS IN SUPPORT: Supporters believe this bill is crucial to improve public health and safety as it allows animal shelter workers to vaccinate animals housed at their shelters against communicable diseases and think shelters should be allowed to provide basic care to protect animals. California Animal Welfare Association writes "[This bill] supports the health and safety of sheltered pets by ensuring that shelters are allowed to provide vaccinations and parasite control, administer first aid, and carry out veterinary instructions without the presence of a veterinarian or the requirement to obtain a veterinary premise permit for their facility; something that many shelters are unable to obtain."

ARGUMENTS IN OPPOSITION: The California Veterinary Medical Association notes "Shelter animals are in stressful and crowded environments. This substantially increase the risk of disease transmission from animals to other animals as well as to humans. Veterinarians possess the education to manage animal population health and to guard against devastating diseases."

The California Veterinary Medical Board is concerned this bill is "too undefined and may result in significant harm to these animal patients."

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
6/10/20 13:25:14

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

SENATE RULES COMMITTEE SB 1349
Office of Senate Floor Analyses
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THIRD READING

Bill No: SB 1349
Author: Glazer (D)
Amended: 4/8/20
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 3-2, 5/21/20 (FAIL)
AYES: McGuire, Beall, Wiener
NOES: Moorlach, Nielsen
NO VOTE RECORDED: Hertzberg, Hurtado

SENATE GOVERNANCE & FIN. COMMITTEE: 4-2, 6/3/20
AYES: McGuire, Hertzberg, Hurtado, Wiener
NOES: Moorlach, Nielsen
NO VOTE RECORDED: Beall

SUBJECT: Transactions and use taxes: County of Contra Costa

SOURCE: Author

DIGEST: This bill permits Contra Costa County, and cities within Contra Costa County, additional legal flexibility to impose local transactions and use taxes.

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 collect the appropriate tax from the purchase and remit the amount to the California Department of Tax and Fee Administration.

2) Applies whenever a retail sale is made, which is basically any sale other than one for resale in the regular course of business.

3) Provides that unless the person pays the sales tax to the retailer, he or she is liable for the use tax, which is imposed on any person consuming tangible

personal property in the state. The use tax rate is the same rate as the sales tax rate, and must be remitted on or before the last day of the month following the quarterly period in which the person made the purchase.

4) Levies the sales and use tax at a current rate of 7.25%.

5) States that taxes levied by local governments are either general taxes, subject to majority approval of its voters, or special taxes, subject to 2/3 vote (California Constitution, Article XIII C).

6) Allows cities, counties, and specified special districts, including the San Francisco Bay Area Rapid Transit District and the Contra Costa County Transportation Authority, to increase the sales and use tax applied within their jurisdictions, also known as district or transactions and use taxes, for either specific or general purposes pursuant to the California Constitution's voter approval requirements.

7) Caps the maximum district tax rate at 2% within a county; however, allows several exceptions from the cap for the Cities of El Cerrito and Santa Fe Springs, San Mateo County, Sonoma County (and any city in Sonoma County), the Transportation Agency for Monterey County, and the Los Angeles Metropolitan Transportation Authority, among others.

8) Authorizes the County of Alameda and the Contra Costa County Transportation Authority to impose a district tax of up to 0.5% outside the 2% cap (AB 210, Wieckowski, Chapter 194, Statutes of 2013, and AB 1665, Bonilla, Chapter 45, Statutes of 2016).

9) Permits the City of El Cerrito in Contra Costa County to impose a 0.5% district tax within its boundaries exempt from the cap (AB 1324, Skinner, Chapter 795, Statutes of 2014).

10) Provides that neither the district tax imposed by the San Francisco Bay Area Rapid Transit (BART) nor the 0.5% authorized by AB 310 in Alameda County count toward the 2% cap in Alameda County (AB 723, Quirk, Chapter 747, Statutes of 2019).

This bill:

1) Provides that the current 0.5% district tax imposed by BART, the current 0.5% Contra Costa County Transportation Tax, and a potential future 0.5% Contra Costa County Transportation Tax, do not count against the 2% cap in Contra Costa County.

2) Clarifies that AB 210's and AB 1665's specific authority for the Contra Costa County Transportation Authority do not count against the cap in Contra Costa County.

3) Authorizes Contra Costa County to impose a new countywide district tax up to 0.5% exempt from the cap, so long as the county board of supervisors enacts an ordinance, voters approve the tax by the applicable Constitutional voter threshold, and the tax otherwise complies with state law.

4) Makes a legislative finding stating that a statute specific to Contra Costa County is necessary.

Background

Contra Costa County has two countywide district taxes, a 0.5% rate applicable to all counties within the BART District, as well as a 0.5% rate imposed by the Contra Costa County Transportation Authority, for a countywide rate of 8.25%. The Legislature has additionally authorized the Contra Costa County Transportation Authority to impose a district tax of up to 0.5% for transportation purposes outside the 2% cap; however, the County has not imposed a tax using this authority.

The City of El Cerrito imposes a 1.5% rate within its boundaries, 0.5% of which is exempt from the cap, for a total rate of 9.75%. 16 other cities in the county also impose district taxes. As a result, Contra Costa County cannot impose an additional tax because the 2% cap applies countywide, unless it imposed it only in the unincorporated area, which the Legislature authorized in 2014 (AB 2119, Stone, Chapter 148, Statutes of 2014).

Last year, the Legislature approved, but the Governor vetoed AB 618 (Stone), which permitted the Cities of Emeryville (Alameda County) and Scotts Valley (Santa Cruz County) to impose a tax of up to 0.25% that exceeds the 2% cap. The veto message stated that it was unclear whether authorization was needed because both had room within the cap to impose the tax. In response, the Legislature enacted AB 723 (Quirk), which provided that neither the tax imposed by BART nor the tax imposed by the Alameda County Transportation Commission counts against the 2% cap, and made a similar change in Santa Cruz County. Instead of explicitly allowing tax above the cap, AB 723 created more room under it for Alameda County, and cities in Alameda and Santa Cruz counties to impose district taxes.

SB 1349 builds on AB 723's approach to state that existing transportation taxes in Contra Costa County do not count toward the 2% cap, which clears 1% of total room under the countywide cap. However, this method comes with risks that do not apply when taxes are explicitly exempted from the cap. For example, the County of Contra Costa as well as any city in Contra Costa County could use SB 1349 to impose a tax of up to 1%; however, the County imposing a tax at 1% would preclude any city in Contra Costa County from also doing so. The reverse would also be true – any city in Contra Costa County that imposed a tax of 1% would again crowd out the County, unless the county used the other authority in the bill to impose a tax explicitly exempted from the cap.

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

SUPPORT: (Verified 6/4/20)

California Labor Federation
California Professional Firefighters
California Teamsters Public Affairs Council
City of Concord
City of Danville
City of Lafayette
City of Pittsburg
City of San Ramon
Contra Costa County
Contra Costa Transportation Authority
International Federation of Professional and Technical Engineers, Local 21
Office and Professional Employees International Union, Local 29
SEIU California

OPPOSITION: (Verified 6/4/20)

Alliance of Contra Costa Taxpayers
California Taxpayers Association
Contra Costa County Taxpayers Association
Howard Jarvis Taxpayers Association
Transportation Solutions Defense and Education Fund

ARGUMENTS IN SUPPORT: According to the author, "SB 1349 would allow the county of Contra Costa, or a city within the county, to increase sales and use taxes to support programs and services with voter approval. Cities and counties across the state are responsible with providing their constituents with a number of supportive services to address local needs. This includes police and fire services,

homeless services and public health services. The County of Costa County has been heavily impacted by the recent COVID-19 pandemic. The County estimates losses of nearly $100 million in revenue, while cities estimate losses of up to $8 million. This bill will provide Contra Costa County with the tools it needs to generate funding to mitigate the negative impact COVID-19 will undoubtedly have on critical services. The state Legislature has recently approved several similar bills, and this bill is consistent with the provisions of previous legislation. The need for public services is likely to increase in the aftermath of this pandemic. This bill is a reasonable effort to address ongoing funding needs."

ARGUMENTS IN OPPOSITION: According to the Howard Jarvis Taxpayers Association, "In the years following, a number of municipalities have sought legislative authorization to increase their sales tax rates above this common-sense threshold. SB 1349 would allow Contra Costa County to authorize a maximum sales tax of up to 0.5%, thus exceeding the two percent threshold. Because the bill solely addresses transportation projects, the sales tax increase would require a two-thirds local vote of county residents to be approved. Sales taxes are especially regressive and tend to disproportionately increase expenses for low income residents. Also, California has the highest sales tax in the nation. Considering that 70 percent of the nation's economic output hinges on the buying and selling of consumer goods, communities should be mindful of the economic impact of asking the Legislature to approve even more taxes. This is especially true in the midst of the COVID-19 pandemic where both state and local governments have experienced drastic declines in sales tax revenue. Finally, increasing taxes across multiple jurisdictions makes tax compliance more difficult for retailers and increases the likelihood of picking winners and losers in the private sector economy."

Prepared by: Colin Grinnell / GOV. & F. / (916) 651-4119
6/5/20 11:56:16

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

SENATE RULES COMMITTEE SB 1351
Office of Senate Floor Analyses
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CONSENT

Bill No: SB 1351
Author: Beall (D)
Amended: 3/25/20
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 13-0, 5/29/20
AYES: Beall, Allen, Dahle, Dodd, Galgiani, Lena Gonzalez, Grove, McGuire, Melendez, Morrell, Roth, Rubio, Wieckowski
NO VOTE RECORDED: Skinner, Umberg

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Transportation planning

SOURCE: Author

DIGEST: This bill makes several technical changes relative to transportation planning.

ANALYSIS:

Existing law:

1) Requires transportation planning agencies to conduct certain transportation planning and programming activities, including preparing and adopting regional transportation plans (RTP).

2) Authorizes certain regional transportation planning agencies (RTPA) to allocate up to three percent of their annual revenues from the Transportation Development Act (TDA) for transportation planning and programming processes, and alternatively authorizes the allocation of a greater amount upon approval by the State Director of Transportation (Caltrans), as specified.

3) Requires each transportation planning agency and county transportation

commission that has two or more transit operators within its jurisdiction, and the San Diego Metropolitan Transit Development Board, to adopt rules and regulations to provide for transfers between the operators' transit services so that the services are coordinated.

This bill:

1) Caps the amount of annual revenues the Caltrans Director may approve for allocation to RTPA's for transportation planning and programming purposes at five percent.

2) Requires RTPAs and County Transportation Commissions to update their rules and regulations pertaining to the transfer policies of transit agencies within their jurisdiction every four years.

Comments

1) *Author's Statement.* According to the author, "SB 1351 is a common sense measure that places accountability provisions on RTPAs, transit agencies and the Caltrans Director. Currently, existing law does not place a cap on the amount of TDA revenue the Caltrans director may approve to be used for transportation planning purposes by RTPA's. This bill places an allocation cap on the approval process to hold the Caltrans director and RTPAs accountable. Additionally, this bill ensures RTPAs and county transportation commissions are updating their regulations and procedures every four years for local transit agencies relative to transfer policies to again ensure our public agencies are accounting for the latest technology and cost effective methods."

2) *Transportation Planning.* According to the Federal Transit Administration, transportation planning "plays a fundamental role in a state, region, or community's vision for its future. It includes a comprehensive consideration of possible strategies; an evaluation process that encompasses diverse viewpoints; the collaborative participation of relevant transportation-related agencies and organizations; and open, timely, and meaningful public involvement. Transportation planning is a cooperative process designed to foster involvement by all users of the system, such as businesses, community groups, environmental organizations, the traveling public, freight operators, and the general public, through a proactive public participation process."

3) *TDA.* The Mills-Alquist-Deddeh Act of 1971, known as the TDA, provides funding to be allocated to transit and non-transit related purposes that comply with regional transportation plans.

TDA established two funding sources: the Local Transportation Fund (LTF), and the State Transit Assistance (STA) fund. Provided certain conditions are met, counties with a population under 500,000 (according to the 1970 federal census) may also use the LTF for local streets and roads, construction and maintenance. The STA funding can only be used for transportation planning and mass transportation purposes. Existing law generally allows for RTPAs to use up to three percent of their annual revenue for transportation planning and programming purposes. Existing law also allows for the Caltrans Director to increase this amount upon request by the RTPA and at the Director's discretion. However, existing law does not impose a limit on the amount the Caltrans director may grant. The provisions specified in the bill placed a five percent cap on the amount that may be increased.

4) *Transit Transfer Policies.* Typically, transit agencies allow a rider to transfer from one operator/service to another for a discounted fare. As transit agencies, services, and frequencies greatly vary throughout the state, transfer policies between operators also vary in detail. For example, a rider on a Foothill Transit (San Gabriel and Pomona Valley) bus may transfer onto a LA METRO rail line using an electronic TAP card for fifty cents and must use the transfer within a certain timeframe. Whereas a rider using a Clipper card on AC Transit (Alameda and Contra Costa) offers a variety of transfer discounts and, at times, free transfers depending on the transit operator. Currently, statute requires RTPA's to establish transfer policies for two or more transit operators that are within its jurisdiction. However, existing law does not require RTPAs to update transfer policies once established. This bill simply requires RTPAs to update their transfer policies for transit operators every four years to consider and incorporate the most up-to-date technology and practices relative to rider transfers.

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

SUPPORT: (Verified 6/9/20)

None received

OPPOSITION: (Verified 6/9/20)

None received

Prepared by: Manny Leon / TRANS. / (916) 651-4121
6/10/20 13:25:15

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

SENATE RULES COMMITTEE SB 1371
Office of Senate Floor Analyses
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CONSENT

Bill No: SB 1371
Author: Committee on Judiciary
Introduced: 2/21/20
Vote: 21

SENATE JUDICIARY COMMITTEE: 8-0, 5/22/20
AYES: Jackson, Durazo, Lena Gonzalez, Jones, Monning, Stern, Umberg, Wieckowski
NO VOTE RECORDED: Borgeas

SUBJECT: Maintenance of the codes

SOURCE: Office of Legislative Counsel

DIGEST: This bill is the annual maintenance of the codes bill.

ANALYSIS: Each year, the Office of Legislative Counsel identifies grammatical errors and other errors of a technical nature that have been inadvertently enacted into statutory law. The annual "Maintenance of the Codes" bill is the vehicle for implementing these wholesale corrections. In order to be included in the measure, the change must be technical only and may not affect or enact substantive law.

There are no changes to existing law. Moreover, proposed Section 304 on page 780 of this bill includes an "all purpose" yielding clause that avoids any double jointing problems that might otherwise occur.

This bill is the annual maintenance of the codes bill.

Related/Prior Legislation

AB 991 (Gallagher, Chapter 497, Statutes of 2019)

SB 1289 (Committee on Judiciary, Chapter 92, Statutes of 2018)

AB 1516 (Cunningham, Chapter 561, Statutes of 2017)

SB 1171 (Committee on Judiciary, Chapter 86, Statutes of 2016)

AB 731 (Gallagher, Chapter 303, Statutes of 2015)

SB 1304 (Committee on Judiciary, Chapter 71, Statutes of 2014)

AB 383 (Wagner, Chapter 76, Statutes of 2013)

SB 1171 (Harman, Chapter 162, Statutes of 2012)

AB 1023 (Wagner, Chapter 296, Statutes of 2011)

SB 1330 (Committee on Judiciary, Chapter 328, Statutes of 2010)

AB 176 (Silva, Chapter 88, Statutes of 2009)

SB 1498 (Committee on Judiciary, Chapter 179, Statutes of 2008)

AB 310 (Silva, Chapter 263, Statutes of 2007)

SB 1852 (Committee on Judiciary, Chapter 538, Stats 2006)

SB 1108 (Committee on Judiciary, Chapter 22, Statutes of 2005)

AB 3082 (Committee on Judiciary, Chapter 183, Statutes of 2004)

SB 600 (Committee on Judiciary, Chapter 62, Statutes of 2003)

AB 3034 (Committee on Judiciary, Chapter 664, Statutes of 2002)

SB 662 (Committee on Judiciary, Chapter 159, Statutes of 2001)

AB 2539 (Committee on Judiciary, Chapter 135, Statutes of 2000)

SB 966 (Committee on Judiciary, Chapter 83, Statutes of 1999)

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

SUPPORT: (Verified 5/26/20)

Office of Legislative Counsel (source)

OPPOSITION: (Verified 5/26/20)

None received

Prepared by: Margie Estrada / JUD. / (916) 651-4113
5/26/20 10:16:56

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: SB 1373
Author: Bates (R), et al.
Amended: 5/19/20
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 12-0, 5/29/20
AYES: Beall, Allen, Dahle, Dodd, Galgiani, Lena Gonzalez, Grove, McGuire, Melendez, Morrell, Roth, Rubio
NO VOTE RECORDED: Skinner, Umberg, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: State highways: State Route 241: reduction

SOURCE: Author

DIGEST: This bill redefines State Route 241 (SR 241), as specified.

ANALYSIS:

Existing law:

1) Establishes the state highway system throughout California.

2) Provides the State Department of Transportation with full possession and control of the state highway system and associated property, as specified.

3) Designates SR 241 from Interstate 5 (I-5) south of the City of San Clemente to State Route 91 (SR 91) in the City of Anaheim.

4) Requires each city, county, and city and county to prepare and adopt a General Plan that contains certain mandatory elements, including a land use element and an open-space element.

5) Authorizes the County of Orange and the cities within the County of Orange to form a Joint Powers Authority (JPA) and incur indebtedness for certain

purposes including the construction of bridge facilities or major thoroughfares by which toll roads may be constructed, as specified.

6) Authorizes the County of Orange and the cities within the County of Orange to impose developer fees as a condition of approving development plans or building permits for purposes of defraying the cost of constructing infrastructure projects including, but not limited to, bridges, railways, and freeways.

7) Authorizes a JPA created by the abovementioned authority to make toll revenues and developer fees available to other JPAs to pay for the cost of constructing and operating separate toll facilities, as specified.

8) Provides that, at the local level, Measure V, passed by the City of San Clemente voters and adopted in 2008, requires voter approval of two types of actions: (a) changing the zoning of open space to a non-open space zone, and (b) to allow land uses in open space that were not allowed in any open space zone.

This bill deletes from the state highway system the portion of SR 241 from State Route 5 south of the City of San Clemente to Oso Parkway east of the City of Mission Viejo.

Comments

1) *Author's statement.* According to the author, "SB 1373 clarifies existing law that State Route 241 shall not run through the City of San Clemente, by realigning the route's starting point to Oso Parkway east of the City of Mission Viejo. Existing statute designates State Route 241 as starting at State Route 5 south of the City of San Clemente, with the terminus of each side of State Route 241 starting and ending outside the City of San Clemente. However, some have sought to interpret the statute to allow State Route 241 to run through the City of San Clemente. This bill would delete from the state highway system the portion of State Route 241 from State Route 5 south of the City of San Clemente to Oso Parkway east of the City of Mission Viejo. This bill will re-establish the trust between our local entities. SB 1373 will ensure that the compromise will be enduring and that needed congestion relief projects for the region get built."

2) Transportation Corridor Agencies (*TCAs).* The TCA consists of two JPAs formed under statute enacted by the legislature in 1986 to plan, finance, construct, and operate toll roads in Orange County. The TCA consists of two local government agencies:

a) The San Joaquin Hills TCA which oversees the San Joaquin Hills Toll Road State Route 73 (SR-73), which stretches 15 miles from Newport Beach to San Juan Capistrano in southwest Orange County.

b) The Foothill/Eastern TCA which runs both the Foothill Toll Road and the Eastern Toll Road which include State Routes 133, 241, and 261, linking SR 91 near the Orange County/Riverside County border to I-5 in Irvine and also to communities in South Orange County.

The TCA has constructed and currently operates approximately 51 miles of toll roads primarily in south Orange County and employs a staff of approximately 68 employees. The Boards of Directors for both the San Joaquin and Foothill/Eastern agencies are comprised of local elected officials in Orange County with toll rates ranging anywhere from $2 to slightly over $10 depending on the distance traveled. The toll roads maintained by the TCA are financed with tax-exempt nonrecourse toll revenue bonds on a stand-alone basis; taxpayers are not responsible for repaying TCA debt, rather toll revenue and developer fees cover debt service obligations.

3) *SR 241*. SR 241 is a 12-mile state highway that is a toll road for its entire length in Orange County. Its southern half from Ladera Ranch to near Irvine is the Foothill Transportation Corridor, while its northern half to the SR 91 that ends in the City of Anaheim is part of the Eastern Transportation Corridor. SR 241 connects with two other highways of the Eastern Transportation Corridor: State Route 133 and State Route 261. SR 241 travels parallel to I-5, ultimately terminating at Oso Parkway near Mission Viejo in southern Orange County. As noted, the SR 241 toll road was constructed by the TCA and is owned by the state of California. Construction of SR 241 was financed with bonds, which are repaid with toll revenues.

4) *South County Traffic Relief Effort (SCTRE).* In early March of this year, TCA's Board of Directors approved its Scoping and Alternatives Screening Report for the SCTRE approving one alternative to continue evaluating. This alternative, otherwise known as "Alternative 22 untolled," recommends extending Los Patrones Parkway directly east of the City of Mission Viejo from Cow Camp Road to Avenida La Pata as a major thoroughfare. This board-approved recommendation also directs TCA staff to work in collaboration with a number of local agencies to carry out several other projects, including completing a high-occupancy lane on I-5 and the widening of State Route 74 (Ortega Highway) in South Orange County. The Los Patrones Parkway extension will be constructed in an unincorporated portion of Orange County, not within San

Clemente's city limits.

However, the project development process leading up to TCA's recent action did not lack controversy. Prior to the selection of Alternative 22, TCA, at one point in time, was in the process of evaluating and seeking comment on over twenty alternatives; several of which would require construction through the City of San Clemente or construction on I-5. These alternatives raised concerns from a large number of residents from San Clemente and surrounding communities along with a number of local public agencies. TCA's March board-approved recommendation for the Los Patrones Parkway extension remedies many of the concerns from the abovementioned groups.

5) *Is this bill necessary?* The author asserts this bill was introduced to clarify SR 241 will not be constructed through the City of San Clemente. However, existing law does not mandate that SR 241 is required to be constructed through San Clemente; state law merely references SR 241's southern terminus as "south of San Clemente." While this bill, if enacted, would in fact prohibit the construction/operation of a state highway through San Clemente, TCA's SCTRE formal process of evaluating alternatives, public comment, and working with public agencies over several years determined that expanding SR 241 as a toll road through San Clemente was not a feasible alternative, and as a result, TCA will now move forward with extending Los Patrones Parkway as an untolled major thoroughfare south to Avenida La Pata. Additionally, as public concerns and growing lack of trust throughout the SCTRE process is without doubt understandable, enacting this proposal in the current legislative session does not prohibit future legislation from again altering SR 241's boundaries within the state highway system. Lastly, it is unclear how this proposal, if enacted, would affect a series of lawsuits currently underway between the City of San Clemente and TCA.

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

SUPPORT: (Verified 6/9/20)

City of San Clemente

OPPOSITION: (Verified 6/10/20)

California State Council of Laborers
City of Mission Viejo
City of Orange
City of Rancho Santa Margarita

Councilmember Cynthia Conners, City of Laguna Woods
Councilmember David Penaloza, City of Santa Ana
Councilmember Lucille Kring, City of Anaheim
Endangered Habitats League
Laguna Hills Chamber of Commerce
Lake Forest Chamber of Commerce
Mayor Mike Munzing, City of Aliso Viejo
Orange County Business Council
South Orange County Economic Coalition
Supervisor Doug Chaffee, County of Orange
Transportation Corridor Agencies

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6/10/20 13:25:16

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

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THIRD READING

Bill No: SB 1380
Author: Allen (D)
Amended: 5/28/20
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 7-0, 5/26/20
AYES: Stern, Jones, Allen, Caballero, Hertzberg, Jackson, Monning
NO VOTE RECORDED: Borgeas, Hueso

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Santa Monica Mountains Conservancy: acquisition or transfer of real property

SOURCE: Author

DIGEST: This bill exempts from the Property Acquisition Law an acquisition of an interest in real property initiated after January 1, 2021, by the Santa Monica Mountains Conservancy (SMMC) to address or resolve an encroachment if the value of the interest is less than or equal to $500,000, as adjusted annually for inflation, as specified.

ANALYSIS:

Existing law:

1) Establishes the Property Acquisition Law, which:

   a) Designates the State Public Works Board (SPWB) as the state entity, with limited exceptions, to acquire land and other real property for other state agencies. This law grants SPWB eminent domain authority to acquire property needed by any state agency for any state purpose or function.

   b) Grants jurisdiction, with limited exceptions, over property acquired by SPWB to the Department of General Services (DGS) until the property is needed for the purpose for which it was acquired. While under its

jurisdiction, DGS may lease all or any portion of the property, fix and maintain, improve, and care for the property, remove or demolish buildings or other structures on the property, and sell or dispose of the improvements or any materials available upon demolishing any building or structure on the property.

2) Establishes SMMC for multiple purposes, as specified, and authorizes SMMC to acquire real property or any associated interests, including development rights and easements, for specified purposes.

3) Bifurcates SMMC's real property authorities between two agencies:

   a) SPWB acquires real property or any associated interests on SMMC's behalf pursuant to the Property Acquisition Law and may use eminent domain.

   b) DGS leases, rents, sells, transfers, or exchanges any land or associated interests acquired on SMMC's behalf, as specified.

This bill:

1) Exempts from the Property Acquisition Law an acquisition of an interest in real property initiated after January 1, 2021, by SMMC to address or resolve an encroachment if the value of the interest is less than or equal to $500,000, as adjusted annually for inflation, as specified.

2) Authorizes SMMC to request SPWB to review and approve specific acquisitions.

3) Specifies that the exemption does not grant SMMC the power of eminent domain.

4) Requires SMMC's executive director, at least 45 days prior to SMMC taking action under the exemption, to provide written notice of the proposed action to adjacent landowners, as specified, and the city council or board of supervisors of the city or county in which the real property is located.

5) Requires SMMC, if an adjacent landowner, the city, or county objects to a proposed acquisition, to hold a noticed public hearing on the objections to the acquisition before voting to recommend an action by SMMC.

6) Requires an independent third-party appraisal determine the value of the real property or interest subject to an acquisition that is exempt from the Property Acquisition Law by this bill.

Background

SMMC owns valuable open space, habitat, and recreational areas directly adjacent to urban and suburban developments. Many SMMC-owned parcels abut private property and the line dividing the properties is not always marked or clearly marked. This has resulted in multiple encroachments where private property owners and some public landowners unknowingly build onto SMMC land. For example:

- In Bell Canyon, multiple properties currently have encroachments onto SMMC land, ranging from large encroachments where the neighboring property owner has fenced in SMMC land for their backyard to minor encroachments, like a portion of a pool or outdoor seating area located on SMMC property.

- In Franklin Canyon Park, Beverly Hills, multiple large estates have built driveways, access roads, and other improvements on SMMC property. Some of these improvements provide the only access to the private properties.

- In Rainbow Canyon, Mt. Washington, Los Angeles, a landowner had difficulty selling a home after it was discovered during the due diligence process that the property encroached on SMMC property. The landowner approached SMMC to resolve the issue, but was frustrated by the inability to address the situation in timely manner.

- Other public agencies and utilities often approach SMMC to secure minor easements and rights of way to allow for more efficient provision of public and utility services. SMMC currently cannot respond to these requests in a timely manner.

While local agencies have relatively simple processes to address low value encroachments onto local public property, the process for state agencies requires SPWB's services to acquire real property under the Property Acquisition Law and DGS's services to sell, transfer, or exchange interests in real property. For minor encroachments on SMMC land, this can require significant staff time and resources, can be costly, and may discourage timely resolution.

Comments

Is the bill justified? According to the author, the proposed streamlining for property acquisitions and transfers would allow SMMC to efficiently resolve low value encroachments at a reduced cost, saving time, resources, and money while also improving interactions and outcomes with neighboring landowners. However,

it also would reduce or eliminate oversight and opportunity for public engagement. While existing law grants similar exemptions for acquisitions to three other conservancies (discussed below), it is not clear that there is sufficient justification for the proposed streamlining. SMMC provided a few examples of encroachments, but could not describe the number and value of encroachments that might be affected by this bill. Public records show that SPWB pursued zero acquisitions for SMMC in the last two years. Also, DGS initiated or completed zero real estate projects for SMMC in the last three years to resolve an encroachment.

What is an encroachment? According to the author, the purpose of this bill is to help SMMC quickly and efficiently resolve low value encroachments on SMMC land. Existing law defines "encroachment" in a few places, including the Water Code (WC) and various places in the Streets and Highways Code (SHC), including, but not limited to:

- WC § 12899. (b) "Encroachment" means any installation of any tower, pole, pipe, fence, building, structure, object, or improvement of any kind or character that is placed in, on, under, or over any portion of the State Water Resources Development System or other use of the department's right-of-way, including the alteration of the ground surface elevation by more than one foot, or the planting of trees, vines, or other vegetation on the department's right-of-way that may pose a threat to the physical integrity of any facility of the State Water Resources Development System or that could interfere with the department's rights with regard to access, inspection, repair, or the operation and maintenance of any State Water Resources Development System facility.

- SHC § 1480. (b) The term "encroachment" includes any structure or object of any kind or character placed, without the authority of law, either in, under or over any county highway.

The term is generally understood as an unauthorized possession of land of another or an interference with or an intrusion onto another person's property. This can include buildings, walls or other structures extending over a property line; driveways or portions of driveways on neighboring property; and landscape features, patios, decks, yard areas or recreational amenities located partly on adjoining property. The term also includes eaves, gutters, and even buildings extending into the airspace of adjacent property. An encroachment can also be entirely underground.

Three other conservancies have similar acquisition authorities. The Legislature has granted similar exemptions for property acquisitions to the California Tahoe Conservancy (CTC), the Sierra Nevada Conservancy (SNC), and the Coachella

Valley Mountains Conservancy (CVMC). Specifically, under those conservancies authorizing statutes, the Property Acquisition Law does not apply to:

- Any acquisition of real property or associated interests by CTC if the value of the lot or parcel is less than or equal to $550,000.
- Any acquisition of an interest in real property by SNC if the value of the interest is less than or equal to $250,000 per lot or parcel.
- Any acquisition of real property or associated interests by CVMC if the value of the property is less than $250,000, and:
    - The property is located within a designated National Scenic Area within CVMC's territory, as specified, OR
    - The property was acquired by Riverside County as a result of the nonpayment of taxes, as specified.

Is the $500,000 cap reasonable? Stakeholders maintain that, given SMMC's location along California's coast and adjacent to heavily urbanized, wealthy areas, land values in the region are significantly higher than other parts of the state. Thus, the bill proposes a $500,000 cap for the exemption. This is similar to CTC's $550,000 cap, also located in a region of the state with high land values. SNC and CVMC have $250,000 caps.

Related/Prior Legislation

AB 2995 (Nunez, Chapter 759, Statutes of 2006) increased the threshold from $250,000 per lot or parcel to $550,000 per lot or parcel for a CTC property acquisition that would be subject to the Property Acquisition Law.

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

SUPPORT: (Verified 6/8/20)

PawPac

OPPOSITION: (Verified 6/8/20)

None received

ARGUMENTS IN SUPPORT: According to the author:

"The Conservancy frequently encounters encroachments onto its land related to its proximity to the Los Angeles Metropolitan area… Since the land is state-owned, any sales or transfers, no matter how small, are subject to the state's Property Acquisition Law. This costly and time-consuming process inhibits the Conservancy from easily executing small land transfers to fix minor encroachment issues. The complexity of the current process requires significant Conservancy staff time and can be burdensome, rendering it an unworthy effort financially.

SB 1380 would allow the Santa Monica Mountains Conservancy to directly address these encroachment issues and land negotiations at the local level for properties valued at under $500,000. This would provide the Conservancy with an additional tool that would save both landowners and the Conservancy significant time and resources."

Additionally, PawPac notes:

"SB 1380 would authorize the conservancy to acquire or transfer an interest in real property up to $500,000 providing much needed habitat for wildlife. During this unprecedented time, when budget challenges face the state, we must remind ourselves that the health of the ecosystem is inextricably linked to human and economic health. Development taxes the health, not just of wildlife, the focus of our advocacy, but the health of every aspect of life on earth. We support the conservation of wide open spaces, and a return to their natural state, as with AB 3030, which passed Assembly Natural Resources this week, with the goal to conserve thirty percent of land and water by the year 2030."

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6/10/20 13:25:17

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

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THIRD READING

Bill No: SB 1384
Author: Monning (D)
Amended: 3/25/20
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-0, 5/14/20
AYES: Hill, Jackson, Mitchell, Pan
NO VOTE RECORDED: Morrell

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Labor Commissioner: financially disabled persons: representation

SOURCE: Author

DIGEST: This bill allows the Labor Commissioner to represent financially unable wage claimants in arbitral proceedings when arbitration has been compelled by a court order.

ANALYSIS:

Existing law:

1) Authorizes the Labor Commissioner to investigate employee complaints. Further authorizes the Labor Commissioner to provide for a hearing, known as a Berman Hearing, in any action to recover wages, penalties, and other demands for compensation, including liquidated damages if the complaint alleges payment of a wage less than the minimum wage. (Labor Code §98)

2) Requires that within 15 days of the conclusion of a Berman Hearing, the Labor Commissioner must file a copy of the order, decision or award in the office of the Division of Labor Standards Enforcement. The order, decision, or award shall include a summary of the hearing and the reasons for the decision. (Labor Code §98.1)

3) Allows a party who receives notice of an order, decision, or award following the conclusion of a Berman Hearing to seek review by filing an appeal to the superior court, where the appeal shall be heard de novo. This appeal must be filed within 10 days of receipt of the notice. (Labor Code §98.2)

4) Requires a party who wishes to appeal an order, decision or award to post a bond issued by a licensed surety or cash deposit in the amount of the order, decision or award. If any judgment is entered in favor of the employee, the employer shall pay the amount owed pursuant to the judgment. If the appeal is withdrawn or dismissed, the employer shall pay the amount owed pursuant to the order, decision, or award issued by the Labor Commissioner. (Labor Code §98.2)

5) Empowers the Labor Commissioner to prosecute all actions for the collection of wages, penalties, and demands of persons who are financially unable to employ counsel and who the Labor Commissioner believes have claims which are valid and enforceable. (Labor Code §98.3)

6) Allows the Labor Commissioner to, upon the request of a claimant financially unable to afford counsel, represent such claimant in the de novo proceedings provided for in Section 98.2. In the event that such claimant is attempting to uphold the amount awarded by the Labor Commissioner and is not objecting to any part of the Labor Commissioner's final order, the Labor Commissioner shall represent the claimant. (Labor Code §98.4)

This bill:

1) Allows the Labor Commissioner, upon request of a claimant financially unable to afford counsel, to represent such a claimant in the de novo proceedings provided for in Labor Code 98.2, regardless of whether such proceedings are held in a judicial or arbitral form.

2) Allows a wage claimant who is unable to have their claim adjudicated and decided by the Labor Commissioner due to the entry of a court order compelling arbitration to request that the Labor Commissioner represent them in the arbitral proceeding. The Labor Commissioner shall represent such a claimant if they are financially unable to afford counsel and if the Labor Commissioner determines that the claim has merit.

3) Orders that a petition to compel arbitration of a claim pursuant to Labor Code 98, 98.1, or 98.2 be served to the Labor Commissioner. Upon request of a claimant, the Labor Commissioner has the right to represent the claimant in proceedings to determine the enforceability of the arbitration agreement, regardless if that adjudication takes place in a judicial or arbitral form.

Comments

Need for this bill? According to the author, "Under existing law, the Labor Commissioner plays an adjudicatory role in the Berman hearing, but thereafter, if the Berman hearing results in an order, decision or award (ODA) in favor of the claimant, and the employer files a de novo appeal of that ODA, and the claimant cannot afford private counsel, the Labor Commissioner is required to represent the claimant in the de novo proceedings. Existing law does not provide authorization for the Labor Commissioner to represent a wage claimant unless there has been a Berman hearing and a resulting Order, Decision or Award in the claimant's favor. Thus, a wage claimant forced to arbitrate a wage claim, and prohibited from having the claim heard and decided by the Labor Commissioner, is deprived of the right to no-cost representation. Claimants who cannot afford private counsel face a higher prospect of a defeat in arbitration or settlement of their claim at a substantial discount."

According to the Senate Labor, Public Employment and Retirement Committee staff:

> Under current law, the Labor Commissioner is authorized to adjudicate claims by employees that allege their employer has paid them less than the minimum wage. This administrative process is known as a Berman Hearing. During this process, the commissioner can represent a worker who is financially unable to afford counsel and, due to the more informal nature of the process, often a Berman Hearing is much swifter at rendering a judgment than judicial avenues. Upon the conclusion of a Berman Hearing, a party that does not agree with the decision they may appeal it and have the claim heard again from the beginning. At this point, several potential obstacles present themselves to employees.
>
> More and more, employers are requiring their employers to sign documents as a condition of hiring that compel arbitration in disputes with their employer. Arbitration is not inherently unfair, but for a variety of reasons arbitration favors employers and exacerbates the inherent resource disadvantage present in an employee-employer relationship. Depending on the type of mandatory

arbitration document, an employee may be prohibited from having the Labor Commissioner represent them in a Berman Hearing, might be compelled into arbitration following the appeal of a judgment or may be blocked from utilizing the Berman Hearing process at all.

To address these challenges, SB 1384 grants the Labor Commissioner additional leeway to represent a minimum wage claimant in two important ways. First, it allows the commissioner to represent the worker in a de novo appeal to a Berman Hearing decision, whether that appeal takes place in an arbitral setting or not. Second, it requires that a court order to compel arbitration of an employee's wage claim be served to Labor Commissioner, rather than to the employee. The employee may then request that the commissioner represent them in any proceedings to determine whether that court order is valid and enforceable.

With mandatory arbitration within contracts becoming standard across numerous industries, it is becoming harder and harder for employees to successfully bring wage claims against their employers for violations. These two technical changes to the Labor Commissioner's ability to represent financially-unable workers will help ensure that unpaid wage claims are resolved swiftly and fairly.

Related/Prior Legislation

AB 51 (Gonzalez, Chapter 711, Statutes of 2019) prohibited requiring applicants for employment or employees to waive their right to a judicial forum as a condition of employment or continued employment.

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

SUPPORT: (Verified 6/8/20)

California Employment Lawyers Association

OPPOSITION: (Verified 6/8/20)

None received

ARGUMENTS IN SUPPORT: According the author, "This proposal addresses the increasing use of mandatory arbitration agreements in employment and would allow the Division of Labor Standards Enforcement to represent wage claimants in arbitral proceedings when they are unable to have their wage claims adjudicated by

the Labor Commissioner in the Berman hearing process due to a court order compelling arbitration of the claim."

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

SENATE RULES COMMITTEE SB 1386
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THIRD READING

Bill No: SB 1386
Author: Moorlach (R)
Amended: 4/1/20
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 7-0, 5/21/20
AYES: McGuire, Moorlach, Beall, Hertzberg, Hurtado, Nielsen, Wiener

SUBJECT: Local government: assessments, fees, and charges: water

SOURCE: Irvine Ranch Water District
San Diego County Water Authority

DIGEST: This bill provides that fire hydrants are a part of water service for the purposes of Proposition 218.

ANALYSIS:

Existing law:

1) Imposes constitutional limits on local officials' ability to impose, increase, and extend fees, including property-related fees (Proposition 218, 1996).

2) Defines a property-related fee as 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 for a property-related service.

3) Specifies definitions and procedures related to Proposition 218 in the Proposition 218 Omnibus Implementation Act (SB 919, Rainey, 1997). The Act requires local officials to, before imposing a new property related fee or increase an existing one:

   a) Identify the parcels to be charged.

   b) Calculate the fee for each parcel.

c) Notify the parcels' owners in writing about the fees and the hearing.

d) Hold a public hearing to consider and count protests.

e) Abandon the fees if a majority of the parcels' owners protest.

4) Requires new or increased property-related fees to:

a) Be less than the proportional cost of service to each parcel.

b) Receive approval by a majority-vote of the affected property owners, two-thirds registered voter approval, or weighted ballot approval by the affected property owners.

5) Exempts property-related fees for water, sewer, and refuse collection from the voter approval requirements of Proposition 218.

6) Defines water to mean, "any system of public improvements intended to provide for the production, storage, supply, treatment, or distribution of water from any source."

7) Allows a water agency to charge a fee to pay the costs of constructing, operating, and maintaining facilities and equipment related to supplying water for fire protection purposes.

8) Allows water agencies can charge this fee to any entity, except for fire agencies unless the two agencies sign a written agreement.

This bill:

1) Amends the definition of "water" in the Proposition 218 Omnibus Implementation Act to include the public fixtures, appliances, and appurtenances connected to a water system.

2) Includes findings and declarations that state that:

a) The provision of fire service is a separate and distinct category of service from water service.

b) Water dispensed through a fire hydrant is a property-related water service provided to all property owners as an incident of property ownership, and there are service costs for this water to protect real property.

c) Fire hydrants are a part of a water system, provide an immediately available water supply to extinguish fires that threaten structures and improvements, and are not available to the public at large in substantially the same manner as they are to property owners.

3) Provides that, to the extent consistent with Proposition 218, fees or charges for property-related water service may include the costs to construct, maintain, repair, or replace public hydrants attached to a water system and the cost of water dispensed through public hydrants.

4) Allows the fee or charge may be fixed and collected consistent with Proposition 218 and the Proposition 218 Omnibus Implementation Act.

5) States that it is declaratory of existing law.

Background

Most water agencies, whether cities, counties, or special districts, that serve retail customers use ratepayer funds to pay for fire hydrants, the extra capacity needed for emergency fire flows, and the water used in fighting a fire that is dispensed from a hydrant, as authorized in statute. The Legislature enacted this authority in 1973—prior to the passage of Proposition 218. On February 19, 2020, a class action lawsuit was filed against 81 water agencies throughout the state alleging that their practice of charging ratepayers for the costs associated with supplying water for fire protection violates Proposition 218. Specifically, the complaint argues that this practice results in water agencies charging ratepayers for more than the cost of service to their parcel and imposes costs on property owners for general governmental services that are available to the public at large in substantially the same manner as they are available to property owners.

The Irvine Ranch Water District and the San Diego County Water Authority wants the Legislature to amend the Proposition 218 Omnibus Implementation Act to clarify that water service includes adequate capacity to serve demands during firefighting and the water associated with firefighting.

Comments

1) *Purpose of the bill.* According to the author, "SB 1386 is patterned after a recent unpublished case - *Glendale Coalition for Better Gov't v. City of Glendale* (2018) - where the court effectively reaffirmed the appropriateness of current charges by stating that fire hydrants used to protect properties from fire and costs associated with them are in fact property-related services and therefore allowable under Proposition 218. The bill is an important measure

that can be enacted to protect fire hydrant system funding that would not increase water rates because the costs of fire hydrant system maintenance and operation are already appropriately embedded in customers' water rates, as permitted by existing law."

2) *Fire and water*. At the heart of the lawsuit that has spawned SB 1386 are two questions: (a) are fire hydrants and the water that comes out of them an element of water service or of fire service, and (b) who benefits from the having fire hydrants available for use? The plaintiffs take the position that water and the related infrastructure used in the course of firefighting is a part of providing fire service and is available in the same manner to both property owners and the public. Therefore, charging property owners for those costs impermissibly charges ratepayers for general governmental services. Water agencies see it differently: they argue that the benefit of fire hydrants accrues to the property owners because hydrants are positioned and used to fight structure fires, not wildland or other types of fires that are unrelated to a specific property. One recent court decision agrees with the water agencies (*Glendale Coalition for Better Gov't v. City of Glendale*, 2018 Cal. App. Unpub. LEXIS 8783). The Second District Court of Appeals stated:

> …despite the nomenclature, 'public fire protection' is not generally available to the public at large in substantially the same manner as it is to the property owners who pay the fee. The general public does not have access to water through fire hydrants. … Fire hydrants are required to protect subdivisions, buildings, and portions of buildings within City limits. Common sense dictates that fire hydrants are located and available to extinguish fires that threaten property damage. … Although fire departments could conceivably use any available measure to extinguish a fire unrelated to real property, including hydrant water in the absence of an alternative, hydrants are not located, designed, or intended for all fires that happen to occur in public places, and the water pressure is excessive. … We conclude: the public fire protection fee provided through hydrants is not a service available to the general public in substantially the same manner as it is to the property owners who pay the fee. Charging the fire protection fee to property owners, therefore, did not violate article XIII D, section 6, of the California Constitution.

SB 1386 borrows heavily from this ruling in an attempt to codify the water agency position, affirming that fire hydrants are a component of water service.

The Legislature may wish to consider whether fire hydrants are a component of water service or more closely connected to the provision of fire service.

3) *Easy way out?* There is one clear way of complying with the plaintiff's interpretation of Proposition 218's requirements: water agencies could charge fire agencies for the costs of the facilities that deliver water for firefighting. But this solution isn't as simple as it appears. Proposition 218 grants special status to water service over other types of services: fees for water service don't need voter approval, while nearly all other property-related fees and all taxes do. If fire agencies were required to pay the costs of the infrastructure used to suppress fires, they would have to find the money by securing voter approval for a tax or assessment at the ballot or cut other services. Given the current economic climate, the electorate may not look favorably on new taxes, and local agencies are already considering deep cuts to services to make up for lost revenue. SB 1386 helps maintain service levels by allowing water agencies to continue to spread the cost over their ratepayer base without needing a vote of the people to increase taxes.

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

SUPPORT: (Verified 5/22/20)

Irvine Ranch Water District (co-source)
San Diego County Water Authority (co-source)
Association of California Cities, Orange County Chapter
Association of California Water Agencies
California Fire Chiefs Association
California Municipal Utilities Association
California Professional Firefighters
California Special Districts Association
California State Firefighters Association
California Water Association
California Water Service
City of Escondido
City of Fountain Valley
City of Fullerton
City of Oceanside
City of Pasadena
City of Poway
City of Santa Rosa
City of Torrance

City of Whittier
Coachella Valley Water District
Cucamonga Valley Water District
East Bay Municipal Utility District
Eastern Municipal Water District
El Toro Water District
Elsinore Valley Municipal Water District
Fire Districts Association of California
Helix Water District
Las Virgenes Municipal Water District
Otay Water District
Padre Dam Municipal Water District
Rainbow Municipal Water District
Regional Water Authority
San Francisco Public Utilities Commission
Santa Ana Public Works Agency
Santa Clarita Valley Water Agency
Santa Margarita Water District
Trabuco Canyon Water District
Valley Center Municipal Water District
Vista Irrigation District
Walnut Valley Water District

OPPOSITION: (Verified 5/22/20)

None received

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5/22/20 14:07:45

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

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THIRD READING

Bill No: SB 1441
Author: McGuire (D)
Introduced: 2/21/20
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 7-0, 5/11/20
AYES: McGuire, Moorlach, Beall, Hertzberg, Hurtado, Nielsen, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Local Prepaid Mobile Telephony Services Collection Act

SOURCE: Author

DIGEST: This bill removes the sunset date on the Local Prepaid Mobile Telephony Services Collections Act, and imports into the Act several administrative provisions previously part of the now-repealed Prepaid Mobile Telephony Services Surcharge Collections Act, with some modifications.

ANALYSIS:

Existing law:

1) Authorizes utility users' taxes (UUTs), which are excise taxes imposed on consumers of utilities by cities and counties on the consumption of utility services, including electricity, gas, water, sewer, telephone, sanitation, and cable television.

2) Enacts the Prepaid Mobile Telephony Services Surcharge Collections Act, which required sellers of prepaid wireless telecommunications services to collect a fee measured as a percentage of the sales price, known as the Mobile Telephony Services (MTS) fee (AB 1717, Perea, Chapter 885, Statutes of 2014), comprised of two parts:

   a) The prepaid MTS surcharge, which adds together state fees charged by the California Public Utilities Commission (CPUC) to fund the state's universal

services fund among other CPUC charges, plus surcharges on telecommunications services determined by the Office of Emergency Services (OES) to fund the state's 911 emergency response system.

b) The Local Prepaid Mobile Telephony Services Collection Act, which created the second part of the MTS fee – the local charge – which adds together local UUTs and any charges to fund local 911 emergency fees that apply in the jurisdiction where the customer purchases the prepaid MTS services.

3) Allows sellers of prepaid wireless services to choose to pay the actual local UUT rate, or the one set by the Act.

4) Provides that the MTS fee was the exclusive method for collecting UUTs, local 911 charges, or any other charge on prepaid wireless, and defines the scope of any tax or charge.

5) Commences collection of the MTS fee on January 1, 2016, directing sellers of prepaid wireless services to remit funds to the California Department of Tax and Fee Administration (CDTFA), which in turn distributes fee proceeds to the appropriate state or local agency.

6) Exempts sellers with less than $15,000 in sales in the previous calendar year from the requirement to collect the MTS fee, and directs CDTFA to adjust the $15,000 threshold for inflation annually.

7) Provides vendor compensation for indirect sellers, or those retailers who sell prepaid services but are not mobile telephony service or Voice over Internet Protocol providers, equal to 2% of the fees collected.

8) Sunsets the Prepaid Mobile Telephony Services Surcharge Collections Act on January 1, 2020.

9) Replaces the previous state 911 surcharge with a new monthly charge to fund the state's 911 emergency response system (SB 96, Committee on Budget and Fiscal Review, Chapter 54, Statutes of 2019), effective on January 1, 2020, which:

a) Maintains OES's role determining the amount of the charge.

b) Changes the measure of the charge to up to $0.80 per access line per month, instead of the previous cap of 1% of charges for services.

c) Applies to sellers of prepaid MTS at the rate of up to $0.80 per retail transaction in California, paid by the consumer at the time of purchase.

10) Extends the Local Prepaid Mobile Telephony Services Collection Act until January 1, 2021 (SB 344, McGuire, Chapter 642, Statutes of 2019), with some modifications.

This bill:

1) Deletes the January 1, 2021, sunset date on the Local Prepaid Mobile Telephony Services Surcharge Collections Act.

2) Adds into the Local Act several provisions of law that were previously part of the Prepaid Mobile Telephony Services Surcharge Collections Act, with some modifications, including:

a) Deleting references requiring sellers to collect the local charge from the prepaid consumer at the same time and in the same manner as the state charge was collected, as that law read on January 1, 2017, instead imposing the collection requirement at the time of sale.

b) Requiring CDTFA to post the individual rates for each local charge on its Web site, and provide that sellers may rely on the information posted.

c) Allowing sellers that are not direct sellers to retain an amount equal to 2% of the amounts that are collected.

d) Requiring direct sellers to collect and remit local charges to the local agency.

e) Specifying local charges must be separately stated on a receipt, invoice or similar document or disclosed electronically to the prepaid consumer.

f) Specifying amounts collected are debts jointly to the state and the respective local agency,

g) Providing excess fees collected may be refunded to prepaid consumers.

h) Stating prepaid consumers are liable for the local charge unless they make a payment to sellers.

i) Allowing a credit against local charges when the prepaid consumer paid local charges to another state.

j) Relieving a seller's liability to remit local charges from worthless accounts that have been charged off for income tax purposes, and allowing sellers to deduct charged off amounts from worthless accounts from their return, but requiring sellers to report and remit any charged off amounts collected on the first return filed if they subsequently collect.

k) Providing that a retail transaction occurs in this state when the prepaid consumer makes a purchase in person at a business location in the state, referred to as a point-of-sale transaction, or the prepaid consumer's address is in the state, called a known-address transaction. Defining a known-address transaction as one that occurs when:

   i) The retail sale involves shipping of an item to be delivered to, or picked up by, the prepaid consumer at a location in the state.

   ii) The prepaid consumer's address is known by the seller to be in the state, including if the seller's records maintained in the ordinary course of business indicate that the prepaid consumer's address is in the state and the records are not made or kept in bad faith.

   iii) The prepaid consumer provides an address during consummation of the retail transaction that is in the state, including an address provided with respect to the payment instrument, if no other address is available and the address is not given in bad faith.

   iv) The mobile telephone number is associated with a location in this state and the address is not otherwise available.

l) Clarifying that the local charge applies to bundled transactions when:

   i) Prepaid MTS is sold in combination with mobile data services or any other services or products that are not subject to the local charges for a single price, in which case local charges apply to the entire price unless the seller can identify the mobile data services and other services or products from its books and records kept in the ordinary course of business.

   ii) Prepaid MTS is sold with a device such as a telephone, for a single, nonitemized price, in which case local charges apply to the entire nonitemized price, except if the purchase price for the cellular telephone component of the bundled charge is disclosed to the prepaid consumer on a receipt, invoice, or other written or electronic documentation, in

which case the local charges the separately stated price of the cellular telephone can be excluded.

iii) A minimal amount (less than ten minutes or five dollars) of prepaid mobile telephony service is sold for a single, nonitemized price with a mobile telephony service communications device, in which case local charges do not apply to the transaction.

m) Specifying that CDTFA must collect and administer the local charges pursuant to the Fee Collection Procedures Law.

n) Requiring persons that remit sales and use taxes by electronic funds transfer to do so for local charges.

o) Allowing CDTFA to prescribe emergency regulations to implement the bill.

p) Requiring CDTFA to establish procedures to be used by sellers to document non-retail sales.

q) Requiring CDTFA to establish remittance schedules utilizing existing methods for the Sales and Use Tax.

r) Specifying payments and returns are due on a quarterly basis.

s) Requiring sellers to register with CDTFA.

3) Defines several terms, and makes technical and conforming changes, including updating references from "board" to "department" throughout, as the Board of Equalization, CDTFA's predecessor, administered the Prepaid MTS Surcharge when the Legislature enacted AB 1717.

Background

In jurisdictions that impose a UUT, a utility company generally collects the tax through the bills it sends to utility customers, and remits the revenues to the local government that imposed the tax. Although a city or county can impose a UUT as a special tax, nearly all UUTs are imposed as general taxes. As of January 1, 2017, 156 cities, three counties (Alameda, Los Angeles, and Sacramento), and the City and County of San Francisco impose a UUT, which results in annual revenues of approximately $2 billion statewide. Most UUTs apply to wireless telephone services, with the tax measured as a percentage of the carrier's charges to the customer.

Wireless telecommunications consumers who have contracts with carriers to provide wireless telephony services pay UUTs as part of their monthly bills, and the carrier remits these funds to the local jurisdiction where the consumer primarily uses the phone, if that jurisdiction imposes a UUT. However, prepaid wireless customers who purchase services from carriers in the form of prepaid cards do not have a similar ongoing contractual relationship with a carrier. Prior to AB 1717, collecting UUTs from prepaid customers was difficult; customers usually purchase prepaid services from third party retail outlets, and pay in full before the consumer uses the service, so no mechanism exists to collect ongoing charges from prepaid customers.

In 2017, mobile telecommunications provider MetroPCS brought an action in federal court against CPUC contenting that its calculation of its portion of the MTS fee impermissibly assesses interstate revenues in conflict with federal law. On November 15, 2018, the United States District Court Northern District of California declared that the Prepaid Collection Act and the CPUC resolutions implementing calculation of its part of the fee were in conflict with federal law, and therefore preempted and unconstitutional (*MetroPCS California, LLC v. Michael Picker et al*, 348, F. Supp. 3d. 948.) The decision enjoined state agencies from enforcing the Prepaid Mobile Telephony Services Surcharge Collections Act. As a result, on December 14, 2018, CDTFA notified prepaid MTS sellers to stop collecting the prepaid MTS surcharge.

However, the decision did not affect CDTFA's administration of the Local Act, which was not at issue in the case. CDTFA distributes MTS Fee proceeds to approximately 107 local agencies, which will end on January 1, 2020, unless extended by the Legislature.

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

SUPPORT: (Verified 6/3/20)

State Treasurer Fiona Ma
AT&T
California State Association of Counties
City of Bellflower
City of Burbank
City of Hermosa Beach
City of Lakewood
City of Sacramento
City of San Leandro
City of San Luis Obispo

City of Stockton
City of Thousand Oaks
CTIA – the Wireless Association
League of California Cities
MuniServices
Sprint
T-Mobile
Tracfone
Verizon

OPPOSITION: (Verified 6/3/20)

None received

ARGUMENTS IN SUPPORT: According to the author, "Due to the unprecedented coronavirus pandemic, cities and counties are facing crippling budget deficits for years to come. SB 1441 will preserve local jurisdictions ability to collect Utility User Taxes (UUTs) from retail sales of prepaid wireless telecommunication products and services. Over 100 cities and counties rely on this locally imposed, voter-approved revenue stream to provide important services like public safety and road repair. Without SB 1441, these local governments will lose their ability to collect this revenue at the end of the year. As we face disastrous economic uncertainty, SB 1441 is crucial to ensuring locals maintain the ability to collect on revenue they have relied on since 2016."

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6/4/20 9:58:16

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

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THIRD READING

Bill No: SB 1447
Author: Bradford (D)
Amended: 5/5/20
Vote: 21

SENATE BANKING & F.I. COMMITTEE: 7-0, 5/19/20
AYES: Bradford, Chang, Caballero, Dahle, Durazo, Hueso, Portantino

SUBJECT: Mortgages and deeds of trust: foreclosure

SOURCE: Author

DIGEST: This bill expands Homeowner Bill of Rights protections to homeowners who rent their properties out to tenants, as specified; re-enacts a provision of California's advance fee ban that had been allowed to sunset; and expands California's foreclosure consultant law to cover actions taken to prevent foreclosure prior to a mortgage delinquency.

ANALYSIS:

Existing law:

1) Provides a series of protections for homeowners, collectively known as the Homeowner Bill of Rights (HBOR), which are intended to prevent avoidable foreclosures on owner-occupied principal residences. Provisions of HBOR apply to first lien mortgages and deeds of trust secured by owner-occupied residential real property containing no more than four dwelling units. A nonexhaustive list of the provisions of HBOR include the following:
   a) Prohibits servicers from recording a notice of default (NOD) until at least 30 days after making contact with a borrower to discuss options for avoiding foreclosure or undertaking due diligence, as specified, to make borrower contact (Civil Code Section 2923.5).
   b) Requires servicers to provide a written notice to borrowers informing them that they may request specified account documentation regarding their

mortgages and that they may be eligible for protections under the federal Servicemembers' Civil Relief Act (Civil Code Section 2923.55).

c) Contains prescriptive, anti-dual tracking provisions prohibiting servicers from taking the next step in the foreclosure process while a complete loan modification application is pending or is under appeal. Allows borrowers to re-apply for a foreclosure prevention alternative following a documented, material change in their financial circumstances. Provides specified timelines for the acceptance of loan modification offers by borrowers. Requires servicers to include specified information in their denial notices. Requires servicers to allow borrowers to appeal loan modification denials. Requires borrowers to submit their final first lien loan modification applications at least five business days before a scheduled foreclosure sale in order to be eligible for HBOR protections (Civil Code Sections 2923.6, 2924.11, and 2924.18).

d) Requires servicers to notify borrowers in writing whenever a foreclosure sale is postponed for more than ten days (Civil Code Section 2924).

e) Requires servicers to provide a written notice to borrowers within five business days following recordation of a NOD, advising them of foreclosure prevention alternatives and outlining the loss mitigation process (Civil Code Section 2924.9).

f) Requires servicers to assign a single point of contact (SPOC) to any borrower who requests a foreclosure prevention alternative. The SPOC is either an individual or a team of personnel, each of whom has the ability and authority to undertake several responsibilities specified in statute, and each of whom is knowledgeable about the borrower's situation and current status in the loss mitigation process. The requirement to offer a SPOC concludes when the servicer determines that all loss mitigation options offered by or through that servicer have been exhausted, or when the borrower's account becomes current (Civil Code Section 2923.7).

g) Requires servicers to acknowledge receipt of every document submitted by a borrower in connection with their application for a foreclosure prevention alternative, identify any missing items, and provide borrowers with the deadline by which the missing items must be submitted (Civil Code Section 2924.10).

h) Prohibits servicers from charging application, processing or other fees to borrowers who apply for foreclosure prevention alternatives. Prohibits servicers from charging late fees while they are reviewing loan modification applications or appeals or receiving timely payments under a modified loan.

Requires servicers that approve borrowers for a permanent foreclosure prevention alternative to provide borrowers with a fully executed copy of that agreement. Requires servicers to rescind the NOD and cancel any pending trustee's sale once a borrower executes a permanent foreclosure prevention alternative. (Civil Code Section 2924.11).

i) Requires a servicer, before recording any one of several different types of documents that are required in the context of nonjudicial foreclosures, to ensure that it has reviewed competent and reliable evidence to substantiate the borrower's default and the servicer's right to foreclose. Requires all foreclosure-related documents recorded by or on behalf of a mortgage servicer must be accurate and complete and supported by competent and reliable evidence (Civil Code Section 2924.17).

j) Authorizes state regulators to enforce violations of the aforementioned rules as violations of state lending laws. Authorizes private rights of action for material violations of the aforementioned requirements that go uncorrected by a servicer. Authorizes borrowers to bring actions for injunctive relief prior to the completion of a trustee sale and for actual economic damages following a trustee sale. Successful plaintiffs, defined as those who receive injunctive relief or are awarded damages, are also entitled to reasonable attorney's fees and costs (Civil Code Section 2924.12).

2) Provides for the following, pursuant to SB 94 (Calderon, Chapter 630, Statutes of 2009), and subsequent legislation making the provisions of SB 94 permanent:

a) Makes it unlawful for any person who negotiates, attempts to negotiate, arranges, attempts to arrange, or otherwise offers to perform a mortgage loan modification or other form of mortgage loan forbearance for a fee or other compensation paid by the borrower, to do any of the following in connection with a mortgage or deed of trust secured by residential real property containing four or fewer dwelling units (Civil Code Section 2944.7 and Business and Professions Code Section 10085.6):

i) Claim, demand, charge, collect, or receive any compensation until after the person has fully performed each and every service the person contracted to perform or represented that they would perform.

ii) Take any wage assignment, any lien of any type on real or personal property, or other security to secure the payment of compensation.

iii) Take any power of attorney from the borrower for any purpose.

b) Requires any person who negotiates, attempts to negotiate, arranges, attempts to arrange, or otherwise offers to perform a mortgage loan modification or other form of mortgage loan forbearance for a fee or other compensation paid by the borrower, to provide the following to the borrower, as a separate statement, in not less than 14-point bold type, prior to entering into any fee agreement with the borrower (Civil Code Section 2944.6 and Business and Professions Code Section 10147.6):

"It is not necessary to pay a third party to arrange for a loan modification or other form of forbearance from your mortgage lender or servicer. You may call your lender directly to ask for a change in your loan terms. Nonprofit housing counseling agencies also offer these and other forms of borrower assistance free of charge. A list of nonprofit housing counseling agencies approved by the United States Department of Housing and Urban Development (HUD) is available from your local HUD office or by visiting www.hud.gov."

c) Provides that if loan modification or other mortgage loan forbearance services are offered or negotiated in one of the languages set forth in Civil Code Section 1632, a translated copy of the aforementioned statement must be provided to the borrower in that foreign language (Civil Code Section 2944.6 and Business and Professions Code Section 10147.6).

d) Provides that a violation of Civil Code Section 2944.6 by an attorney constitutes cause for the imposition of discipline against that attorney under the State Bar Act.

3) Regulates mortgage foreclosure consultants pursuant to Article 1.5 of Chapter 2 of Title 14 of Part 4 of Division 3 of the Civil Code (Civil Code Section 2945 et seq.), as follows:

a) Contains findings and declarations that homeowners whose residences are in foreclosure are subject to fraud, deception, harassment, and unfair dealing by foreclosure consultants from the time a NOD is recorded until a foreclosure sale is concluded (Civil Code Section 2945).

b) Defines a foreclosure consultant as any person who makes any solicitation, representation, or offer to any homeowner to perform for compensation, or who, for compensation, performs any service which the person in any manner represents will stop or postpone a foreclosure sale, obtain any forbearance from any beneficiary or mortgagee (i.e., from a lender or servicer), help a homeowner reinstate their ownership of a property, obtain a waiver of an acceleration clause contained in a promissory note secured by a mortgage or deed of trust, help a homeowner obtain a loan or advance of

funds, or avoid or mitigate the impairment of a homeowner's credit resulting from the recordation of a NOD or the completion of a foreclosure sale (Civil Code Section 2945.1).

c) Exempts a variety of professionals from the definition of a foreclosure consultant, including attorneys, as specified; real estate licensees; depository institutions; finance lenders; residential mortgage lenders; proraters; accountants; and persons acting under the express authority of the federal government. These exemptions have the effect of subjecting the exempt entities to the provisions of SB 94, described above (Civil Code Section 2945.1).

d) Requires foreclosure consultants to register with the Department of Justice (Civil Code Section 2945.45) and prohibits foreclosure consultants from doing any of the following (Civil Code Section 2945.4):

   i) Claiming, demanding, charging, collecting, or receiving any compensation until after they have fully performed each and every service they have contracted to perform or represented they would perform, as specified.

   ii) Taking any wage assignment, any lien of any type on real or personal property, or other security to secure the payment of compensation.

   iii) Acquiring any interest in a residence in foreclosure from a homeowner with whom the foreclosure consultant has contracted.

   iv) Taking any power of attorney from a homeowner for any purpose.

   v) Entering into an agreement to help the homeowner secure the release of surplus funds following a foreclosure sale, as specified.

e) Specifies the wording of contracts used by foreclosure consultants; requires these contracts to be translated into the same language used by the consultant to describe his or her services, as specified; and provides individuals five days in which to rescind a contract with a foreclosure consultant (Civil Code Sections 2945.2 and 2945.3).

This bill:

1) Extends HBOR protections, from January 1, 2021 until January 1, 2023, to first lien mortgages and deeds of trust on properties secured by tenant-occupied residential real property containing no more than four dwelling units.

   a) To qualify for HBOR relief, all of the following conditions must be met:

i) The property must be owned by an individual who owns no more than three residential real properties, each of which contains no more than four dwelling units.

ii) The property must have been occupied by a tenant pursuant to a lease entered into pursuant to an arm's length transaction, as defined, prior to and in effect on March 4, 2020 (the date of the State of Emergency declared by Governor Newsom in response to the novel coronavirus).

iii) The tenant occupying the property must have been unable to pay rent due to a reduction in income resulting from the novel coronavirus.

b) Relief is available as long as the property remains the principal residence of a tenant pursuant to a lease entered into in an arm's length transaction, as defined.

2) Provides that a violation of Civil Code Section 2944.7 by an attorney constitutes cause for the imposition of discipline against that attorney under the State Bar Act.

3) Amends the foreclosure consultant law to cover situations where an economic crisis threatens the ability of a homeowner to afford their mortgage payments, as follows:

a) Amends the findings and declarations to recognize that a homeowner whose residence is not yet in foreclosure is at risk of harm from foreclosure consultants from the time an economic crisis threatens that homeowner's ability to afford their mortgage payments.

b) Amends the definition of a foreclosure consultant to add the act of stopping or postponing a delinquency on a mortgage or deed of trust.

Background

This bill has three provisions, each of which is discussed below.

HBOR Expansion. In 2012, California enacted a comprehensive set of protections for homeowners, which were intended to prevent avoidable foreclosures on owner-occupied principal residences [HBOR; AB 278 (Eng et al., Chapter 86, Statutes of 2012) and SB 900 (Leno et al., Chapter 87, Statutes of 2012)]. California made those provisions permanent in 2018 [SB 818 (Beall, Chapter 404, Statutes of 2018)]. Those provisions should offer California homeowners protection against avoidable foreclosures on their principal residences, if the COVID-19 mortgage relief provided at the state and federal level fails to prevent these homeowners from becoming delinquent on their mortgages. However, existing California law will *not* provide needed relief to individuals who own investment properties that

they rent out to tenants, if those tenants' inability to afford their rent payments forces the property owners into mortgage delinquency. Lack of foreclosure protections for owners of rental properties could force tenants onto the streets, if the owners of the homes those tenants are occupying are foreclosed upon.

The provisions of SB 1447 are drafted in a manner intended to keep roofs over tenants' heads while also minimizing the potential for abuse of the mortgage relief. This bill is limited to individuals who own three or fewer residential properties, to focus on mom-and-pop landlords. In order to qualify for relief, a landlord must have had a tenant in the property paying market rate rent as of the date the State of Emergency was declared by Governor Newsom (March 4, 2020), that tenant must have been unable to pay their rent due to a reduction in income related to the novel coronavirus, and the landlord must continue renting the home out while he or she seeks HBOR relief from foreclosure. Notably, this bill does *not* require that the tenant who occupied the property as of March 4, 2020, continue living in the property in order for a homeowner to claim relief. Relief is available as long as the property is occupied by a tenant subject to an arms' length lease. The arms' length lease requirement is intended to minimize the potential for a homeowner to request relief on a home that is unoccupied or is occupied by a squatter.

Restoring All of the Protections in SB 94 from 2009 (Advance Fee Ban). In 2009, California led the nation by prohibiting people who offer to help individuals obtain loan modifications or other forms of mortgage relief from collecting money up front for their services [SB 94 (Calderon, Chapter 630, Statutes of 2009)]. SB 94 requires anyone seeking payment for helping a homeowner avoid foreclosure to perform all of the services they are contractually obligated to perform before they may seek payment from the homeowner. Most of that original law is still on the books, but one provision, which expressly allows the State Bar to sanction an attorney who violates the advance fee ban, ended up sunsetting due to chaptering issues. This bill restores the sunsetted provision, ensuring that the entirety of SB 94 is permanently restored.

Restoring the sunsetted provision is intended to make it easier for the State Bar to bring disciplinary action against attorneys who violate the advance fee ban. According to policy committee analyses of SB 980 (Vargas) from 2012, during the depths of the foreclosure crisis, the State Bar received over 8,600 complaints alleging misconduct in loan modification matters, resulting in investigations of nearly 800 attorneys, and the imposition of discipline against over 110 of them. One of the key lessons learned during the 2007 to 2009 time period is that it is far easier to proactively put rules in place intended to prevent fraud than it is to stop fraud once it is prevalent.

Expanding the Foreclosure Consultant Law to Cover Actions Taken to Prevent Foreclosure Prior to a Borrower Delinquency. In 2008, AB 180 (Bass, Chapter 278, Statutes of 2008) added extensive new consumer protections to California's mortgage foreclosure consultant law and, among its provisions, required persons wishing to engage in business as mortgage foreclosure consultants to register with the California Department of Justice. However, California's existing foreclosure consultant law only applies once a mortgage is in delinquency; it fails to cover the period of time during a financial hardship, before that hardship leads to a mortgage delinquency. Most of the federal and state homeowner relief announced in response to COVID-19 includes mortgage forbearance, which technically keeps borrowers out of delinquency. Because homeowners who have been provided mortgage forbearance from their servicers are not considered delinquent, they could be preyed upon by unscrupulous individuals not covered by California's foreclosure consultant law. SB 1447 closes that loophole.

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

SUPPORT: (Verified 5/19/20)

Center for Responsible Lending
Consumer Reports
Housing and Economic Rights Advocates

OPPOSITION: (Verified 5/19/20)

None received

ARGUMENTS IN SUPPORT: Housing and Economic Rights Advocates (HERA) writes that "At HERA, we have seen a resurgence of foreclosure rescue scams over the last several years as the homeowner and small property owner population ages and becomes more vulnerable financially, physically and emotionally. Small owners at any age are vulnerable with the expense of a mortgage and fluctuations in cashflow....We are in danger of seeing affordable rental housing lost to foreclosure in our state en masse which includes single family homes, duplexes, triplexes, and four-plexes. SB 1447 takes a significant, necessary step towards giving owners a chance to prevent this loss."

Prepared by: Eileen Newhall / B. & F.I. /
5/21/20 10:08:43

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

SENATE RULES COMMITTEE SB 1448
Office of Senate Floor Analyses
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THIRD READING

Bill No: SB 1448
Author: Bradford (D)
Amended: 6/2/20
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 12-0, 5/26/20
AYES: Hill, Bradford, Chang, Dahle, Dodd, Hertzberg, McGuire, Pan, Rubio, Skinner, Stern, Wiener
NO VOTE RECORDED: Moorlach

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Fire prevention: electrical corporations: wildfire mitigation plans: workforce diversity

SOURCE: Author

DIGEST: This bill requires an electrical corporation's wildfire mitigation plan to include a description of how the electrical corporation will develop sufficient numbers of experienced personnel necessary to complete the work described in the plan, as provided.

ANALYSIS:

Existing law:

1) Establishes the California Public Utilities Commission (CPUC), which has regulatory authority over public utilities, including electrical corporations. (California Constitution Article XII, §§3 and 4)

2) Requires each electrical corporation to annually prepare and submit a wildfire mitigation plan to the CPUC for review and approval, as specified. (Public Utilities Code §8386)

3) Requires an electrical corporation's wildfire mitigation plan to include specified components. (Public Utilities Code §8386)

4) Establishes the California Conservation Corps (CCC) to train young men and women to engage in projects that include, but are not limited to, preserving, maintaining, and enhancing environmentally important lands and waters, accomplish useful and needed public works projects in both urban and rural areas, and assist in fire prevention and suppression. (Public Resources Code §14000 et seq.)

5) Establishes the Community Conservation Corps, commonly known as the local conservation corps, to mean nonprofit public benefit corporation or an agency operated by a city, county, or city and county, and is certified by the CCC as meeting specified criteria. (Public Resources Code §14507.5)

This bill requires an electrical corporation's wildfire mitigation plan to include a description of how the electrical corporation will develop sufficient numbers of experienced personnel necessary to complete the work described in the plan, including:

1) The extent to which the electrical corporation is seeking to develop as part of its workforce current and former members of CCC crews;

2) Current and former crew members of community conservation corps, as defined in Public Resources Code Section 14507.5; and

3) Formerly incarcerated conservation crew members.

Background

Wildfire Mitigation Plan (WMP). As a result of SB 1028 (Hill, Chapter 598, Statutes of 2016), and further expanded by SB 901 (Dodd, Chapter 626, Statutes of 2018) and AB 1054 (Holden, Chapter 79, Statutes of 2019), electric investor-owned utilities (IOUs) are required to file a WMP with guidance by the CPUC, specifically the Wildfire Safety Division (WSD). The CPUC also reviews and determines whether to approve these plans and ensures compliance with guidance and statute. The electric IOUs' WMPs detail, describe and summarize electric IOU responsibilities, actions, and resources to mitigate wildfires. These actions include plans to harden their system to prevent wildfire ignitions caused by utility infrastructure, such as widespread electric line replacement with covered conductors designed to lower wildfire ignition, pole replacement, and other

actions. The plans also include information regarding the electric IOUs' efforts to conduct extensive vegetation management to reduce the risk of tree branches, grasses, and other vegetation from coming into contact with utility infrastructure. Electric utility employees conduct some of the wildfire mitigation work. However, electric utilities also contract with third parties for much of the work. In response to recent catastrophic and deadly fires caused by utility infrastructure, the state has imposed additional requirements on electric utilities to reduce their wildfire risks. The aggressive efforts to mitigate more of their infrastructure has also challenged the existing available workforce supply to conduct these activities.

CCC, local conservation corps. The CCC was established in 1976 by then-Governor Jerry Brown who modeled the CCC after the original Civilian Conservation Corps of the 1930s established by then-President of the United States Franklin Roosevelt which helped put mostly men to work during the Great Depression. The CCC is a department within the California Natural Resources Agency and is the oldest conservation corps in the nation. The program provides young men and women, ages 18-25 years old, a year of paid service to the State of California during their year of service. CCC members come from across the state and work on environmental projects and respond to natural and man-made disasters. The CCC enrolls, roughly, 3,000 members each year, gaining skills and experience with the intent of leading to meaningful careers. The CCC also annually certifies local conservation corps, pursuant to Public Resources Code §14507.5, by ensuring the local conservation corps meets statutory criteria defining a community conservation corps and, when applicable, specified grant funding criteria. The local conservation corps can be nonprofit public benefit corporations or an agency operated by a city, county, or city and county. There are 14 local conservation corps currently certified by the CCC working in regions across the state, including throughout Southern California, the Bay Area, and many areas of the Central Valley.

Comments

This bill notes the intent of the Legislature to expand opportunities for meaningful employment in electrical grid modernization, vegetation management, and wildland firefighting. This bill requires electric IOUs to include additional information in their wildfire mitigation plans about how the utility and its contractors are developing sufficient workforce for the wildfire mitigation work. SB 1448 specifically requires information regarding the efforts to develop as part of the workforce current and former members of the CCC and local conservation corps, including formerly incarcerated members. The author notes, the crux of this

bill is to address the shortages in existing electric utility wildfire mitigation workforce by providing opportunities for current and former members of the CCC and local conservation corps who have developed skills that can help fill the needs of the electric utilities. Some of the state's largest electrical utilities, including Pacific Gas & Electric at a recent hearing of the Senate Energy, Utilities, and Communications Committee, have noted that labor shortages for wildfire mitigation work have been a challenge. Both the CCC and the local conservation corps acquire skills that could provide a potential pool of candidates to help utilities address wildfire risks, including wildland fire suppression and vegetation management, among others.

Related/Prior Legislation

SB 247 (Dodd, Chapter 406, Statutes of 2019) made several changes related to the vegetation management requirements of electrical corporations, including: specifying qualifications and prevailing wages for line clearance tree trimmers, and other requirements.

AB 1054 (Holden, Chapter 79, Statutes of 2019) shifted the responsibility for review of wildfire mitigation plans from the CPUC to the WSD of the CPUC (temporarily located there) and made modifications to the review process, among other provisions.

AB 111 (Committee on Budget, Chapter 81, Statutes of 2019) required, by January 1, 2020, the CPUC to establish the WSD within the CPUC and requires all functions of the WSD to be transferred to Office of Energy Infrastructure Safety, effective July 1, 2021.

SB 901 (Dodd, Chapter 626, Statutes of 2018) established the requirement that the wildfire mitigation plans of each electrical corporation meet a number of specified requirements, among other provisions.

SB 1028 (Hill, Chapter 598, Statutes of 2016) required electric IOUs to file annual wildfire mitigation plans and requires the CPUC to review and comment on those plans. The bill also required POU and electrical cooperatives to determine their risk of catastrophic wildfire that can be caused by their electric lines and equipment and, if a risk exists, submit wildfire mitigation plans to their governing board for its approval.

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

SUPPORT: (Verified 6/9/20)

California Association of Local Conservation Corps
California Forestry Association
Midpeninsula Regional Open Space District
Sonoma Clean Power
The Forestry and Fire Recruitment Program
The Utility Reform Network

OPPOSITION: (Verified 6/9/20)

None received

ARGUMENTS IN SUPPORT: According to the author:

> California's electric utilities are investing substantially in improving grid resiliency in line clearing, vegetation management, and other work throughout the State. The hardworking individuals tasked with completing this work are making California safer. We all have an interest in ensuring there continues to be enough experienced people who can do this work and reduce the risk of wildfires. SB 1448 does so by requiring utilities to plan and invest in workforce development. This includes several groups of potential workers who have experience working on similar issues, such as state and local conservation camp crew members, as well as formerly incarcerated conservation crew members. Increasing the use of these groups with direct, relevant experience will reduce costs and increase safety.

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6/10/20 13:25:18

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

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CONSENT

Bill No: SB 1459
Author: Caballero (D)
Amended: 3/26/20
Vote: 27 - Urgency

SENATE TRANSPORTATION COMMITTEE: 13-0, 5/29/20
AYES: Beall, Allen, Dahle, Dodd, Galgiani, Lena Gonzalez, Grove, McGuire, Melendez, Morrell, Roth, Rubio, Wieckowski
NO VOTE RECORDED: Skinner, Umberg

SUBJECT: Transportation Development Act: Counties of San Luis Obispo and Stanislaus

SOURCE: Stanislaus Council of Government

DIGEST: This bill modifies the Transportation Development Act (TDA) of 1971's farebox recovery ratio (FRR) requirements for certain public transportation agencies, as specified.

ANALYSIS:

Existing law:

1) Provides, under the TDA, funding for transit and non-transit related purposes that comply with regional transportation plans. It serves to improve existing public transportation services and encourage regional transportation coordination.

2) Provides, under the TDA, funding for public transit from two funding sources:

   a) Local Transportation Fund (LTF), which is derived from a 1/4 cent of the general sales tax collected statewide.

   b) State Transit Assistance fund (STA), which is derived from the statewide sales tax on diesel fuel.

3) Authorizes Regional Transportation Planning Agencies (RTPAs) to administer transit funding made available under the TDA. Imposes certain financial requirements on transit operators making claims for transit funds, including requirements that fares collected by the operator cover a specified percentage of operating costs, and that an operator's total operating cost per revenue vehicle hour not exceed operating revenues and the percentage change in the Consumer Price Index. Establishes different farebox recovery requirements depending upon population.

4) Defines "operating costs" for purposes of calculating a transit agency's FRR.

5) Requires a transit operator in an urbanized area to maintain a 20% FRR in order to be eligible for LTF TDA funds.

6) Requires a transit operator in a non-urbanized area to maintain a 10% FRR in order to be eligible for LTF TDA funds.

7) Allows a one-year "grace year" for transit operators who fail to meet their FRR, for which they do not lose LTF funds.

8) Provides that state regulations create a three-year penalty cycle for transit operators who do not meet their FRRs in which a penalty, or loss of some LTF funds, does not occur until the end of the third fiscal year after non-compliance. Allows operators to retain full receipt of LTF funds if they achieve the required FRR within the penalty cycle.

9) Authorizes the Metropolitan Transportation Commission, for transit operators serving the San Francisco Bay Area Rapid Transit District area, excluding the City and County of San Francisco, to make a determination as to whether transit operators have met the requirements for claims for transit funds by evaluating the operators as a group rather than individually if their services are coordinated.

10) Authorizes the San Diego Metropolitan Transit System, for transit operators providing service within the area under their jurisdiction, to make a determination as to whether transit operators have met the requirements for claims for transit funds by evaluating them as a single operator.

11) Authorizes the Sacramento Area Council of Governments, for transit operators serving the area of Sacramento County and the cities within the County, to make a determination as to whether transit operators have met the requirements for claims for transit funds by evaluating some or all of the operators as a group rather than individually if their services are coordinated.

12) Provides the Stanislaus Council of Government (Stan COG) the authority to reduce its FRR by up to five percent if certain conditions are met. Further provides Stan COG the abovementioned authority for two fiscal years, ending on July 1, 2020.

This bill:

1) Extends Stan COG's FRR authorization for an additional three fiscal years terminating on July 1, 2023.

2) Provides, additionally, the exemption to the San Luis Obispo Council of Governments (Slo COG) for the same number of fiscal years.

Comments

1) *Author's Statement*. According to the author, "SB 1459 provides temporary relief from farebox ratio recovery requirements so that transit operators in the counties of San Luis Obispo and Stanislaus can continue to access funding to maintain existing service. The COVID-19 pandemic has exacerbated farebox collection challenges, compromising the ability of transit operators to provide essential dial-a-ride services for society's most vulnerable."

2) *TDA.* In 1971, the Legislature enacted the Mills-Alquist-Deddeh Act, otherwise known as the TDA, which dedicated a statewide 1/4 cent sales tax to local transportation. That 1/4 cent sales tax, now known as the Local Transportation Fund, primarily committed revenues for public transit. Later, the Legislature created a second state funding source for public transit under the TDA called the State Transit Assistance. The STA, is derived from the sales tax on diesel fuel and is distributed to local agencies based on population and transit operator revenues.

   With respect to the LTF, the California Department of Tax and Fee Administration, based on sales tax collected in each county, returns the general sales tax revenues to each county's LTF. For the STA, funds are appropriated by the Legislature to the State Controller's Office (SCO). The SCO then allocates the tax revenue, by formula, to RTPAs and other selected transportation agencies. Current law requires that 50 percent of STA funds be allocated according to population and 50 percent be allocated according to operator revenues.

   To be eligible to receive its full share of LTF, existing law requires a transit operator to meet a specified ratio of fare revenues to operating cost, called the FRR. Generally, existing law defines the minimum ratio necessary to receive

all LTF funding as either 20% for urban operators, or 10% for operators in a non-urbanized area. If a transit operator fails to meet its specified FRR, existing law requires the RTPA to withhold a percentage of the LTF equal to the percentage by which the operator missed its expected ratio.

3) *Stanislaus County.* Transit operators in Stanislaus County have been struggling since the 2010 census. In the 2010 census, the population of the county exceeded the 500,000-population threshold in TDA law, thus requiring transit operators serving the County to increase their FRRs by 10% (from 10% to 20%).

   Specifically, during Stan COG's review of transit claims in the 2016-17 fiscal year, it was determined that the City of Ceres was non-compliant with the required FRRs in the 2014-15 fiscal year, which initiated the penalty cycle required by TDA. In the 2017-18 fiscal year, the City of Ceres was found to be non-compliant with the required FRRs in the 2015-16 year. Following the TDA penalty cycle the 2014-15 fiscal year was determined by Stan COG to be a grace year, with fiscal year 2015-16 being identified as a non-complaint year subject to penalty. As a result, the City of Ceres' transit claim for fiscal year 2017-18 was reduced by $22,710. This shortfall was recouped from local general funds. At that time, City of Ceres indicated that without some sort of relief from the required FRR, they would be forced to eliminate transit service to avoid having to pay additional penalties with general funds that are typically utilized to provide other essential services, such as police and fire.

4) *SB 903*. In order to remedy Stan COG's FRR challenges, SB 903 (Chapter 107, Statutes of 2018) was enacted in the 2018 legislative session. At that time, the author stated that due to the residential and commercial development practices of local agencies, and in order for transit to continue operating at its current level, some reprieve in the FRR is needed. In the end, SB 903 provided Stan COG FRR relief for a period of two years and further required Stan COG to study and submit a report to the Legislature with recommendations on how to remedy Stan COG's FRR issues. Ultimately, the report found that due to FRR's requirements and the transit service arraignments within Stanislaus County, Stan COG's best options to meet FRR would be to either reduce and rearrange service and/or raise fares.

5) *Current State of Transit.* This bill proposes to extend FRR relief set forth in SB 903 for an additional three fiscal years and to also now include Slo COG as an additional qualifying agency. It is important to note that upon the enactment of SB 903, at the requests of both Chairs of the Senate and Assembly

Transportation Committees, the California Transit Association (CTA) formed the TDA task force to evaluate TDA requirements and provide any recommendations (if applicable) relative to changes/reforms to FRR and/or other TDA requirements. At the time this analysis was prepared, the task force remains in the process of developing recommendations, however, by the end of 2019 it had been reported that at least five other transit agencies would be in jeopardy of failing to meet TDA's FRR requirements.

Moreover, the COVID-19 pandemic has currently placed most transit agencies throughout the state in dire financial crisis as the negative impacts have been threefold: substantial ridership declines, increased personal protective equipment supply/labor costs, and sharp declines in sales tax revenue (a vital transit revenue source). While the overall impacts are far from being known, it is known that revenue losses have tallied in the tens of millions in a matter of months and meeting FRR requirements will be a significant challenge for most transit agencies through the state over the next year at the very minimum. Efforts are currently underway to evaluate potentially enacting a number of policies statewide to provide greater flexibility in various transit revenue sources and program requirements in order to provide a menu of tools that transit operators may utilize to address their funding shortfalls and increased safety expenses as they attempt to restore services to previous levels and increase ridership over the next several years. If those polices are enacted, the provisions specified in this bill would not be necessary. However, as the abovementioned policies are presently under consideration with no decision made and Stan COG and Slo COG are in fact experiencing challenges in meeting FRR requirements with transit agencies within their jurisdictions, this measure is within reason to provide an assurance that FRR relief will be provided to these jurisdictions.

6) *Urgency Clause.* This bill includes an urgency measure and shall go into effect immediately upon passage by the Legislature and signed by the Governor.

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

SUPPORT: (Verified 6/1/20)

Stanislaus Council of Government (source)
City of Modesto
San Luis Obispo Council of Governments
Stanislaus Regional Transit
Turlock Transit

OPPOSITION: (Verified 6/1/20)

None received

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6/4/20 9:58:17

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

SENATE RULES COMMITTEE SB 1472
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THIRD READING

Bill No: SB 1472
Author: Committee on Natural Resources and Water
Introduced: 3/5/20
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 7-0, 5/19/20
AYES: Stern, Jones, Allen, Caballero, Hertzberg, Hueso, Monning
NO VOTE RECORDED: Borgeas, Jackson

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Public resources: coastal resources and school lands

SOURCE: Author

DIGEST: This bill makes various consensus, or technical and clarifying changes to statute under the Senate Natural Resources & Water Committee's jurisdiction affecting the California Coastal Commission and State Lands Commission.

ANALYSIS:

Existing law:

1) Provides the following relative to governing the State Lands Commission:

   a) Grants California with 5.5 million acres of land from the federal government to support public schools, known as "school lands", out of the 16th and 36th section in each township. (Public Resources Code (PRC) §7301)

   b) Allows California to select replacement lands, termed "indemnity lands" or "lieu lands", from the federal government where the 16th and 36th section were not granted due to other public use or previous conveyance.

   c) Allows the State Lands Commission to sell school lands and indemnity lands.

d) Allows the State Lands Commission to sell indemnity scrip, which is the entitlement to indemnity lands in the event that they are acquired from the federal government at a later date.

e) Establishes the School Land Bank Fund which allows funds from land sales and operation to be used for the generation of revenue through:

i) Management and remediation efforts on school lands. (PRC §8709.5)

ii) Purchase of real property and associated acquisition expenses. (PRC §8709)

2) Provides the following relative to governing the California Coastal Commission:

a) Encourages expansion of coastal-dependent industrial facilities within existing sites; however, new coastal sites can be expanded into if:

i) Alternate locations are more environmentally damaging.

ii) Expanding elsewhere would adversely affect public welfare.

iii) Adverse effects are mitigated to the maximum extent feasible. (PRC §30260 and §30263)

This bill is the Senate Natural Resources and Water Committee's 2020 natural resource omnibus bill. Specifically, this bill:

1) Reorganizes and consolidates language relating to the sale of school lands or indemnity lands.

a) Requires the sale of school lands to be in the best interest of the state.

b) Removes obsolete indemnity scrip language.

c) Provides no current contract, permit, lease, or agreement is affected by reorganization of sections or removal of scrip language.

d) Allows the State Lands Commission to use the Land Bank Trust Fund for typical costs associated with the sale of school lands and indemnity lands such as escrow.

2) Makes minor grammatical and technical changes to the Coastal Act regarding expansion of coastal-dependent industrial facilities.

Background

In 1853, Congress granted the State of California 5.5 million acres of land to support public schools. These lands were designated in each township, consisting of 36 sections, as the 16th and 36th section. However, not every 16th and 36th section was available due to being previously conveyed or being reserved for another public use. As a result, out of the 5.5 million acres, approximately 132,643 acres of "base lands" were not initially granted. These lands still owed to the State required follow-up transfer from the U.S. Bureau of Land Management (BLM) through the use of "clear lists". The lists contained specified base lands and an equivalent acreage of indemnity or lieu lands proposed by the state, which, when approved by the BLM, transferred the rights of base lands to the United States and the title of selected indemnity lands to the State Lands Commission. To date, roughly 81,643 acres of indemnity school lands have been acquired with 51,000 still owed to the State.

Comments

Obsolete Scrip Language and Sale of School Lands in General, In 1943, scrip language was added to law allow the State Lands Commission to sell indemnity scrip to interested purchasers of land in the event the state was able to acquire those lands from the federal government. While 51,000 acres of indemnity land is still owed to the state, scrip has not been issued in at least 50 years. According to the State Lands Commission, the process is no longer used because the typical method of obtaining indemnity lands has changed. In the past, a prospective purchaser could identify potential indemnity lands. If the State Lands Commission agreed to the proposal then an indemnity scrip would be given in exchange for payment, entitling the prospective purchaser to take the title to the future indemnity land. At present, the U. S. Bureau of Land Management notifies the state of surplus lands available for acquisition. The State Lands Commission then assesses these lands for consideration as indemnity lands, with those unselected continuing to sale or auction.

In addition to this change in indemnity land acquisition, scrip was issued under the premise of ongoing extensive sales of school and indemnity lands. However, the School Land Bank Act of 1984 realigned the directive of the State Lands Commission from policies which depleted land inventory to one of retention, management, and enhancement of school lands in the economic interest of the state.

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

SUPPORT: (Verified 6/2/20)

State Lands Commission

OPPOSITION: (Verified 6/2/20)

None received

ARGUMENTS IN SUPPORT: According to the author:

"The 2020 Senate Natural Resources and Water Committee's natural resources omnibus bill updates codified language to current practice and makes several noncontroversial and generally minor changes to statute. These include grammatical changes to the Coastal Act relating to coastal-dependent industrial facilities (California Coastal Commission), clarifying language related to sale of school and indemnity lands by the State Lands Commission, and removal of obsolete scrip language from the sale of indemnity lands by the State Lands Commission."

Additionally, the State Lands Commission notes:

"SB 1472 would also clarify that repealing the obsolete indemnity scrip statutes does not affect vested rights or other contracts, leases or agreements entered into under any other provision of previous law. And that it does not affect the rights of any purchase of school lands sold before the effective date of the repeal."

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6/4/20 9:58:18

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

SENATE RULES COMMITTEE SB 1473
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CONSENT

Bill No: SB 1473
Author: Committee on Governance and Finance
Introduced: 3/12/20
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 7-0, 5/21/20
AYES: McGuire, Moorlach, Beall, Hertzberg, Hurtado, Nielsen, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Local Government Omnibus Act of 2020

SOURCE: Author

DIGEST: This bill proposes several minor changes to state laws governing local governments' powers and duties.

ANALYSIS: Each year, local officials discover problems with state statutes affecting counties, cities, special districts, and redevelopment agencies, as well as the laws on land use planning and development. These minor problems do not warrant separate (and expensive) bills. According to the Legislative Analyst, the cost of producing a bill in 2001-02 was $17,890.

Legislators respond by combining several of these minor topics into an annual "omnibus bill." In 2019, for example, the local government omnibus bill was SB 780 (Senate Governance & Finance Committee, Chapter 329, Statutes of 2019) which contained noncontroversial statutory changes to 14 areas of local government law, avoiding approximately $250,000 in legislative costs Although this practice may violate a strict interpretation of the single-subject and germaneness rules as presented in *Californians for an Open Primary v. McPherson* (2006), it is an expeditious and relatively inexpensive way to respond to multiple requests.

This bill, the Local Government Omnibus Act of 2020, proposes the following changes to the state laws affecting local agencies' powers and duties:

1) *Loan of County Funds to Resource Conservation Districts.* Current law allows a county to lend any of its available funds to a variety of types of special districts to enable the district to perform its functions and meet its obligations. Many types of districts are eligible, such as a fire protection, flood control, water conservation, or park districts, as long as the district is located wholly within the county and the loan does not exceed 85 percent of the district's anticipated revenue for the fiscal year. Staff to the Assembly Natural Resources Committee notes that resource conservation districts currently are not authorized to receive loans from a county, even though they may perform work such as vegetation management that could be funded through a loan if a different special district had performed the work. SB 1473 adds resource conservation districts to the list of special districts that may receive a loan from a county. [See SEC. 2 of the bill.]

2) *Reading of Ordinances.* Current law establishes certain procedural requirements for county ordinances to become law. Most ordinances must be introduced for five days before being passed and must be passed at a regular meeting or an adjourned regular meeting; urgency ordinances don't have to abide by these rules. All ordinances must be read in full either at the time of introduction or passage, unless the Board of Supervisors waives further reading after the title is read. The County of Santa Clara notes that this requirement to read the title of an ordinance is obsolete and inefficient at a time when the title of the ordinance is listed in the agenda, in full compliance with the state's open meetings laws, and the full text of the ordinance is typically made available online or in print prior to the introduction or passage of the ordinance. SB 1473 removes the requirement to read the title and waive the remainder of the reading of the text of an ordinance when the title of the ordinance is listed in the agenda and the full text of the ordinance is available to the public online or in print prior to the meeting where the ordinance is introduced or adopted. [See SEC. 3.]

3) *Very High Fire Hazard Severity Zones.* Current law requires the director of the California Department of Forestry and Fire Protection (CALFIRE) to identify areas in the state as very high fire hazard severity zones (VHFHSZ) based on consistent statewide criteria and based on the severity of fire hazard that is expected to prevail in those areas. These designations must be updated every five years. Once the director identifies the VHFHSZ, he or she must make recommendations to all local agencies with land in the VHFHSZ. Local agencies must adopt these maps via ordinance within 120 days of receiving the recommendation, and can add land to the VHFHSZ, but not remove it. Senate Governance and Finance Committee staff note that the requirement for local

agencies to adopt VHFHSZs contains an outdated cross-reference to subdivisions of code that were repealed in 2008. SB 1473 deletes the references to the since-repealed subdivisions. [See SEC. 4.]

4) *Surplus Land Act.* The Surplus Land Act spells out the steps public agencies must follow when they want to dispose of land they no longer need. It requires state departments and local governments to give a "first right of refusal" to other governments and some nonprofit groups, including affordable housing developers. In 2019, the Legislature substantially revised the Surplus Land Act to strengthen the requirements of the Act in an effort to produce additional affordable housing on land that local agencies were selling (AB 1486, Ting). Among other changes, AB 1486 broadened the definition of surplus land and required land to be designated as surplus prior to the local agency selling the land. Assembly Member Ting's office notes that a clarifying amendment requested by the Senate Governance and Finance Committee was inadvertently deleted. SB 1473 restores this deleted provision, to specify that the designation of land as surplus does not obligate a local agency to sell the property. [See SEC. 5.]

5) *Health and Welfare Trust Fund Reporting.* Current law requires each county, city, or city and county to file annual reports with the State Controller's Office (SCO) regarding health and welfare trust fund deposits and disbursements. The Controller is required to verify deposits, notify appropriate state agencies upon request of deficits in deposits, and forward annual reports to the appropriate state department for expenditure verification. The SCO notes that this requirement imposes additional costs to transmit reports that may not be used. SB 1473 requires the SCO to forward the reports only upon request. [See SEC. 6.]

Comments

Purpose of the bill. SB 1473 compiles, into a single bill, noncontroversial statutory changes to five parts of state laws that affect local agencies and land use. Moving a bill through the legislative process costs the state around $18,000. By avoiding four other bills, the Committee's measure avoids approximately $72,000 in legislative costs. Although the practice may violate a strict interpretation of the single-subject and germaneness rules, the Committee insists on a very public review of each item. More than 100 public officials, trade groups, lobbyists, and legislative staffers see each proposal before it goes into the Committee's bill. Should any item in SB 1473 attract opposition, the Committee will delete it. In

this transparent process, there is no hidden agenda. If it's not consensus, it's not omnibus.

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

SUPPORT: (Verified 6/3/20)

None received

OPPOSITION: (Verified 6/3/20)

None received

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

SENATE RULES COMMITTEE SCR 61
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THIRD READING

Bill No: SCR 61
Author: Skinner (D), et al.
Amended: 1/8/20
Vote: 21

SUBJECT: Sister state relationships with Ethiopian regional states

SOURCE: EDGET at Silicon Valley

DIGEST: This resolution extends to the people of the regional states of Amhara, Oromia, Somali, the Southern Nations, Nationalities, and Peoples' Region, and Tigray an invitation to join with California in sister state relationships.

Senate Floor Amendments of 1/8/20 add a legislative finding to the resolution relating to the award of a Nobel Peace Prize to Prime Minister Abiy Ahmed Ali.

ANALYSIS: This resolution makes the following legislative findings:

1) The Ethiopian Embassy to the United States in Washington D.C. and the Ethiopian Consulate General in Los Angeles, which covers the western half of the United States, including California, as its consular district, have expressed interest in the creation of sister state relationships between the State of California and the Ethiopian regional states of Amhara, Oromia, Somali, the Southern Nations, Nationalities, and Peoples' Region, and Tigray.

2) Diplomatic relations between the United States and Ethiopia, dating back over a century to 1903, have grown from mere state-to-state relations to people-to-people relations with the presence of large Ethiopian diaspora communities in the United States, including in California.

3) The economic, political, and cultural relations between Ethiopia and the United States, driven by the excellent friendly relations between the two countries and the people-to-people relationships that continue to grow in leaps and bounds, need further consolidation through local government relationships in both countries.

4) California is one of the largest hosts of Ethiopian diaspora communities that can bridge and further consolidate the economic, political, and cultural relations between California and the aforementioned five Ethiopian regional states, particularly the regional state of the Southern Nations, Nationalities, and Peoples' Region and the regional state of Tigray.

5) The sister state relationships between California and key Ethiopian regional states will foster commerce, tourism, environmental protection and sustainable development, technological and educational advancement, and cultural and people-to-people relations that are the bedrock of the spirit of entrepreneurship and development of the two friendly nations.

This resolution extends to the people of the regional states of Amhara, Oromia, Somali, the Southern Nations, Nationalities, and Peoples' Region, and Tigray an invitation to join with California in sister state relationships in order to promote and assure mutually beneficial educational, economic, environmental, scientific, and cultural exchanges that will lead to a closer relationship between Californians and the citizens of these five key Ethiopian regional states.

Related/Prior Legislation

SR 90 (Pan, 2018) encouraged efforts to establish a sister state relationship between California and Baden-Württemberg. The resolution was adopted by the Senate.

SCR 3 (Lara, 2017-18) would have extended, on behalf of the people of the state, an invitation to the people of Cambodia to join California in a sister-state relationship. The resolution died on the Senate Inactive File.

SCR 81 (Lara, Resolution Chapter 185, Statutes of 2017) invited the State of Nayarit, Mexico, to join California in a sister state relationship.

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

SUPPORT: (Verified 1/9/20)

EDGET at Silicon Valley (source)
California Black Agriculture Working Group

OPPOSITION: (Verified 1/9/20)

None received

ARGUMENTS IN SUPPORT: The sponsor of this resolution, EDGET at Silicon Valley, writes, "SCR 61 recognizes the historical, cultural, and diplomatic relations between the United States and Ethiopia, especially the presence of large Ethiopian diaspora communities in California. SCR 61 will create sister state relationships between California and key regional states, fostering collaboration in tourism, commerce, environmental protection and sustainable development, deeper cultural relations, and technological protection and sustainable development."

Prepared by: Karen Chow / SFA / (916) 651-1520
1/10/20 10:22:06

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

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

CONSENT

Bill No: SCR 77
Author: Glazer (D), et al.
Amended: 1/22/20
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 13-0, 5/29/20
AYES: Beall, Allen, Dahle, Dodd, Galgiani, Lena Gonzalez, Grove, McGuire, Melendez, Morrell, Roth, Rubio, Wieckowski
NO VOTE RECORDED: Skinner, Umberg

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Representative Ellen O'Kane Tauscher Memorial Bore

SOURCE: Author

DIGEST: This resolution names the fourth bore of the Caldecott Tunnel the Representative Ellen O'Kane Tauscher Memorial Bore.

ANALYSIS: This resolution names the fourth bore of the Caldecott Tunnel the Representative Ellen O'Kane Tauscher Memorial Bore. It requests that the Department of Transportation determine the cost of appropriate signs and, upon receiving donations from non-state sources sufficient to cover the cost, to erect those signs.

Background

Ellen O'Kane was born in Newark, New Jersey, on November 15, 1951. She became one of the first women to hold a seat on the New York Stock Exchange, and served as an officer of the American Stock Exchange. Tauscher received her first political experience serving as the state co-chair for Dianne Feinstein's successful 1992 and 1994 Senate campaigns. In 1996, Tauscher won her

congressional seat against the incumbent representative on a platform of gun control, women's reproductive rights, and increased spending on education.

Comments

Purpose. According to the author, "Congresswoman Ellen O'Kane Tauscher was a dedicated public servant serving the 10th Congressional District from 1997 to 2009. During her tenure and among many other accomplishments, Rep. Tauscher was crucial in securing funding for projects in her district including nearly $200,000,000 for Lawrence Livermore National Laboratory's 'super laser' project and $33,000,000 for specific congestion-relieving projects in her district. Of note, the fourth bore on State Route 24 at the Caldecott Tunnel – essential to improving the congestion from Contra Costa to Alameda and San Francisco Counties – largely became a reality because of Rep. Tauscher's tenacity and effective leadership in Washington that secured the federal funding necessary to begin and complete the project. Renaming the fourth bore of the Caldecott Tunnel to the Representative Ellen O'Kane Tauscher Memorial Bore is a fitting way to honor Congresswoman Tauscher for her service to the 10th Congressional District, the residents of California, and all Americans."

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

SUPPORT: (Verified 6/8/20)

Contra Costa County
East Bay Municipal Utility District

OPPOSITION: (Verified 6/8/20)

None received

Prepared by: Amy Gilson / TRANS. / (916) 651-4121
6/10/20 13:41:05

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

SENATE RULES COMMITTEE SCR 80
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SCR 80
Author: Archuleta (D), et al.
Introduced: 1/28/20
Vote: 21

SUBJECT: Latino Veterans Day

SOURCE: Author

DIGEST: This resolution proclaims September 20, 2020, as Latino Veterans Day.

ANALYSIS: This resolution makes the following legislative findings:

1) The history of California veterans of Latino descent abounds with acts of heroism and exhibits a heritage of valor which has brought honor and earned the gratitude of our country.

2) As early as 1863, the United States government authorized the military commander in California to raise four companies of native Mexican American Californians in order to take advantage of their extraordinary horsemanship.

3) Discrimination, racism, and language barriers meant that many Latinos were relegated to menial jobs or served in segregated units. A number of Mexican-American cavalry militias chased bandits and guarded trains and border crossings for the Union during the Civil War.

4) The bravery of countless Latinos in World Wars I and II and the conflicts of Korea and Vietnam is consistent with the greatest acts of heroism known in our history, as exemplified by the 20th and the 515th Coast Artillery Battalions, which were comprised of a majority of Latinos, many of whom were from California, who fought to the bitter end at Bataan in World War II.

5) The 65th Infantry Regiment, "the Borinqueneers" from Puerto Rico, served valiantly in both World War II and Korea. Fighting as a segregated unit from 1950 to 1952, the regiment participated in some of the fiercest battles of the Korean War, and its toughness, courage, and loyalty earned the admiration of

many who had preciously harbored reservations about Puerto Rican soldiers based on lack of previous fighting experience and negative stereotypes, including Brigadier General William W. Harris, whose experience eventually led him to regard the regiment as "the best damn soldiers that I had ever seen".

6) Operation Desert Shield and Operation Desert Storm provided another opportunity for Latinos to serve their country. Approximately 20,000 Latino servicemen and women participated in Operations Desert Shield and Desert Storm.

7) Today, Latinos make up approximately 14 percent of America's fighting force. Since the beginning of this century, Latinos have been the boots on the ground in antiterrorism operations.

8) Latino veterans, both men and women, have shown and continue to show a superb dedication to the United States, evidenced by the award of 60 Congressional Medals of Honor, the greatest number received by any ethnic group.

This resolution proclaims September 20, 2020, as Latino Veterans Day.

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

SUPPORT: (Verified 2/4/20)

None received

OPPOSITION: (Verified 2/4/20)

None received

Prepared by: Karen Chow / SFA / (916) 651-1520
2/6/20 15:51:10

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

SENATE RULES COMMITTEE SCR 82
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SCR 82
Author: Grove (R)
Introduced: 2/11/20
Vote: 21

SUBJECT: Women's Military History Week

SOURCE: Author

DIGEST: This resolution recognizes "Women Warriors" by proclaiming the week of March 16, 2020, to March 22, 2020, inclusive, as Women's Military History Week in California, and encourages Californians to recognize, among other things, the hard-fought contributions of women to our military and our freedom, and the courageous sacrifices that women have made while serving our country.

ANALYSIS: This resolution makes the following legislative findings:

1) Women have served bravely in every major United States conflict since the American Revolutionary War, but their courage and service have gone largely unrecognized. Our current servicewomen would be unable to serve without the precedence, persistence, determination, and unyielding resilience of the incredible strides of women of previous generations.

2) January 24, 2020, marks the seventh anniversary of the groundbreaking decision overturning a 1994 Pentagon rule that restricted women from all combat-related roles, including artillery, armor, and infantry.

3) The full integration of women into all military branches nevertheless continued to impede a woman's ability to serve in combat due to the "Leaders First" policy, which maintained that, in certain cases, enlisted women must wait to enter combat until two or more "women leaders" are assigned to those units.

4) While approximately 16 percent of the total military force is made up of women, six have held the rank of General, exemplifying the payoff for hard

work that comes to people who do their best work in each and every role they take on, regardless of gender.

5) Over the past two decades of conflict, women have served with valor in combat zones, often under fire, but had been prevented from officially holding combat positions under the 1994 Direct Ground Combat Definition and Assignment Rule, which barred women from assignment to units below brigade level if the unit's primary mission was direct ground combat.

6) More than 9,000 female troops have earned Combat Action Badges during modern combat operations, including those in Iraq and Afghanistan, and hundreds more have earned valor awards, including the Silver Star, the Army's third-highest valor award.

7) It is recognized that women have always been capable of serving in combat and that it is policies like the 1994 ban on women in combat that have precluded women from serving.

8) Since the lifting of the ban, women are now training for and serving in infantry, armor, short-range field artillery units and occupations, and the number receiving their Ranger Tabs continues to grow. Moreover, women in all services are also now eligible to serve as Special Operations Forces.

9) As with the opening of combat aviation, long-range field artillery, surface and submarine warfare in earlier periods, full integration into all ground combat units and into the more senior ranks is a decades-long process—a process that is now underway, but impeded by these two policies.

10) The Women In Military Service For America Memorial, at the Ceremonial Entrance to Arlington National Cemetery, is the only major national memorial honoring all women who have defended America throughout history. Their patriotism and bravery are a part of our nation's heritage and are now recognized.

This resolution:

1) Recognizes "Women Warriors" by proclaiming the week of March 16, 2020, to March 22, 2020, inclusive, as Women's Military History Week in California.

2) Encourages Californians to recognize the hard-fought contributions of women to our military and our freedom, the courageous sacrifices that women have

made while serving our country, and the historic lifting of the ban on women in combat on January 24, 2013.

Related/Prior Legislation

ACR 48 (Reyes, Resolution Chapter 44, Statutes of 2019) recognized "Women Warriors" by proclaiming the week of March 18, 2019, to March 22, 2019, inclusive, as Women's Military History Week in California.

SR 25 (Caballero, 2019) recognized "Women Warriors" by proclaiming the week of March 18, 2019, to March 22, 2019, inclusive, as Women's Military History Week in California. The resolution was adopted by the Senate.

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

SUPPORT: (Verified 2/19/20)

None received

OPPOSITION: (Verified 2/19/20)

None received

Prepared by: Karen Chow / SFA / (916) 651-1520
2/19/20 14:03:03

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

SENATE RULES COMMITTEE SCR 84
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SCR 84
Author: Pan (D)
Introduced: 2/14/20
Vote: 21

SUBJECT: Bleeding Disorders Awareness Month

SOURCE: Hemophilia Council of California

DIGEST: This resolution proclaims the month of March 2020 as Bleeding Disorders Awareness Month in the State of California.

ANALYSIS: This resolution makes the following legislative findings:

1) Hemophilia is a rare genetic condition affecting at least 4,000 people in California.

2) Without treatment, people with hemophilia and other related bleeding disorders face frequent, spontaneous bleeding episodes in their joints, causing swelling in the joints, muscles, internal organs, and brain. Repeated bleeding episodes in the joints result in chronic degenerative arthritic conditions, which often lead to frequent hospitalizations, permanent disability, and chronic pain. Bleeding episodes involving internal organs and the brain can cause permanent damage, disability, and even death.

3) Many individuals with hemophilia became infected with HIV and hepatitis C in the 1980s due to the contamination of the blood supply and blood products.

4) With proper care and access to comprehensive medical resources, persons with hemophilia and other related bleeding disorders can control bleeding episodes and can lead productive lives.

5) The State of California is committed to proper care and treatment of children and adults with hemophilia and other related bleeding disorders through previously enacted legislation.

6) This awareness month will generate greater understanding of not only hemophilia but all inheritable bleeding disorders; foster a greater sense of community and shared purpose among all individuals with inheritable bleeding disorders; and elevate the awareness of, and engagement in, the inheritable bleeding disorders journey beyond this community to the general public, enabling the prevention of illness, unnecessary procedures, and disability.

This resolution proclaims the month of March 2020 as Bleeding Disorders Awareness Month in the State of California.

Related/Prior Legislation

SCR 20 (Pan, Resolution Chapter 37, Statutes of 2019) proclaimed the month of March 2019 as Bleeding Disorders Awareness Month in the State of California.

SCR 33 (Pan, Resolution Chapter 107, Statutes of 2017) proclaimed March 2017 as Bleeding Disorders Awareness Month in the State of California.

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

SUPPORT: (Verified 3/24/20)

Hemophilia Council of California (source)
Plasma Protein Therapeutics Association

OPPOSITION: (Verified 3/24/20)

None received

Prepared by: Melissa Ward / SFA / (916) 651-1520
3/24/20 16:25:24

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

SENATE RULES COMMITTEE SCR 86
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

CONSENT

Bill No: SCR 86
Author: Hurtado (D)
Introduced: 2/18/20
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 13-0, 5/29/20
AYES: Beall, Allen, Dahle, Dodd, Galgiani, Lena Gonzalez, Grove, McGuire, Melendez, Morrell, Roth, Rubio, Wieckowski
NO VOTE RECORDED: Skinner, Umberg

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Officer Jonathan Diaz Memorial Overcrossing

SOURCE: Author

DIGEST: This resolution designates an overcrossing in the City of Lemoore as the Officer Jonathan Diaz Memorial Overcrossing.

ANALYSIS: This resolution designates the 19th Avenue overcrossing on State Route 198 in the City of Lemoore as the Officer Jonathan Diaz Memorial Overcrossing. It requests that the Department of Transportation determine the cost of appropriate signs and, upon receiving donations from nonstate sources sufficient to cover the cost, to erect those signs.

Background

Officer Jonathan Diaz, father of three, began his law enforcement career in his hometown of Huron, California. In 2016, Officer Diaz moved to the Lemoore Policy Department. He was awarded Officer of the Year in 2018 and earned the position of Gang Investigator for the Kings County Major Crimes Task Force. Officer Diaz mentored at-promise youth through the Youth Adult Awareness Program.

Comments

Purpose. According to the author, "Officer Jonathan Diaz, was fatally shot and killed the night of November 2, 2019 while attending to a domestic dispute. During the altercation Diaz successfully intervened to save a victim only to be fatally shot returning to deescalate the disagreement."

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

SUPPORT: (Verified 6/8/20)

None received

OPPOSITION: (Verified 6/8/20)

None received

Prepared by: Amy Gilson / TRANS. / (916) 651-4121
6/10/20 13:25:20

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

SENATE RULES COMMITTEE SCR 87
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SCR 87
Author: Dahle (R), et al.
Introduced: 2/19/20
Vote: 21

SUBJECT: Cystinuria Awareness Day

SOURCE: Author

DIGEST: This resolution recognizes and proclaims June 24, 2020, as Cystinuria Awareness Day to promote awareness of Cystinuria and to show support for California medical research centers that take an active role in the fight against the disease.

ANALYSIS: This resolution makes the following legislative findings:

1) Cystinuria occurs in individuals when a rare genetic defect prevents the body from regulating amino acid concentrations, leading to elevated levels of cystine and the formation of cystine stones in the kidney, ureter, and bladder. The American Urological Association recognizes Cystinuria as the most common monogenic kidney stone disorder.

2) Kidney stone experts cited the economic burden in the United States due to lost worker productivity, treatment, and the care of individuals of working age with kidney stones to be $5.3 billion in 2000.

3) Cystinuria patients often endure episodes of debilitating pain known as renal colic, nausea, vomiting, and recurrent urinary tract infections. Cystinuria patients may suffer from life-threatening complications, such as hypertension, renal insufficiency, end-stage renal disease, and the need for a kidney transplant.

4) There is no cure for Cystinuria, treatment options significantly reduce medically necessary surgeries, and some patients can live a stone-free life.

5) Early diagnosis is important to the long-term management of Cystinuria, which can potentially limit permanent kidney damage and preserve maximal kidney function.

This resolution:

1) Recognizes and proclaims June 24, 2020, as Cystinuria Awareness Day to promote awareness of Cystinuria and to show support for California medical research centers that take an active role in the fight against this devastating disease.

2) Calls on the people of California, interest groups, and affected persons to observe Cystinuria Awareness Day.

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

SUPPORT: (Verified 2/26/20)

None received

OPPOSITION: (Verified 2/26/20)

None received

Prepared by: Jonas Austin / SFA / (916) 651-1520
2/26/20 14:01:52

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

SENATE RULES COMMITTEE SCR 88
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SCR 88
Author: Galgiani (D), et al.
Introduced: 3/4/20
Vote: 21

SUBJECT: California Peace Officers' Memorial Day

SOURCE: California Peace Officers' Memorial Foundation

DIGEST: This resolution designates Monday, May 4, 2020, as California Peace Officers' Memorial Day, urges all Californians to use that day to honor California peace officers, and recognizes specified California peace officers who were killed in defense of their communities.

ANALYSIS: This resolution makes the following legislative findings:

1) Monday, May 4, 2020, is California Peace Officers' Memorial Day, a day Californians observe in commemoration of those noble officers who have tragically sacrificed their lives in the line of duty.

2) California peace officers have a job second in importance to none, and it is a job that is as difficult and dangerous as it is important.

3) The peace officers of California have worked dutifully and selflessly on behalf of the people of this great state, regardless of the peril or hazard to themselves.

4) By the enforcement of our laws, these same officers have safeguarded the lives and property of the citizens of California and have given their full measure to ensure these citizens the right to be free from crime and violence.

This resolution:

1) Recognizes California's peace officers who were killed in defense of their communities in 2019:

   - Officer Natalie Corona, Davis Police Department, End of Watch: January 10, 2019.

- Sergeant Steve Licon, California Highway Patrol – Riverside Area Office, End of Watch: April 6, 2019.

- Officer Tara O'Sullivan, Sacramento Police Department, End of Watch: June 19, 2019.

- Officer Andre Moye, Jr., California Highway Patrol – Riverside Area Office, End of Watch: August 12, 2019.

- Deputy Brian Ishmael, El Dorado County Sheriff's Department, End of Watch: October 23, 2019.

2) Recognizes California's peace officers who were killed in defense of their communities in the recent past, but not yet enrolled:

   - Officer Armando Gallegos, Jr., California Department of Corrections and Rehabilitation, End of Watch: September 14, 2018.

   - Officer Toshio Hirai, Gardena Police Department, End of Watch: November 15, 2018.

3) Recognizes California's peace officers who were killed in defense of their communities in the distant past, but not yet enrolled:

   - Deputy Sheriff William R. Johnson, Contra Costa County Sheriff's Office, End of Watch: July 31, 1852.

   - Marshal Rudolph Bohn, Anaheim Police Department, End of Watch: 1886.

   - Special Deputy Sheriff Daniel A. Todd, Los Angeles County Sheriff's Department, End of Watch: February 22, 1910.

   - Constable Warren B. Willard, Ventura County Sheriff's Department, End of Watch: March 22, 1912.

   - Deputy Guillermo Bouett, Los Angeles County Sheriff's Department, End of Watch: February 18, 1913.

   - Deputy Constable Leroy H. Tripp, Riverside County Sheriff's Department, End of Watch: April 10, 1916.

   - Marshal James Monroe West, Jr., Needles Police Department, End of Watch: July 6, 1925.

- Officer Harry Samuel Thompson, Needles Police Department, End of Watch: June 10, 1935.

4) Designates Monday, May 4, 2020, as California Peace Officers' Memorial Day and urges all Californians to remember those individuals who have given their lives for our safety and express appreciation to those who continue to dedicate themselves to making California a safer place in which to live and raise our families.

Related/Prior Legislation

SCR 25 (Galgiani, Resolution Chapter 67, Statutes of 2019) designated Monday, May 6, 2019, as California Peace Officers' Memorial Day.

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

SUPPORT: (Verified 3/12/20)

California Peace Officers' Memorial Foundation (source)
Peace Officers Research Association of California

OPPOSITION: (Verified 3/9/20)

None received

ARGUMENTS IN SUPPORT: The Peace Officers Research Association of California writes, "This measure would designate Monday, May 4, 2020, as California Peace Officers' Memorial Day, urge all Californians to use that day to honor California peace officers, and recognize specified California peace officers who were killed in defense of their communities.

"California Peace officers have a very difficult and dangerous job. Every day our officers put their lives on the line to protect the communities in which they serve. Our law enforcement family continues to experience tremendous loss and this bill will ensure that the legacy of our fallen officers will live on."

Prepared by: Karen Chow / SFA / (916) 651-1520
3/12/20 13:47:55

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

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

CONSENT

Bill No: SJR 14
Author: Archuleta (D), et al.
Introduced: 2/26/20
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 7-0, 5/19/20
AYES: Stern, Jones, Allen, Caballero, Hertzberg, Hueso, Monning
NO VOTE RECORDED: Borgeas, Jackson

SUBJECT: Whittier Narrows Dam: flood protection improvements: federal funding

SOURCE: Author

DIGEST: This resolution urges Congress to approve funding critically needed construction and repair work on Whittier Narrows Dam in its 2021 Budget.

ANALYSIS: Existing federal law, the US Constitution, authorizes Congress to appropriate funds.

This resolution:

1) Urges Congress to include and approve in its 2021 Budget the recommended appropriation of approximately $385 million to the United States Army Corps of Engineers Civil Works program to perform the critically needed construction and repair work on Whittier Narrows Dam to protect the citizens of southeastern Los Angeles County from catastrophic flooding.

2) Makes a number of statements in support of the resolution.

Comments

Los Angeles County Actions. On February 26, 2019, the Los Angeles County Board of Supervisors voted 5-0 to send to send a letter to the United States Army Corps of Engineers and the Los Angeles County Congressional Delegation,

requesting immediate allocation of funds to expedite the repairs and upgrades needed for the Whittier Narrows Dam.

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

SUPPORT: (Verified 5/19/20)

None received

OPPOSITION: (Verified 5/19/20)

None received

ARGUMENTS IN SUPPORT: According to the author, "The Whittier Narrows Dam (WND) protects over 2 million residents of southeast LA from catastrophic flooding. In 2016 the United States Army Corps of Engineers rated the WND in the highest possible risk category due to its urgently needed repairs and lack of emergency preparedness for the cities downstream, such as Pico Rivera and Montebello. Officials estimate that if the WND were to fail due to a catastrophic storm event, southeast LA would be underneath 20 feet of water – a fear highlighted by climate change causing these storms to become more and more common than 'once-in-a-lifetime'. In the proposed federal budget, Congresswoman Grace Napolitano has secured nearly $400 million for repairs of the WND and we urge Congress to keep this funding in the federal budget as the process moves forward to protect the citizens of southeast LA."

Prepared by: Dennis O'Connor / N.R. & W. / (916) 651-4116
5/21/20 10:08:44

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

SENATE RULES COMMITTEE SR 73
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SR 73
Author: Archuleta (D)
Introduced: 1/28/20
Vote: Majority

SUBJECT: Tardive Dyskinesia Awareness Week

SOURCE: Author

DIGEST: This resolution proclaims the week of May 3, 2020, as Tardive Dyskinesia Awareness Week, with the goal of raising awareness of this potentially debilitating disease.

ANALYSIS: This resolution makes the following legislative findings:

1) Many people with serious, chronic mental illness, such as schizophrenia and other schizoaffective disorders, bipolar disorder, or severe depression, require treatment with medications that work as dopamine receptor blocking agents (DRBAs), including antipsychotics. Many people who have gastrointestinal disorders, including gastroparesis, nausea, and vomiting, also require treatment with DRBAs.

2) While ongoing treatment with these medications can be very helpful, and even lifesaving, for many people, it can also lead to Tardive Dyskinesia (TD).

3) TD is a movement disorder that is characterized by random, involuntary, and uncontrolled movements of different muscles in the face, trunk, and extremities. In some cases, people may experience movement of the arms, legs, fingers, and toes. In some cases, it may affect the tongue, lips, and jaw. In other cases, symptoms may include swaying movements of the trunk or hips and may impact the muscles associated with walking, speech, eating, and breathing.

4) TD can develop months, years, or decades after a person starts taking DRBAs, and even after they have discontinued use of those medications. Not everyone who takes a DRBA develops TD, but if it develops it is often permanent.

5) Common risk factors for TD include advanced age and alcoholism or other substance abuse disorders. Postmenopausal women and people with a mood disorder are also at higher risk of developing TD.

6) A person is at higher risk for TD after taking DRBAs for three months or longer, but the longer the person is on these medications, the higher the risk of developing TD. Studies suggest that the overall risk of developing TD following prolonged exposure to DRBAs is between 10-30%. It is estimated that over 60,000 Californians suffer from TD.

7) TD is often unrecognized and patients suffering from the illness are commonly misdiagnosed. Patients suffering from TD often suffer embarrassment due to abnormal and involuntary movements, which leads them to withdraw from society and increasingly isolate themselves as the disease progresses.

8) Years of difficult and challenging research have resulted in recent scientific breakthroughs, with two new treatments for TD approved by the United States Food and Drug Administration.

This resolution proclaims the week of May 3, 2020, as Tardive Dyskinesia Awareness Week.

Related/Prior Legislation

SR 35 (Archuleta, 2019) proclaimed the week of May 6, 2019, as Tardive Dyskinesia Awareness Week. The resolution was adopted by the Senate.

SR 110 (Beall, 2018) proclaimed the week of May 21, 2018, as Tardive Dyskinesia Awareness Week. The resolution was adopted by the Senate.

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

SUPPORT: (Verified 2/3/20)

None received

OPPOSITION: (Verified 2/3/20)

None received

Prepared by: Melissa Ward / SFA / (916) 651-1520
2/6/20 15:51:12

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

SENATE RULES COMMITTEE SR 76
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SR 76
Author: Pan (D)
Introduced: 2/5/20
Vote: Majority

SUBJECT: Nowrūz

SOURCE: Author

DIGEST: This resolution recognizes Nowrūz, the Persian New Year celebration.

ANALYSIS: This resolution makes the following legislative findings:

1) Nowrūz (pronounced no-rooz) originated in ancient Persia more than 3,000 years ago and marks the traditional Persian New Year beginning on the vernal equinox and celebrates the arrival of spring.

2) Nowrūz is a combination of two Persian words: the first, "now," means new, and the second, "ruz," means day. Together they mean "new day," which commemorates the new year for many Persian and Central Asian communities all over the world. It is celebrated on the exact day of the astronomical Northward equinox, which occurs on March 20 or the following day where it is observed.

3) The "new day" symbolizes a commitment to springtime renewal, peace, and overall solidarity between generations, families, and communities.

4) Nowrūz's most notable festivities include the creation of the Haft-Sin table, which is an arrangement of seven symbolic items starting with "S" in Persian. This table often includes sumac (crushed spice or berries), senjed (sweet dry fruit of lotus trees), serkeh (vinegar), and seeb (apples), which each represent various hopes for the new year, including health, wealth, and prosperity. Additionally, a wisdom book is often included in the form of a Koran or Bible. These festivities last over 13 days and begin on the eve of the first Wednesday of the year.

5) Nowrūz is celebrated and observed principally in Iran, the traditions of Nowrūz are strong among people in Afghanistan, Iraq, Tajikistan, Uzbekistan, Azerbaijan, India, Pakistan, Turkey, Canada, and the United States.

6) The United Nations General Assembly proclaimed International Nowrūz Day in 2010 at the enterprise of several countries that uphold this global tradition, and the first global Nowrūz festival, held the same year, serves to remind us of the many noteworthy and lasting contributions of Persian culture to the ever-growing social and economic tapestry of our country. After thousands of years in the making, Nowrūz remains beloved, universal, and deeply embedded in Persian culture.

This resolution celebrates Friday, March 20, 2020, as the beginning of the Persian New Year and extends best wishes for a peaceful and prosperous Nowrūz to all Californians.

Related/Prior Legislation

ACR 2 (Nazarian, Resolution Chapter 42, Statutes of 2019) recognized Nowrūz, the Persian New Year celebration.

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

SUPPORT: (Verified 3/9/20)

None received

OPPOSITION: (Verified 3/9/20)

None received

Prepared by: Karen Chow / SFA / (916) 651-1520
3/11/20 13:55:28

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

SENATE RULES COMMITTEE SR 79
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SR 79
Author: Leyva (D), et al.
Introduced: 2/25/20
Vote: Majority

SUBJECT: Women's History Month

SOURCE: Author

DIGEST: This resolution urges all Californians to join in celebrating the contributions of women and proclaims the month of March 2020 as Women's History Month.

ANALYSIS: This resolution makes the following legislative findings:

1) American women of every culture, class, and ethnic background have participated in the founding and building of our nation, made historic contributions to the growth and strength of our nation, and played a critical role in shaping the economic, cultural, and social fabric of our society, not in the least of ways through their participation in the labor force, working both inside and outside the home.

2) Women have been leaders in every movement for social change, including their own movement for suffrage and equal rights, the fight for emancipation, the struggle to organize labor unions, and the Civil Rights Movement, as well as leading the call for peace and organizing to preserve the environment.

3) In light of these efforts and the achievements of all American women, we take this opportunity to honor women and their contributions to the development of our society and our world.

4) The celebration of Women's History Month will provide an opportunity for schools and communities to focus attention on the historical role and accomplishments of the women of California and the United States and for students, in particular, to benefit from an awareness of these contributions.

This resolution urges all Californians to join in celebrating the contributions of women and proclaims the month of March 2020 as Women's History Month.

Related/Prior Legislation

SR 18 (Leyva, 2019) proclaimed the month of March 2019 as Women's History Month. The resolution was adopted by the Senate.

SR 83 (Leyva, 2018) proclaimed the month of March 2018 as Women's History Month. The resolution was adopted by the Senate.

HR 76 (Eggman, 2018) proclaimed the month of March 2018 as Women's History Month. The resolution was adopted by the Assembly.

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

SUPPORT: (Verified 3/4/20)

None received

OPPOSITION: (Verified 3/4/20)

None received

Prepared by: Jonas Austin / SFA / (916) 651-1520
3/4/20 15:04:24

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

SENATE RULES COMMITTEE SR 81
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SR 81
Author: Umberg (D) and Pan (D), et al.
Introduced: 3/10/20
Vote: Majority

SUBJECT: 2020 Census

SOURCE: Author

DIGEST: This resolution recognizes the week of March 30, 2020, to April 5, 2020, inclusive, as Census 2020 Week in California.

ANALYSIS: This resolution makes the following legislative findings:

1) The United States Census Bureau is required by Congress, pursuant to its authority under Section 2 of Article I of the United States Constitution, to conduct an accurate count of the population every 10 years. The next enumeration is scheduled to commence March 12, 2020, and will be the first to rely heavily on online self-responses.

2) The primary and perpetual challenge facing the United States Census Bureau is the historic undercount of certain population groups. A complete and accurate count of California's population is essential.

3) The data collected by the decennial census determines the number of seats each state has in the House of Representatives and is used to distribute billions of dollars in federal funds to state and local governments.

4) The United States Census Bureau faces several challenges with the 2020 Decennial Census, including rapidly changing use of technology, declining response rates, an increasingly diverse and mobile population, and vast misinformation.

5) California has been coordinating outreach and engagement efforts since 2018 by establishing the California Complete Count Committee and the California Complete Count - Census 2020 Office.

6) The Legislature, in partnership with the California Complete Count - Census 2020 Office, the Secretary of State, and other local and state governmental agencies, is committed to robust outreach and communication strategies, focusing on reaching the hardest-to-count individuals.

This resolution:

1) Recognizes the importance of the 2020 Decennial Census and supports helping to ensure a complete, fair, and accurate count of all Californians

2) Recognizes the week of March 30, 2020, to April 5, 2020, inclusive, as Census 2020 Week in California.

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

SUPPORT: (Verified 3/17/20)

None received

OPPOSITION: (Verified 3/17/20)

None received

Prepared by: Jonas Austin / SFA / (916) 651-1520
5/8/20 10:30:14

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

SENATE RULES COMMITTEE SR 82
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SR 82
Author: McGuire (D), Atkins (D), Bates (R), Caballero (D), Durazo (D), Galgiani (D), Lena Gonzalez (D), Grove (R), Hurtado (D), Jackson (D), Leyva (D), Mitchell (D), Rubio (D), and Skinner (D)
Introduced: 3/11/20
Vote: Majority

SUBJECT: National Rosie the Riveter Day

SOURCE: Author

DIGEST: This resolution recognizes March 21, 2020, as "National Rosie the Riveter Day" and honors the 16 million women who worked during World War II for their dedication and sacrifice.

ANALYSIS: This resolution makes the following legislative findings:

1) "National Rosie the Riveter Day" is a collective national effort to raise awareness of the 16 million women working during World War II.

2) These women left their homes to work or volunteer full time in factories, farms, shipyards, airplane factories, banks, and other institutions in support of the military overseas.

3) These women worked with the United Service Organizations (USO) and the American Red Cross, drove trucks, riveted airplane parts, collected critical materials, rolled bandages, and served on rationing boards.

4) It is fitting and proper to recognize and preserve the history and legacy of working women, including volunteer women, during World War II to promote cooperation and fellowship among these women and their descendants.

This resolution recognizes March 21, 2020, as "National Rosie the Riveter Day" and honors the 16 million women who worked during World War II for their dedication and sacrifice.

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

SUPPORT: (Verified 3/16/20)

None received

OPPOSITION: (Verified 3/16/20)

None received

Prepared by: Karen Chow / SFA / (916) 651-1520
5/8/20 10:30:15

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

SENATE RULES COMMITTEE SR 83
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SR 83
Author: Lena Gonzalez (D), et al.
Introduced: 3/11/20
Vote: Majority

SUBJECT: César Chávez Day

SOURCE: Author

DIGEST: This resolution calls upon all Californians to (1) observe César Chávez's birthday, March 31, as a day of public service; (2) recognize the hard work and self-sacrifice that farmworkers go through to feed all the families in our state; and (3) learn from César Chávez's life and his mission of nonviolence, social justice, and selfless service to others.

ANALYSIS: This resolution makes the following legislative findings:

1) César Estrada Chávez recognized that for many people, spanning many generations and many ethnicities, the path to a better life frequently begins in the fields. For many farmworkers, the American Dream means a life of self-sacrifice, hard work, and perseverance.

2) César Chávez experienced the hardships and injustices of farmworker life firsthand. His father lost their family farm during the Great Depression, forcing the family to join some 30,000 farmworkers who followed the crops throughout California and lived in tents and makeshift housing.

3) César Chávez understood the value of education as a path to a better life because he quit school after completing the 8th grade to work full time, helping to support his family in the fields.

4) César Chávez served his country in the United States Navy. He was honorably discharged whereupon he married and eventually settled in the East San Jose barrio nicknamed "Sal Si Puedes" ("Get Out if You Can") to raise a family.

5) In San Jose, César Chávez was introduced to the social teachings of the Catholic Church and trained in community organizing strategies and tactics.

He and Fred Ross, an organizer for the Community Service Organization (CSO), established CSO chapters across California and Arizona during the 1950s, helping Latinos register to vote, pushing for basic public services and infrastructure in the barrios, peacefully battling police brutality and racial discrimination, and creating the most effective Latino civil rights group of its era.

6) In 1962, after failing to convince the CSO to let him organize farmworkers, César Chávez resigned from the CSO and moved his family to Delano, California. There, he, his family, and close friends began building the National Farm Workers Association, which later became the United Farm Workers of America (UFW).

7) In 1965, in a partnership with a union of Filipino American farmworkers, César Chávez organized a major strike against grape growers in California. The following year, he led an unprecedented 340-mile march from Delano to Sacramento that placed the farmworkers' plight before the conscience of the American people. Later efforts resulted in the enactment of California's historic Agricultural Labor Relations Act of 1975, the first and still the only law in the nation to "encourage and protect" the right of farmworkers to organize and bargain with their employers.

8) Through countless strikes, boycotts, marches, and fasts that produced many victories and some defeats, César Chávez never stopped his peaceful battles on behalf of the farmworkers with whom he shared his life. His motto in life, "Sí Se Puede!" or "Yes We Can!" has served as an inspiration not only for Latinos, but for working Americans of all walks for life.

9) In 1993, César Chávez died peacefully in his sleep in San Luis, Arizona. Since his passing, the UFW has continued his work through organizing farmworkers and campaigns to enact laws and regulations to bring dignity and protections to farmworkers. Meanwhile, the César Chávez Foundation continues improving the lives of hundreds of thousands of farmworkers and other low-wage working families.

10) César Chávez successfully increased public awareness of farmworker working conditions.

This resolution calls upon all Californians to (1) observe César Chávez's birthday, March 31, as a day of public service; (2) recognize the hard work and self-sacrifice that farmworkers go through to feed all the families in our state; and (3) learn from

César Chávez's life and his mission of nonviolence, social justice, and selfless service to others.

Related/Prior Legislation

SR 24 (Durazo, 2019) called upon all Californians to (1) observe César Chávez's birthday, March 31, as a day of public service; (2) recognize the hard work and self-sacrifice that farmworkers go through to feed all the families in our state; and (3) learn from César Chávez's life and his mission of nonviolence, social justice, and selfless service to others. (Adopted by the Senate March 28, 2019.)

HR 86 (Salas, 2018) called upon all Californians to (1) observe César Chávez's birthday, March 31, as a day of public service; (2) recognize the hard work and self-sacrifice that farmworkers go through to feed all the families in our state; and (3) learn from César Chávez's life and his mission of nonviolence, social justice, and selfless service to others. (Adopted by the Assembly on April 2, 2018.)

SB 1112 (Polanco, Chapter 542, Statutes of 2001) included Cesar Chavez Day as a judicial holiday.

SCR 26 (Polanco, Resolution Chapter 51, Statutes of 2001) recognized March 31 as the anniversary of the birth of Cesar Chavez and called upon all Californians to participate in appropriate observances to remember Cesar Chavez as a symbol of hope and justice to all citizens.

SB 984 (Polanco, Chapter 213, Statutes of 2000) designated March 31 as "Cesar Chavez Day," a paid holiday for state employees; and required the State Board of Education to adopt a model curriculum guide for use by public schools for exercises related to Cesar Chavez Day.

SB 1373 (Torres, Chapter 1011, Statutes of 1994) established the Cesar Chavez holiday.

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

SUPPORT: (Verified 3/17/20)

None received

OPPOSITION: (Verified 3/17/20)

None received

Prepared by: Jonas Austin / SFA / (916) 651-1520
5/8/20 10:30:16

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 240
Author: Irwin (D), et al.
Amended: 5/26/20 in Senate
Vote: 21

SENATE VETERANS AFFAIRS COMMITTEE: 7-0, 6/11/19
AYES: Archuleta, Grove, Hurtado, Nielsen, Roth, Umberg, Wilk

SENATE GOVERNMENTAL ORG. COMMITTEE: 15-0, 7/9/19
AYES: Dodd, Wilk, Allen, Archuleta, Bradford, Chang, Galgiani, Glazer, Hill, Hueso, Jones, Nielsen, Portantino, Rubio, Wiener
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 5/2/19 (Consent) - See last page for vote

SUBJECT: Veterans' homes: lease of property

SOURCE: Author

DIGEST: This bill limits the term of a lease of real property at a California Department of Veterans Affairs (CalVet) Veterans' Home to five years, except under specified conditions; and requires that any use of property by a third party at a Veterans' Home meet specified criteria.

Senate Floor Amendments of 5/26/20 remove the authorization for the Director of the Department of General Services (DGS), with the consent of the Secretary, to enter into leases of any real property held by the department for a home, and not needed for any immediate purpose of the home, with any party for the development of housing, including affordable or mixed-income housing.

Senate Floor Amendments of 9/3/19 remove references to "long-term care facility."

ANALYSIS:

Existing law:

1) Establishes the Veterans' Home of California system for the operation of Veterans' Homes at various sites throughout the state.

2) Sets forth the duties of the CalVet regarding the administration and regulation of Veterans' Homes.

3) Authorizes the Director of DGS to lease or let any real property held by the department for a home, as specified, to any entity or person upon terms and conditions determined to be in the best interests of the home.

4) Authorizes the Director of DGS, as specified, to let for any period of time any real property or interest in real property which belongs to the state, when the director deems the letting serves a beneficial public purpose limited to the development of housing, including emergency shelters, or park and recreation facilities

This bill:

1) Prohibits a lease of a real property held by CalVet for a home from exceeding a term of five years, unless:

    a) The lessee is a town, city, county, or city and county, or a political subdivision thereof, where the home is located.
    b) The lessee is a nonprofit organization that provides services exclusively for veterans of the Armed Forces of the United States and their families.
    c) The contract for the lease with CalVet or DGS was executed before January 1, 2021.

2) Authorizes a lease that was executed before January 1, 2021, to be renegotiated, however, any terms regarding the duration of the renewal of the contract shall not be extended.

3) Provides that a lease contract with any other party may be granted for a term greater than five years only with the approval of the Legislature.

4) Requires that any use, other than an easement, of real property held by CalVet for a home by a person or entity, as specified, must meet all of the following, as determined by the secretary:

   a) Provide substantial and direct benefits to the home and its members.
   b) Be appropriate and compatible with the nature of the home.
   c) Compensate CalVet in an amount that approximates fair market value, taking into consideration the value of the benefit provided to the home's members and the investment by the lessee in the property development of the home.
   d) That where the use contemplated carries a reasonable risk of injury or loss to the state, the home, or the members of the home, the use is appropriately insured by the lessee to cover those risks and to insure home residents, the department, and the State against liability.

5) Requires that any use, other than an easement, of real property held by CalVet for a home by a person or entity, as specified, be governed by a written agreement between CalVet or DGS and the person or entity using the real property, as specified.

6) States that the act is not intended to override or interfere with Section 14671.2 of the Government Code.

7) Defines "Member" as a veteran or nonveteran spouse or domestic partner who has been admitted by the department to reside at a home or receives services from the department at a home.

Background

CalVet oversees eight veterans' homes across the state. The homes provide rehabilitative, residential and medical services to the veterans who reside there. Any veteran who is disabled or over 55 years of age and a resident of California is eligible to apply for admission to the homes. Each home provides different levels of care, including skilled nursing care and memory care. The homes also range in size. The Lancaster home can house 60 residents on a 20 acre site while the largest home, the Yountville home (Yountville) in Napa County, can house up to 1,000 residents on a site that covers several hundred acres.

DGS has general authority to lease state owned real property, including veterans' home properties, with the consent of the agency responsible for the property. DGS has specific authority to lease veterans' home property as long as the property is

not needed for any direct or immediate purpose and the terms and conditions of the lease are in the best interests of the home.

In January 2019, the California State Auditor released an audit of CalVet and DGS subtitled "The Departments' Mismanagement of the Veterans Home Properties Has Not Served the Veterans' Best Interests and Has Been Detrimental to the State." The Auditor recommended to the legislature that "to prevent future leases of veterans home property that obligate the property to third parties for unnecessarily extended periods of time, the Legislature should amend state law to clarify that leases of veterans home property may not exceed five years unless a statutory exception applies."

The Yountville home has entered into long-term arrangements with the County of Napa and the Town of Yountville that involve mutual provision of services, investment of public funds and operation of facilities that do provide benefits to the home and its members. Specifically, the Town of Yountville has made an investment of more than $2 million in the update and maintenance of the pool as part of a long-term arrangement with the home that has now been rendered void because the contract was executed without the approval of DGS. In negotiation over a new lease, the Town has balked at the imposition of the five-year limit, stating that its investment and the operating deficit of the pool does not make sense for them to take on with such short terms.

Some lessees hold leases that will not expire for decades. Additionally, their terms are extremely unfavorable to the state, as the auditor has detailed. CalVet is attempting to renegotiate some of these leases, but the lessees have virtually no incentive to agree to remuneration terms more favorable to the state at the same time that they are also required to cut decades from their existing arrangements. These leases, of the museum and the golf course, for example, also involve substantial investment by the leasing parties to develop the properties they are now using. This bill will clarify the law with regard to the five-year limit, but also provide flexibility to CalVet to restructure some of its least favorable, longest-term contracts.

[NOTE: See the Senate Veterans Affairs Committee analysis for detailed background of this bill.]

Comments

According to the author, "The property upon which the Yountville Veterans Home now stands was deeded under the state under clear terms: '…the support, maintenance and well-being of aged and infirm United States ex-soldiers, sailors

and Marines.' And yet repeated audits of the Yountville Home have found that it is almost inexorably put to uses that not only have nothing to do with veterans, but run counter to the interests of the home and the people who live there. By resolving the ambiguity in current law about lease terms, while also providing flexibility under specific conditions, this bill provides a better foundation for ensuring the homes are chiefly operated for the benefit of their members, as well as the communities to which these homes belong, without compromising the interests of California veterans or the well-being of the home's members."

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

SUPPORT: (Verified 6/2/20)

AMVETS-Department of California
California Association of County Veterans Service Officers
Military Officers Association of America

OPPOSITION: (Verified 6/2/20)

None received

ASSEMBLY FLOOR: 76-0, 5/2/19
AYES: Aguiar-Curry, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Dahle, Daly, Diep, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager-Dove, Kiley, Lackey, Levine, Limón, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Melendez, Muratsuchi, Nazarian, Obernolte, O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Arambula, Grayson, Mullin, Quirk

Prepared by: Veronica Badillo / V.A. / (916) 651-1503
6/2/20 9:09:16

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 860
Author: Berman (D), Cervantes (D) and Umberg (D), et al.
Amended: 6/4/20
Vote: 27 - Urgency

SENATE ELECTIONS & C.A. COMMITTEE: 4-1, 6/2/20
AYES: Umberg, Hertzberg, Leyva, Stern
NOES: Nielsen

SENATE APPROPRIATIONS COMMITTEE: 5-2, 6/9/20
AYES: Portantino, Bradford, Hill, Leyva, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: Not relevant

SUBJECT: Elections: vote by mail ballots

SOURCE: Author

DIGEST: This bill requires county elections officials to mail a ballot to every registered voter for the November 3, 2020, General Election.

ANALYSIS:

Existing law:

1) Provides that a registered voter may vote by mail by requesting a vote by mail (VBM) ballot for a specific election or by becoming a permanent VBM voter.

2) Requires county elections officials to begin mailing ballots and other required materials to voters no later than 29 days before the day of the election.

3) Provides that, pursuant to the California Voter's Choice Act, authorizes any county to conduct any election occurring on or after January 1, 2020, as an all-mailed ballot election if specified conditions are met. In an all-mailed ballot

election held under the Act, the county elections official must mail a ballot to every registered voter, regardless of whether the voter requested a VBM ballot or is a permanent VBM voter.

4) Provides that if specified data indicates that a voter has moved and left no forwarding address, or if a voter has moved out of the state, the county elections official shall update the status of the voter's registration to inactive. Voters with an inactive voter registration status do not receive election materials and are not included in calculations to determine the number of signatures required for qualification of candidates and measures, precinct size, or other election administration-related processes.

5) Provides that whenever there are 250 or fewer persons registered to vote in any precinct, the elections official may furnish each voter with a VBM ballot along with a statement that there will be no polling place for the election.

6) Provides that certain local elections may be conducted as all-mail ballot elections, as specified.

7) Requires county elections officials to permit voters with a disability, and military or overseas voters, to cast a ballot using a certified remote accessible VBM system, as specified.

8) Defines "remote accessible vote by mail system" as a mechanical, electromechanical, or electronic system and its software that is used for the sole purpose of marking an electronic VBM ballot for a voter with disabilities or a military or overseas voter who shall print the paper cast vote record to be submitted to the elections official. A remote accessible VBM system may not be connected to a voting system at any time.

9) Requires the Secretary of State (SOS) to establish, by January 1, 2020, a system that a county elections official may use to allow a voter to track the voter's VBM ballot through the mail system and processing by the county elections official. County elections officials are not required to use the system, however.

10) Provides that a VBM ballot is timely cast if it is voted on or before Election Day and, if returned by mail, received by the voter's elections official via the United States Postal Service, or a bona fide private mail delivery company, no later than three days after Election Day, as specified.

11) Provides that any jurisdiction having the necessary computer capability may start to process VBM ballots on the 10th business day before the election. This processing includes opening VBM ballot return envelopes, removing ballots, duplicating any damaged ballots, and preparing the ballots to be machine read, or machine reading them, including processing write-in votes so that they can be tallied by the machine, but under no circumstances may a vote count be accessed or released until 8 p.m. on the day of the election.

12) Provides, pursuant to Executive Order N-64-20, issued by Governor Newsom on May 8, 2020, that in light of the State of Emergency existing in California as a result of the threat of COVID-19, each county elections officials shall transmit VBM ballots for the November 3, 2020 General Election to all voters who are registered to vote in that election. The Executive Order does not limit the extent to which in-person voting opportunities should be available in connection with the election.

This bill:

1) Requires county elections officials to mail a ballot to every registered voter for the November 3, 2020, General Election, as specified and provides that the distribution of VBM ballots to all registered voters does not prevent a voter from voting in person at a polling place, vote center, or other authorized location.

2) States that, consistent with specified existing law, and with the longstanding interpretation by state and local elections officials of existing law, nothing in this bill is intended, and shall not be construed, to mean that a voter with an inactive voter registration status shall receive a VBM ballot for the November 3, 2020, statewide general election.

3) Requires county elections officials to permit any voter to cast a ballot using a certified remote accessible VBM system for the November 3, 2020, statewide general election.

4) Requires county elections officials to use the SOS's VBM ballot tracking system, or a system that meets the same specifications, for the November 3, 2020, General Election.

5) Extends, for the November 3, 2020, General Election, the deadline by which VBM ballots must be received by the county elections official to the 17th day after Election Day.

6) Authorizes jurisdictions that have the necessary computer capability, for the November 3, 2020, General Election, to begin processing VBM ballots on the 29th day before the election.

7) Contains an urgency clause.

8) Contains Legislative findings and declarations.

Background

SOS Working Group. The SOS's office established a working group to discuss the conduct of elections during the COVID-19 pandemic, and to come up with recommendations for how to conduct the November election in light of the challenges posed by COVID-19. The working group included SOS, legislative and gubernatorial staff, local elections officials, as well as representatives from numerous good government and voting rights groups, among others. According to the author, the provisions of this bill were informed by those discussions.

Other States. According to the National Conference of State Legislatures, five states currently conduct all elections entirely by mail: Colorado, Hawaii, Oregon, Washington and Utah. At least 21 other states have laws that allow certain smaller elections, such as school board contests, to be conducted by mail.

Furthermore, numerous other states have enacted or are in the process of considering action to mitigate the effects of the COVID-19 pandemic on the conduct of elections including, but not limited to, delaying the dates of primary and local elections, conducting elections by mail, expanding the criteria under which voters may request a VBM ballot, and expanding early voting opportunities.

Current VBM Use in California. In 2001, the Legislature approved and Governor Davis signed AB 1520 (Shelley, Chapter 922, Statutes of 2001), which, among other provisions, authorized any voter to become a permanent VBM voter. As a result, California voters have increasingly used VBM ballots to vote in elections. Since 2012, a majority of ballots cast in all California statewide elections were VBM ballots.

Nearly 60 percent of all California voters are now permanent VBM voters. In three counties (Alpine, Plumas, and Sierra), 100 percent of their precincts are small enough that they are deemed all-mail ballot precincts. Fifteen counties conduct elections pursuant to the California Voter's Choice Act (Amador, Butte, Calaveras, El Dorado, Fresno, Los Angeles, Madera, Mariposa, Napa, Nevada, Orange, Sacramento, San Mateo, Santa Clara, and Tuolumne) wherein every registered voter receives a ballot in the mail. The net result is that for the November 3, 2020 General Election, more than 87 percent of California's registered voters will already be receiving a ballot in the mail even without AB 860 or the Governor's recent Executive Order.

Pending Lawsuits Challenging Executive Order N-64-20. Two separate lawsuits were recently filed in the United States District Court, Eastern District of California challenging the validity of Executive Order N-64-20. The first suit, Darrell Issa et al. v. Gavin Newsom et al. (Case No. 2:20-CV-01044-MCE-CKD), contends, among other things, that the Executive Order conflicts with various sections of the US Constitution which provide that the times, places and manner of holding elections for members of Congress and presidential electors shall be prescribed by state legislatures. The suit also contends that the Governor exceeded his authority under the Government Code to issue the Executive Order.

The second suit, Republican National Committee et al. v. Gavin Newsom et al. (Case No. 2:20-CV-01055-KJM-CKD), also contends, among other things, that the Executive Order similarly conflicts with the US Constitution.

Comments

According to the author, since California held its statewide primary election on March 3, at least 16 states have either postponed their scheduled primary elections or switched them to vote by mail elections due to concerns that conducting in-person voting during the spread of COVID-19 threatens the health and safety of voters, election workers, and the public generally.

In Wisconsin, which held its statewide primary election as scheduled on April 7, 2020, requests for absentee ballots more than doubled compared to the 2018 general election. Due in part to this large increase, elections officials were unable to send absentee ballots to thousands of voters who had requested them. Due to COVID-19 related concerns, officials were forced to significantly reduce the number of polling locations available; in Milwaukee, the number of polling locations was reduced by more than 97 percent.

Fortunately, California is better prepared to handle an increase in mail balloting in time for the presidential general election this fall. California voters already choose to vote using mailed ballots in large numbers; in fact, more than 72 percent of voters who participated in California's March primary election cast a vote by mail ballot -- the highest percentage ever for a statewide election in California.

While it is uncertain what social distancing guidelines will be in place this November, voters are likely to be less comfortable with in-person voting due to health concerns even if the COVID-19 pandemic has subsided in advance of the November election. Mailing every voter a ballot for the general election is an important step in promoting resilience in the state's elections and ensuring that every California voter will have the opportunity to fill out their ballot in a safe manner.

Californians should not have to risk their health – and possibly their lives – in order to exercise their constitutional right to vote in this November's election. Guaranteeing that every California voter has the opportunity to fill out their ballot in the safety of their own home is essential to ensuring that we can conduct an open, accessible, and safe election this November.

Since the introduction of this bill, Governor Newsom issued Executive Order N-64-20, which requires each county's elections official to send vote by mail ballots to all registered voters for the November 3, 2020 General Election. Since that time, at least two federal lawsuits have been filed challenging the validity of that executive order. In light of those lawsuits, it remains essential to enact AB 860, and ensure that there is no confusion that all California voters will receive a ballot in the mail this fall.

Companion Bill Regarding In-Person Voting. SB 423 (Umberg and Berman), which is pending in the Assembly Elections & Redistricting Committee, will require for the November 3, 2020 General Election that every county provide at least one consolidated polling place or vote center for every 10,000 registered voters beginning on the Saturday immediately prior to and through Election Day. Additionally, each county will be required to provide at least two ballot drop-off locations or at least one ballot drop-off for every 15,000 registered voters, whichever is more.

Related/Prior Legislation

SB 423 (Umberg and Berman), which is pending in the Assembly Elections & Redistricting Committee, requires for the November 3, 2020 General Election that

every county provide at least one consolidated polling place or vote center for every 10,000 registered voters beginning on the Saturday immediately prior to and through Election Day. Additionally, each county will be required to provide at least two ballot drop-off locations or at least one ballot drop-off for every 15,000 registered voters, whichever is more.

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

According to the Senate Appropriations Committee:

The Secretary of State (SOS) indicates that it would cost $72 million to move the November 2020 General Election to an all-mail event. The state portion of the cost would be $13 million, for an outreach campaign. Much of these costs would be paid for using federal funds (See Staff Comments).

By requiring counties to mail a ballot to every registered voter, this bill creates a state-mandated local program. To the extent the Commission on State Mandates determines that the provisions of this bill create a new program or impose a higher level of service on local agencies, local agencies could claim reimbursement of those costs (General Fund).

SUPPORT: (Verified 6/9/20)

350 Silicon Valley
American Civil Liberties Union of California
Black Women for Wellness
California Calls
California Common Cause
California Donor Table
California Environmental Justice Alliance
California Federation of Teachers
California Labor Federation
California League of Conservation Voters
California School Employees Association
California Teachers Association
Center for Community Action and Environmental Justice
Courage California
Disability Rights California
Inland Empire United
League of Women Voters of California
Mi Familia Vota
Million Voters Project

NARAL Pro-Choice California
Power California
SEIU California
UDW/AFSCME Local 3930
Union of Concerned Scientists
Approximately 4,500 individuals indicating support via various petitions

OPPOSITION: (Verified 6/9/20)

Election Integrity Project of California
Inyo County Clerk/Recorder, Kammi Foote

ARGUMENTS IN SUPPORT: In a letter supporting AB 860, the American Civil Liberties Union of California stated, in part:

> The COVID-19 pandemic poses unique challenges to administering the November 2020 election. California must act proactively to ensure the November 2020 election is safe, secure, and accessible for all voters. The first and most commonsense step is to send all registered California voters a vote-by-mail (VBM) ballot. A majority of Californians already securely use VBM, and no one should have to choose between their health and their right to vote. AB 860 will help provide more uniform access to VBM across the state and, hopefully, will be accompanied by additional funding to counties to help them expand the distribution and processing of VBM ballots this November

ARGUMENTS IN OPPOSITION: In a letter opposing AB 860, Election Integrity Project of California stated, in part:

> It is understandable to look to the VBM process to protect the rights of voters to participate in an election without jeopardizing their health or safety in a time of pandemic threat. But to maintain electoral integrity, there must be extra effort expended to assure the voters that the cure is not more lethal than the disease.

AB 860 represents an over-reaction to the needs of the current and projected public health situation. As with all over-reactions, it creates significantly more problems than it purports to solve.

Prepared by: Darren Chesin / E. & C.A. / (916) 651-4106
6/10/20 13:25:02

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

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THIRD READING

Bill No: AB 1460
Author: Weber (D), et al.
Amended: 2/11/20 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 3-0, 6/26/19 (FAIL)
AYES: Leyva, Durazo, McGuire
NO VOTE RECORDED: Wilk, Chang, Glazer, Pan

SENATE EDUCATION COMMITTEE: 4-0, 7/10/19
AYES: Leyva, Chang, Durazo, McGuire
NO VOTE RECORDED: Wilk, Glazer, Pan

SENATE APPROPRIATIONS COMMITTEE: 5-2, 1/23/20
AYES: Portantino, Bradford, Durazo, Hill, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 59-17, 5/23/19 - See last page for vote

SUBJECT: California State University: graduation requirement: ethnic studies

SOURCE: California Faculty Association

DIGEST: This bill requires the California State University (CSU), commencing with the 2021-22 academic year, to (1) provide courses in ethnic studies at each of its campuses; and (2) require, as an undergraduate graduation requirement commencing with students graduating in the 2024-25 academic year, the completion of, at minimum, one three-unit course in ethnic studies.

Senate Floor Amendments of 2/11/20 push back the commencing date to the 2021-22 academic year and clarify that the graduation requirement begins with students graduating in the 2024-25 academic year.

ANALYSIS: Existing law confers upon the CSU Board of Trustees the powers, duties, and functions with respect to the management, administration, control of the CSU system and provides that the Trustees are responsible for the rule of government of their appointees and employees. (Education Code § 66606 and 89500, et seq.)

This bill requires the CSU, commencing with the 2021-22 academic year, to (1) provide courses in ethnic studies at each of its campuses; and (2) require, as an undergraduate graduation requirement commencing with students graduating in the 2024-25 academic year, the completion of, at minimum, one three-unit course in ethnic studies. Specifically, this bill:

1) Expresses that the intent of the Legislature is for CSU students to acquire the knowledge and skills that will help them comprehend the diversity and social justice history of the United States and of the society in which they live in order to enable them to contribute to society as responsible and constructive citizens.
2) Requires each campus of the CSU, commencing with the 2021-22 academic year, to provide courses in ethnic studies.
3) Requires the CSU to collaborate with the CSU Council on Ethnic Studies and the Academic Senate of the California State University (ASCSU) in order to develop core competencies to be achieved by students who complete an ethnic studies course.
4) Requires the Council and ASCSU to approve the core competencies, pursuant to 3) above, before the start of the 2021-22 academic year.
5) Requires the CSU, commencing with students graduating in the 2024-25 academic year, to require, as an undergraduate graduation requirement, the completion of one three-unit course in ethnic studies.
6) Prohibits the CSU, when implementing the provisions of this bill, from increasing the required number of units to graduate from the CSU with a baccalaureate degree.
7) Specifies that the graduation requirement, pursuant to 5) above, does not apply to a postbaccalaureate student who is enrolled in a baccalaureate degree program at the CSU if the student has satisfied either of the following:
    a) The student has earned a baccalaureate degree from an institution accredited by a regional accrediting agency.
    b) The student has completed an ethnic studies course at a postsecondary educational institution accredited by a regional accrediting agency.

8) States legislative findings and declarations relating to the history and value of ethnic studies.

Comments

1) *Need for the bill.* According to the author, "On August 23, 2017, CSU Chancellor Timothy White published Executive Order 1100, which would cap general education (GE) credits available for students at 48 units maximum, and would mandate that certain GE areas be no more than three units. The impact of this order is that it effectively lowers the demand for Ethnicity Studies, Comparative Cultural Studies, Gender, Race, Class, and Foreign Languages at many campuses.

   "Ethnic studies as a requirement for all students would advance a more inclusive society that values the diversity we represent in several ways. One, it maximizes the knowledge in the classroom by introducing new perspectives that represents a larger universe of experiences in society. Two, it helps students develop critical thinking skills by understanding their world from multiple perspectives, reducing group thinking that can be ethnocentric and intolerant of human diversity. Three, it better prepares our students to be productive and constructive workers/professionals in increasingly diversified and racial minority state. Four, it creates a sense of belonging that enhances graduation and success rates for underrepresented minority students. And lastly, education that reflects all racial ethnic groups' experiences advances social justice and a democracy that works for everyone. A state curriculum that requires Ethnic Studies will help students learn lessons from the past to construct a better future."

2) *2014 ethnic studies task force and recommendations.* In January 2014, Chancellor Timothy P. White formed a statewide committee called the *CSU Task Force on the Advancement of Ethnic Studies*. The Task Force members were appointed by the Chancellor and included members drawn or nominated from the faculty, students, ASCSU, campus presidents, provosts, and Student Affairs. According to the executive summary of the Task Force's 2016 report, "its task was to identify, review and make recommendations concerning critical issues, policies and practices which impact the status, perceived and real value, functioning, sustainment and advancement of ethnic studies in the context of their role in the mission of the university to provide a multicultural quality education which enables and enhances students' ability to function and relate effectively in a multicultural global society."

   Among the Task Force's 10 main recommendations, it recommended making ethnic studies a GE requirement throughout the CSU system.

Importantly, the Task Force identified best practices that allow for an ethnic studies requirement within the CSU's existing GE patterns and 120 semester unit requirements.

In response to the Task Force's report, the CSU Chancellor issued a 2017 status report on campus responses to the Task Force's recommendations. Specifically, as it relates to the recommendation to make ethnic studies a CSU system-wide graduation requirement, the CSU wrote, "As was referenced in Chancellor White's letter accompanying the Task Force report, the recommendations were expected to inform –but not constrain –the regular planning process of each campus. While ethnic studies has not been made a GE requirement throughout the CSU system, the report's recommendations are informing campus actions."

3) *Executive Order 1100-Revised.* During 2016, Governor Brown's Office, the Department of Finance, and the Legislature expressed concerns about some inconsistencies with the CSU GE requirements, and encouraged the CSU to reexamine its policies and practices.

   After over a year of consultation and discussion, the CSU Chancellor's Office issued Executive Order 1100-Revised. The CSU also saw the reexamination as consistent with CSU's efforts to remove administrative barriers to student success, one of six pillars, under Graduation Initiative 2025.

   As noted by the Assembly Higher Education Committee, the goals of Executive Order 1100-Revised were to:

   - Provide greater clarity regarding GE units, outlining the explicit minimum and maximum number of units for GE requirements;
   - Ensure equitable treatment of all students so that transfer students and entering freshmen have the same GE requirements; and,
   - Facilitate degree completion by explicitly allowing double counting of units that satisfy both GE requirements and major requirements.

   Executive Order 1100-Revised does not prohibit a campus from requiring ethnic studies courses or any other courses within the established GE framework or as a campus requirement.

4) *Existing ethnic studies efforts at the CSU.* According to the CSU Chancellor's status report referenced above, the CSU has undertaken the following efforts, among others:

   a) Increasing access to ethnic studies courses: Campuses have hired additional faculty in ethnic studies programs to develop and teach new courses and additional course sections. At some campuses, GE programming or campus

graduation requirements have been redesigned to include an emphasis on ethnic studies. At others, courses offered by ethnic studies departments have been redesigned to ensure availability to students earlier in their education. These efforts will result in more student awareness – earlier in their college years – of ethnic studies curricula and the opportunity to enroll in these courses.

b) Campuses are ensuring ethnic studies courses are well represented in GE categories, incorporating themes and language from the Task Force report into GE policy and strengthening graduation requirements that include ethnic studies courses, as shown below:

Action	Campuses
Redesigned GE program around themes that will provide sustainability for the ethnic studies programs	Chico, East Bay, Fresno, Los Angeles, San Bernardino, Stanislaus, *Long Beach, Northridge, San Francisco*
Incorporated language from the ethnic studies report into mission - centered themes in the new GE Course Characteristics policy	Channel Islands, Pomona, *Chico*
Strengthened race and ethnicity graduation requirement	Channel Islands, East Bay, Los Angeles, Pomona, San Diego, *Dominguez Hills, Long Beach, Monterey Bay, Sacramento, San Marcos, Sonoma*
Embedded ethnic studies throughout virtually all of the GE categories	Chico, East Bay, Los Angeles, Northridge, Sacramento, *Long Beach, San Diego, San Francisco, San José*
Increased number of courses from ethnic studies departments that are included in the GE curriculum	Dominguez Hills, East Bay, Fullerton, Los Angeles, Pomona, San Francisco, San José, *Chico, Dominguez Hills, Long Beach, Sacramento, San Diego, San Marcos, Sonoma, Stanislaus*

Campus overlaid with existing GE requirements	East Bay, Pomona, Sonoma, *Monterey Bay, San Bernardino*
Ethnic studies courses have heavy representation in two GE areas; campus is exploring adding new ethnic studies course offerings that would fulfill the GE A1 Oral Communication requirement	Dominguez Hills, Fullerton, Pomona, Stanislaus, *Chico, Long Beach, Monterey Bay, San Diego, San Francisco, San José, Sonoma*

* Schools in italics have taken those actions since this bill was originally heard in the Senate Education Committee on July 10, 2019.

5) *Value of ethnic studies.* A research review conducted by the National Education Association, *The Academic and Social Value of Ethnic Studies*, concluded that "considerable research evidence shows that well-designed and well-taught ethnic studies curricula have positive academic and social outcomes for students and that curricula are designed and taught somewhat differently depending on the ethnic composition of the students and the subsequent experiences they bring. These positive findings should not be interpreted, however, as meaning that schools can assign any teacher an ethnic studies curriculum to teach, or that students of color will automatically achieve more if ethnic content is added to the curriculum. As noted above, well-planned and well-taught ethnic studies includes related components."

6) *Academic freedom.* As noted by the Assembly Higher Education Committee, "while academic freedom may mean different things to different individuals, at the core of academic freedom, is the establishment of faculty members' right to remain true to their pedagogical philosophy and intellectual commitments; it preserves the intellectual integrity of our higher education systems. Additionally, academic freedom means that the political, religious, or philosophical beliefs of politicians, administrators, and members of the public cannot be imposed on faculty or students."

This bill requires the CSU to require a specific three-unit course for graduation in ethnic studies, and requires the CSU to collaborate with the CSU Council on Ethnic Studies and the ASCSU to develop core competencies to be achieved by students who complete an ethnic studies course for that purpose, and to do so before the 2020-21 academic year.

It should be noted that the CSU faculty continue to address the concerns about Ethnic Studies programs and courses, through work by the ASCSU. Over the past two years, the ASCSU has convened a GE Task Force, which issued a draft report in February 2019. One of the recommendations of this report is to include a specific three-unit requirement within CSU GE for a course on cultural diversity within the United States. Presumably, this course would include courses across the spectrum of Ethnic Studies while providing flexibility to campuses.

7) *More graduation requirement proposals likely to follow.* The graduation requirement proposed by this bill is limited to ethnic studies. If this bill were to take effect, it seems likely that the Legislature would see additional proposals in future years to add additional graduation requirements. For example, it is easy to envision a proposal to require a gender studies or LGBTQ+ studies requirement, or perhaps a graduation requirement centered on climate change or environmental education.

   Evidence of this possibility can be seen in the K-12 graduation requirements, where the Legislature has considered a burgeoning list of subjects for a new graduation requirement in recent years, including financial literacy, service learning, health, and ethnic studies. Additionally, the Legislature has authorized AP computer science to count toward local math graduation requirements beyond the state requirements, and expanded the foreign language or visual and performing arts requirement to also be satisfied by a career technical education course. Moreover, other bills have attempted to revise the number of courses required for certain existing subjects.

Related/Prior Legislation

AB 331 (Medina, 2019) would have added, commencing with the 2024-25 school year, a semester-long course in ethnic studies, based on the ethnic studies model curriculum, to the list of statewide graduation requirements; and would have applied all of the statewide graduation requirements to charter schools. AB 331 was held in the Senate Appropriations Committee.

AB 2408 (Weber, 2018) was very similar in nature to this bill. AB 2408 was held in the Assembly Higher Education Committee at the request of the author.

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

According to the Senate Appropriations Committee:

- The CSU estimates ongoing costs of approximately $16.5 million each year to provide an ethnic studies course as a result of this measure. This estimate assumes that about 53 percent of students have not taken the course between the Fall of 2015 and the Fall of 2018, and also includes the administrative costs necessary to expand or develop course offerings. Additionally, the CSU estimates one-time costs of about $1.5 million to review associate degree for transfer pathways resulting from the new graduation requirement.

- The Chancellor's Office indicates that to the extent that the ethnic studies course is imposed as a lower-division requirement, this bill could result in Proposition 98 General Fund costs of approximately $4.5 million which includes the cost for community colleges to develop the ethnic studies curriculum, hire faculty, and review course availability.

SUPPORT: (Verified 2/7/20)

California Faculty Association (source)
Alliance for Education Solutions
Asian Americans Advancing Justice – California
Black Community, Clergy and Labor Alliance
Black Lives Matter Global Network
Black Student Union at Sacramento State University
Bulosan Center for Filipino Studies
California Association for Bilingual Education
California League of United Latin American Citizens
California State University, Long Beach – Department of Africana Studies
California State University, Long Beach – Department of Asian and Asian American Studies
California State University, Los Angeles – Department of Pan-African Studies
California State University, Northridge – Department of Chicana and Chicano Studies
California State University, Northridge – Department of Social Work
California State University, Stanislaus – Ethnic Studies program
Center for the Study of Peoples of the Américas
Critical Race and Ethnic Studies program at University of California, Merced
Latinx Geographies Specialty Group of the American Association of Geographers
Little Manila
Los Angeles County Democratic Party

National Council for Black Studies
National Council of Negro Women, Sacramento Valley Section
Padres Pioneros
Service Employees International Union California
Southeast Asian Resource Action Center
Taskforce for the Center on Race, Immigration, and Social Justice at Sacramento State
University of California, Davis – Department of Asian American Studies
University of California, Riverside – Ethnic Studies Department
Numerous individuals

OPPOSITION: (Verified 2/7/20)

Academic Senate of the California State University
California Polytechnic State University, Pomona
California Polytechnic State University, San Luis Obispo
California State University
California State University Maritime Academy
California State University, Bakersfield
California State University, Channel Islands
California State University, Chico
California State University, Dominguez Hills
California State University, East Bay
California State University, Fresno
California State University, Fullerton
California State University, Long Beach
California State University, Los Angeles
California State University, Monterey Bay
California State University, Northridge
California State University, Sacramento
California State University, San Bernardino
California State University, San Marcos
California State University, Stanislaus
Humboldt State University
San Diego State University
San Francisco State University
San José State University
Sonoma State University

ASSEMBLY FLOOR: 59-17, 5/23/19
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Chu, Cooper, Daly, Eggman, Frazier, Friedman, Gabriel, Cristina Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager-Dove, Levine, Limón, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Weber, Wicks, Wood, Rendon
NOES: Bigelow, Brough, Chen, Cunningham, Dahle, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Mayes, Melendez, Obernolte, Patterson, Voepel, Waldron
NO VOTE RECORDED: Choi, Cooley, Diep, Eduardo Garcia

Prepared by: Brandon Darnell / ED. /
2/13/20 14:48:11

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

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THIRD READING

Bill No: ACA 14
Author: Gonzalez (D), et al.
Amended: 8/30/19 in Senate
Vote: 27

SENATE EDUCATION COMMITTEE: 6-0, 7/10/19
AYES: Leyva, Wilk, Chang, Durazo, McGuire, Pan
NO VOTE RECORDED: Glazer

SENATE ELECTIONS & C.A. COMMITTEE: 4-1, 8/20/19
AYES: Umberg, Hertzberg, Leyva, Stern
NOES: Nielsen

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/30/19
AYES: Portantino, Bradford, Durazo, Hill, Wieckowski
NOES: Bates, Jones

SENATE FLOOR: 23-12, 9/13/19 (FAIL)
AYES: Archuleta, Atkins, Beall, Bradford, Caballero, Chang, Durazo, Galgiani, Lena Gonzalez, Hill, Hueso, Hurtado, Leyva, McGuire, Mitchell, Pan, Portantino, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NOES: Bates, Borgeas, Dahle, Dodd, Glazer, Grove, Hertzberg, Jones, Moorlach, Morrell, Nielsen, Stone
NO VOTE RECORDED: Allen, Jackson, Monning, Roth, Rubio

ASSEMBLY FLOOR: 57-12, 6/24/19 - See last page for vote

SUBJECT: University of California: support services: equal employment opportunity standards

SOURCE: AFSCME Local 3299

DIGEST: This constitutional amendment proposes to amend Article IX of the State Constitution by adding Section 9.5, the University of California (UC) Equal Employment Opportunity Standards Act, requiring the Regents of the UC to ensure that all contract workers who are paid to perform support services are afforded the same equal employment opportunity standards as university employees performing similar services.

ANALYSIS:

Existing constitutional law:

1) Establishes the UC as a public trust under the administration of the Regents.

2) Grants to the Regents all the powers necessary or convenient for the effective administration of this public trust.

3) Provides that the Regents are subject only to such legislative control as may be necessary to insure the security of its funds and compliance with the terms of the endowments of the university and such competitive bidding procedures as may be made applicable to the university by statute for the letting of construction contracts, sales of real property, and purchasing of materials, goods, and services.

4) Provides that the Regents are comprised of seven ex officio members, as specified, 18 appointive members appointed by the Governor and approved by the Senate, a majority of the membership concurring, and permits a student representative if appointed by the Regents.

This constitutional amendment:

1) Enacts the UC Equal Employment Opportunity Standards Act to require that the Regents ensure that all contract workers who are paid to perform support services, as defined, for students, faculty, patients, or the general public at any campus, dining hall, medical center, clinic, research facility, laboratory, or other university location, are subject to and afforded the same equal employment opportunity standards, as defined, as university employees performing similar services.

2) Defines support services as including but not necessarily limited to, all of the following: cleaning or custodial services; food services; groundskeeping; building maintenance; transportation; security services; billing and coding

services; sterile processing; hospital or nursing assistant services; medical imaging or respiratory therapy technician services; and other patient care technical and service bargaining unit work, as defined.

3) Provides that the Regents, or any campus or other entity of the UC, may contract for labor to perform support services only if authorized to do so by statute, and only for limited exceptions that include, among other things, a bona fide emergency circumstance or unanticipated special event, as specified, a student housing development, as specified, or to provide licensed, clinically trained workers.

4) Requires that any contractual arrangement for a person, firm, or other entity to supply the university with contract labor for one of the exceptions specified above shall not cause or facilitate the displacement of university employees, as defined.

5) Provides that nothing precludes the UC from using per diem university employees to complement career or limited term university employees when necessary for staffing levels for temporary or emergency periods.

6) Requires that each proposal and the resulting contractual arrangement, and documentation, as specified, shall be, at all times, available to the public.

7) Requires that such documentation shall specify that all persons who perform support services under the contractual arrangement shall be compensated in an amount equivalent to the hourly wage rate and the value of benefits provided to university employees who perform the same or similar work or duties on a full-time basis.

Comments

1) *Need for the constitutional amendment.* According to the author, "In recent years, the UC has increasingly replaced employees that provide critical support services for the university and its medical centers, with an estimated 7,000 support jobs outsourced by the UC. In response to critiques of UC outsourcing practices, the university established two separate, but interacting, policies that relate to 1) UC outsourcing and employee displacement and 2) minimum wage standards for outsourced workers, known as 'Fair Wage/Fair Work Plan'.

"As a result of the outsourcing practices of the UC, the economic disparities faced by outsourced, low-wage workers become especially clear. Despite UC policies that aim to mitigate negative impacts, the UC continues to show disregard for its own policies and institutes policies that have significant deficiencies."

2) *Related Study.* According to a 2012 study by the UC Berkeley Labor Center, *Temporary Workers in California are Twice as Likely as Non-Temps to Live in Poverty: Problems with Temporary and Subcontracted Work in California*, almost one-quarter of a million people worked in the temporary help services industry in California in 2010. These workers were slightly younger, more likely to be female, less likely to be white non-Hispanic, and less likely to have a high school diploma or GED than the average non-temp worker. These workers were also more susceptible to workplace illness and injury, earned less than their non-temp counterparts, and were less likely to get benefits. The report notes that lowered wages mean that these workers rely more on the state safety net than their direct-hire counterparts and that these employment arrangements undermine worker protections by allowing employers to avoid certain provisions of worker protection and making it difficult to enforce other protections. The report also notes that these employment relationships create downward pressure on wages.

3) *Related audit.* The Joint Legislative Audit Committee has previously investigated specified employment contracts at the UC. The audit, report number 2016-125.1, titled "The University of California Office of the President - It Has Not Adequately Ensured Compliance With Its Employee Displacement and Services Contract Policies," was completed in August 2017, and found in its review of 31 service contracts at six university locations all of the following:

   - The university's decentralized approach to contract management has resulted in its inability to report even the most basic contract information in the aggregate without a manual review of all of its contracts. Staff notes that the UC began implementation of its new software in July 2017.

   - The university has not fully followed its policy for justifying its decisions to displace university employees with service contract workers.

     - Two of the reviewed service contracts contained documentation that university employees were displaced.

- The two university locations administering these contracts did not fully adhere to the displacement guidelines in either contract.

- The Office of the President has not enforced compliance with the displacement guidelines and weaknesses in the guidelines may undermine their effectiveness.

- Low−wage service contract workers received hourly wages that were $3.86 lower than comparable university employees received.

- The university generally adhered to the Office of the President's contract policy, but it could make improvements, such as ensuring the standard terms and conditions are included in services contracts.
- Some university locations avoided competitive bidding by repeatedly amending contracts and through sole−source exceptions.

- The Office of the President lacks a systemwide database that would allow it to track contracts at all university locations and report basic contract data.

- The Office of the President could not substantiate $109 million in benefits it claimed as resulting from its systemwide procurement program.

The report recommends that the Legislature revise state law to specify the conditions under which the university may amend contracts without competition and more narrowly define the professional and personal services that the university may exempt from competitive bidding.

4) *UC's Fair Wage/Fair Work plan.* In July 2015, the UC adopted a Fair Wage/Fair Work Plan. Under the Plan, the UC has established a minimum level of pay for employees to ensure that all UC workers are provided a fair wage with a goal of reaching a minimum wage of $15 per hour on October 1, 2017. In addition, the UC reports that it is implementing annual compensation audits and interim audits, paid for by the contractor, to monitor wage and working conditions as well as compliance with federal, state, and UC workplace laws and policies for contracted employees working pursuant to contracts entered into or renewed after October 2015. The UC has also established a phone hotline and central online system to report complaints directly to the Office of the President.

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

According to the Senate Appropriations Committee:

- The UC estimates systemwide costs of $172.6 million as a result of this measure. This estimate assumes that UC would have to increase the wage and benefit levels by 25 percent and 30 percent, respectively, to bring the work in-house or perform the functions going forward with UC employees.

- The UC also estimates that campuses and hospitals would incur additional costs, potentially in the range of several million each year, resulting from the need to hire additional supervisorial staff, purchase specialized equipment and curtail clinical procedures due to lack of necessary staffing.

- This constitutional amendment would result in one-time General Fund costs to the Secretary of State in the range of $400,000 to $550,000 for printing and mailing costs to place the measure on the ballot in a statewide election. This estimate reflects the addition of 6-8 pages in the Voter Information Guide. However, actual costs may be higher or lower, depending on the length of required elements and the overall size of the ballot.

SUPPORT: (Verified 8/30/19)

AFSCME Local 3299 (source)
American Federation of State, County and Municipal Employees
California Federation of Teachers
California Labor Federation
Health Access California
University Council-American Federation of Teachers

OPPOSITION: (Verified 8/30/19)

California Association of Public Hospitals & Health Systems
California Chamber of Commerce
California Hospital Association
Carlsbad Chamber of Commerce
Chamber Newport Beach
City of Laguna Niguel
Fontana Chamber of Commerce
Greater Irvine Chamber of Commerce
Greater Riverside Chamber of Commerce
Oceanside Chamber of Commerce
Orange County Business Council
Oxnard Chamber of Commerce

Palm Desert Area Chamber of Commerce
Pleasanton Chamber of Commerce
Rancho Cordova Chamber of Commerce
Redondo Beach Chamber of Commerce
San Diego Regional Chamber of Commerce
Santa Maria Valley Chamber of Commerce
Simi Valley Chamber of Commerce
South Bay Association of Chambers of Commerce
Southwest California Legislative Council
University of California

ARGUMENTS IN SUPPORT: The AFSCME, Local 3299, sponsor of this constitutional amendment, states in support, "ACA 14 (Gonzalez) will protect support service workers from those in control of the University of California. These support service workers clean toilets, cut grass, pick up trash, cook food, and clean bedpans. While Article IX of the California Constitution prevents the Legislature and the Governor from correcting these realities at UC, Article II empowers the voters to do so."

ARGUMENTS IN OPPOSITION: The UC states in opposition, "There are a variety of situations where it makes business sense for the University to utilize contract workers for short term assignments that are not needed throughout the year, a practice that would be prohibited under ACA 14. Examples include cleaning of dormitory rooms at the end of the school year, or additional security services needed occasionally for large events such as concerts or commencements."

They continue, "Within the setting of the University's hospitals, the needs for flexible staffing to respond to changes in patient census and condition severity are critically important – often times changing on a daily or even shift-by-shift basis. UC hospitals treat higher percentages of very sick patients –and have longer average lengths of stay compared to other California acute care hospitals. The restrictions established by ACA 14 would prevent UC hospitals from being able to obtain the staff they need on short notice and could force UC hospitals to divert ambulances away from University emergency rooms and trauma centers, cancel and reschedule important medical procedures and transfer patients to facilities outside of the community."

ASSEMBLY FLOOR: 57-12, 6/24/19
AYES: Aguiar-Curry, Arambula, Berman, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Chu, Cooper, Daly, Eggman,

Frazier, Friedman, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Jones-Sawyer, Kalra, Kamlager-Dove, Lackey, Limón, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Weber, Wicks, Wood, Rendon

NOES: Bigelow, Brough, Choi, Cooley, Cunningham, Fong, Kiley, Levine, Mathis, Melendez, Obernolte, Waldron

NO VOTE RECORDED: Bauer-Kahan, Chen, Diep, Flora, Gabriel, Gallagher, Irwin, Mayes, Patterson, Voepel

Prepared by: Ian Johnson / ED. /
9/18/19 15:37:46

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

SENATE RULES COMMITTEE ACR 115
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 115
Author: Kamlager (D), et al.
Amended: 3/9/20 in Senate
Vote: 21

SENATE BANKING & F.I. COMMITTEE: 4-1, 1/15/20
AYES: Bradford, Caballero, Durazo, Portantino
NOES: Chang
NO VOTE RECORDED: Dahle, Hueso

ASSEMBLY FLOOR: 50-18, 8/26/19 - See last page for vote

SUBJECT: Lending to gun-related businesses

SOURCE: Author

DIGEST: This resolution urges banks with which the State of California has a business relationship to evaluate their relationships with gun manufacturers and consider the repercussions of gun violence, and urges all banks to discuss their lending practices with their shareholders, adopt lending practices that mirror the people of California's values of protecting citizens before profit, and commit to strengthening their gun policies or exiting the gun sector.

Senate Floor Amendments of 3/9/20 urge banks to discuss their lending practices with their shareholders.

ANALYSIS:

This resolution:

1) Lists six banking subsidiaries with which the State of California has deposit accounts: Bank of America Corporation, Citigroup, JPMorgan Chase, Union Bank, U.S. Bancorp, and Wells Fargo.

2) Observes that four of the nation's largest gun manufacturers (Remington Outdoor Company; Smith & Wesson; Sturm, Ruger, & Co.; and Vista Outdoors) manufactured weapons used in mass shootings and are customers of banks with which the State of California has, or has had, a business relationship.

3) Cites activities in which two banks (Bank of America and Citibank) have engaged related to their business customers that manufacture firearms. Bank of America limited the number of its business customers that manufacture assault weapons for nonmilitary use; Citibank adopted a policy prohibiting the sale of firearms by its business customers to individuals who have not passed a background check or are younger than 21 years of age.

4) Observes that the California State Teachers' Retirement System (CalSTRS) divested from Remington Outdoor Company in 2015, and that the California Public Employees' Retirement System, CalSTRS, State Street Global Advisors, the San Francisco Employees' Retirement System, and nine other investors and financial managers with assets equal to $4.8 trillion have come together to ask the civilian firearms industry to comply with five principles. These principles include safer and more traceable technology, adoption of responsible dealer practices, establishment of complete background checks, and education and training of employees at distributors.

5) Resolves that the Legislature urge each bank with which the State of California has a business relationship to evaluate its relationship with gun manufacturers and consider the repercussions of gun violence.

6) Resolves that the Legislature urge all banks to discuss their lending practices with their shareholders, adopt lending practices that mirror the people of California's values of protecting citizens before profit, and commit to strengthening gun policies or exiting the gun sector.

Comments

This resolution is sponsored by the author to encourage banks to reconsider their relationships with gun manufacturers who are their business customers.

In recent years, news reports of civilian mass shootings in the United States have become a common occurrence. Although California has passed numerous laws intended to outlaw assault-style weapons and high-capacity magazines and to require background checks before retailers may sell firearms and ammunition,

civilian mass shootings continue. The debate over how best to counter gun violence against innocent civilians remains unresolved.

This resolution adopts the viewpoint that the state should use its business relationships with banks to encourage those depositories to consider the repercussions of gun violence and evaluate their relationships with gun manufacturers. This resolution also urges the state to use its bully pulpit to encourage all banks to consider commit to strengthening their gun policies or exiting the gun sector. Senate Floor amendments encourage banks to discuss their lending practices with their shareholders to help ensure that shareholders are consulted about any changes in lending practices that banks adopt to help reduce gun violence.

Related/Prior Legislation

AJR 5 (Jones-Sawyer, Resolution Chapter 127, Statutes of 2019) urged the federal government to use California as an example for firearm safety and to pass legislation providing universal firearm safety regulation throughout the United States.

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

SUPPORT: (Verified 3/9/20)

State Treasurer Fiona Ma
Bay Area Student Activists
Brady California United Against Gun Violence
Jewish Center for Justice
NeverAgainCA
San Diegans for Gun Violence Prevention
Youth ALIVE!

OPPOSITION: (Verified 3/9/20)

National Shooting Sports Foundation

ARGUMENTS IN SUPPORT: Several organizations that advocate against gun violence sent nearly identical letters of support, stating "A key player in the gun violence crisis taking place in the United States lies in the hands of gun manufacturers producing anything from a handgun to a military style assault weapon. These manufacturers play a major role in the supply of firearms available to Americans...California banks with the same financial institutions that lend to

gun manufacturers which play a critical role in the gun violence crisis and numerous mass shootings."

ARGUMENTS IN OPPOSITION: The National Shooting Sports Foundation writes that ACR 115 appears to assume business relationships between banks and gun manufacturers result in negative repercussions for the people of California "and that businesses which realize a profit from commerce in their products are undesirable. While the firearms industry respects the right of financial institutions and other service providers to make business decisions based on objective criteria, it is unacceptable to discriminate against businesses simply because they are engaged in the lawful commerce of firearms, a heavily regulated activity protected by the Second Amendment."

ASSEMBLY FLOOR: 50-18, 8/26/19
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Chu, Daly, Eggman, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Grayson, Holden, Jones-Sawyer, Kalra, Kamlager-Dove, Levine, Limón, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Santiago, Mark Stone, Ting, Wicks, Wood, Rendon
NOES: Bigelow, Brough, Choi, Flora, Fong, Frazier, Gallagher, Gray, Kiley, Lackey, Mathis, Mayes, Melendez, Obernolte, Patterson, Salas, Voepel, Waldron
NO VOTE RECORDED: Chen, Cooley, Cooper, Cunningham, Diep, Irwin, Petrie-Norris, Rodriguez, Blanca Rubio, Smith, Weber

Prepared by: Eileen Newhall / B. & F.I. /
3/11/20 11:48:57

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

SENATE RULES COMMITTEE ACR 153
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 153
Author: Luz Rivas (D), et al.
Introduced: 1/27/20
Vote: 21

ASSEMBLY FLOOR: 62-0, 2/14/20 (Consent) - See last page for vote

SUBJECT: Engineers Week

SOURCE: Author

DIGEST: This resolution recognizes the week of February 16, 2020, to February 22, 2020, as Engineers Week.

ANALYSIS: This resolution makes the following legislative findings:

1) Engineers Week is celebrating its 69th anniversary with the theme, Engineers: Invent Amazing.

2) Engineers Week promotes recognition among parents, teachers, and students of the importance of a technical education and a high level of mathematics, science, and technology literacy, and motivates youth to pursue engineering careers and participate in a diverse and vigorous engineering workforce.

3) Engineers' work drives our economy, and many experts predict that the United States needs to produce more engineers in order to meet future demand and to stay competitive in the global marketplace.

4) Engineers practice in a number of important specialties, including civil, mechanical, electrical, structural, geotechnical, chemical, control systems, fire protection, nuclear, industrial petroleum, metallurgical, agricultural, and traffic, and through these special disciplines a complete range of engineering services is provided to both the private and public sectors in California.

5) Professional engineers are leaders in the development of more efficient, environmentally sustainable, technologically advanced designs relating to water

> quality, sewage treatment, sanitary engineering, flood control, structural integrity of buildings and bridges, seismic safety, cleanup of hazardous waste and toxic sites, and public transportation, including highways, rail, waterways, and airports.

This resolution recognizes the week of February 16, 2020, to February 22, 2020, as Engineers Week.

Related/Prior Legislation

ACR 20 (Rivas, Resolution Chapter 18, Statutes of 2019) recognized the week of February 17, 2019, to February 23, 2019, as Engineers Week.

SR 77 (Cannella, 2018) recognized the week of February 18, 2018, to February 24, 2018, as Engineers Week. The resolution was adopted by the Senate.

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

SUPPORT: (Verified 2/25/20)

American Society of Civil Engineers, Region 9
Professional Engineers in California Government

OPPOSITION: (Verified 2/25/20)

None received

ARGUMENTS IN SUPPORT: The American Society of Civil Engineers, Region 9, states in support:

> Engineers are often at the forefront in addressing the major technological challenges of our time – from rebuilding towns devastated by natural disasters, cleaning up the environment, and assuring safe, clean, and efficient sources of energy, to designing information systems that will speed our country into the future. Engineers are also encouraging of our young math and science students to realize the practical power of their knowledge, and Society will look more than ever to engineers and their knowledge and skills to meet the challenges of the twenty-first century.

ASSEMBLY FLOOR: 62-0, 2/14/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Chau, Chiu, Choi, Chu, Cooper, Cunningham, Megan Dahle, Daly, Diep, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Grayson, Jones-Sawyer, Kalra, Kiley, Lackey, Levine, Maienschein, Mayes, McCarty, Medina, Melendez, Mullin, Nazarian, Obernolte, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Voepel, Waldron, Weber, Rendon

NO VOTE RECORDED: Bigelow, Cervantes, Chen, Cooley, Eggman, Gonzalez, Gray, Holden, Irwin, Kamlager, Limón, Low, Mathis, Muratsuchi, Rodriguez, Ting, Wicks, Wood

Prepared by: Jonas Austin / SFA / (916) 651-1520
2/26/20 14:01:49

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

SENATE RULES COMMITTEE ACR 154
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 154
Author: Luz Rivas (D), et al.
Introduced: 1/27/20
Vote: 21

ASSEMBLY FLOOR: Read and adopted, 2/20/20

SUBJECT: Introduce a Girl to Engineering Day

SOURCE: Author

DIGEST: This resolution proclaims February 20, 2020, as Introduce a Girl to Engineering Day.

ANALYSIS: This resolution makes the following legislative findings:

1) February 20, 2020, is recognized nationally and internationally as Introduce a Girl to Engineering Day.

2) Women have contributed to the diverse fields of engineering both historically and currently, yet remain underrepresented in both education programs and the workforce.

3) In 1960, less than 1% of recorded engineers were women. The number of women employed in architecture and engineering had risen to 14% by 2011.

4) Women account for only one-fifth of bachelor's degrees, one-quarter of master's degrees, and nearly one-quarter of doctorates in engineering.

5) According to the 2015 results of the Program for International Student Assessment, one in 20 boys, but less than one in 200 girls, expect a career in information and computer technologies.

6) California is a world leader in science, technology, engineering, and mathematics (STEM).

7) A myriad of organizations and programs in the United States are committed to combating the gender gap in engineering by encouraging women and girls to explore male-dominated STEM fields.

8) California remains committed to the principles of gender equality.

This resolution proclaims February 20, 2020, as Introduce a Girl to Engineering Day.

Comments

The author states, "As an engineer, I am proud to introduce ACR 154, which recognizes February 20, 2020 as Introduce a Girl to Engineering Day. Although there have been some improvements in the past few years, women continue to be underrepresented in the engineering field. Nationwide, only 13% of all practicing engineers identify as women. As a leader in engineering and champion of gender equality, California celebrates the importance of introducing girls to engineering."

Related/Prior Legislation

ACR 21 (Luz Rivas, Resolution Chapter 19, Statutes of 2019) proclaimed February 21, 2019, as Introduce a Girl to Engineering Day.

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

SUPPORT: (Verified 3/4/20)

American Society of Civil Engineers, Region 9

OPPOSITION: (Verified 3/4/20)

None received

Prepared by: Melissa Ward / SFA / (916) 651-1520
3/4/20 15:04:22

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

SENATE RULES COMMITTEE ACR 155
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 155
Author: Weber (D), et al.
Introduced: 1/28/20
Vote: 21

ASSEMBLY FLOOR: Read and adopted, 2/18/20

SUBJECT: Black History Month

SOURCE: Author

DIGEST: This resolution recognizes February 2020 as Black History Month; urges all citizens to join in celebrating the accomplishments of African Americans during Black History Month; encourages the people of California to recognize the many talents of African Americans and the achievements and contributions they make to their communities to create equity and equality for education, economics, and social justice; and recognizes the significance in protecting citizens' right to vote and remedying racial discrimination in voting.

ANALYSIS: This resolution makes the following legislative findings:

1) The history of the United States is rich with inspirational stories of great individuals whose actions, words, and achievements have united Americans and contributed to the success and prosperity of the United States; and among those Americans who have enriched our society are the members of the African American community, individuals whose accomplishments have contributed to every endeavor throughout the history of our nation and who have been steadfast in their commitment to promoting brotherhood, equality, and justice for all.

2) Dr. Carter Godwin Woodson, the distinguished African American author, editor, publisher, and historian who is known as the "Father of Black History," founded Negro History Week in 1926, which became Black History Month in 1976, with the intent to encourage further research and publications regarding the untold stories of African American heritage.

3) In August 1619, the first documented Africans arrived in the English colony of Virginia. The group was part of a larger group of West Africans enslaved by Portuguese slave traders. They were on their way to Veracruz aboard a Portuguese ship when they were captured off the coast of Mexico by an English warship and transported to Virginia, where they were put ashore at what is now Hampton, Virginia, and sold as involuntary laborers or indentured servants.

4) The historic arrival of the group marked the beginning of the trend in colonial America where people of Africa were taken unwillingly from their homeland and transplanted to a foreign land, where they were condemned to a lifetime of slavery and racial discrimination.

5) During the course of the slave trade, an estimated 50 million African men, women, and children were lost to their native continent, though only about 15 million arrived safely to a new home. In spite of the African slave trade, Africans and African Americans continued to move forward in society.

6) From the earliest days of the United States, the course of its history has been greatly influenced by African American heroes and pioneers in many diverse areas, including science, medicine, business, education, government, industry, and social leadership.

7) This year, 2020, marks the sesquicentennial of the Fifteenth Amendment (1870) and 55 years since the passage of the federal Voting Rights Act of 1965. Before the passage of the federal Voting Rights Act of 1965, voters faced disenfranchisement through poll taxes, literacy tests, and other tactics intended to keep African Americans from the polls on Election Day.

8) Despite over 50 years of progress, African Americans continue to face voter discrimination, voter suppression, and voting barriers in jurisdictions with a history of discrimination.

9) To build a stronger and more cohesive state and nation, we must continue to help advance the cause of voter equality and equal access to the political process for all people in order to protect the rights of every American.

This resolution recognizes February 2020 as Black History Month; urges all citizens to join in celebrating the accomplishments of African Americans during Black History Month; encourages the people of California to recognize the many talents of African Americans and the achievements and contributions they make to their communities to create equity and equality for education, economics, and

social justice; and recognizes the significance in protecting citizens' right to vote and remedying racial discrimination in voting.

Related/Prior Legislation

SR 74 (Bradford, 2020) recognized February 2020 as Black History Month. The resolution was adopted by the Senate on February 18, 2020.

SCR 12 (Bradford, Resolution Chapter 12, Statutes of 2019) and ACR 19 (Weber, Resolution Chapter 15, Statutes of 2019) recognized February 2019 as Black History Month.

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

SUPPORT: (Verified 2/24/20)

None received

OPPOSITION: (Verified 2/24/20)

None received

Prepared by: Melissa Ward / SFA / (916) 651-1520
2/26/20 14:01:50

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

SENATE RULES COMMITTEE ACR 159
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 159
Author: Chen (R), et al.
Introduced: 2/3/20
Vote: 21

ASSEMBLY FLOOR: Read and adopted, 2/20/20

SUBJECT: California Fitness Week

SOURCE: Author

DIGEST: This resolution declares the week of February 17 to February 21, 2020, inclusive, as California Fitness Week and encourages Californians to enrich their lives through proper nutrition and exercise.

ANALYSIS: This resolution makes the following legislative findings:

1) Exercise and fitness activities can increase self-esteem, boost energy, strengthen the heart and muscles, and burn calories.

2) Exercise and fitness activities are excellent ways to relieve stress, lower the risk of heart disease and diabetes, prevent bone loss, and decrease the risk of some cancers.

3) There is no age limit for physical activity. For the elderly, exercise provides cardiovascular, respiratory, neuromuscular, metabolic, and mental health benefits.

4) Improving one's physical and mental strength is never a weakness. Fitness activities have been shown to sharpen mental ability in all people, and to slow the aging process.

5) Maximizing one's energy level, increasing muscle mass, and reducing body fat increases one's chances of living a longer, healthier life.

6) It is important to educate youth and adults of the harmful effects of improper nutrition and inactivity, and it is equally important to show them how to reverse those negative effects and to live healthier lives.

7) The Legislature will increase public awareness about the benefits of exercise and physical fitness by encouraging its Members to host events in their districts that stimulate physical fitness and increase participation by Californians in activities that promote physical health and benefit both mental and physical well-being.

This resolution proclaims the week of February 17 to February 21, 2020, inclusive, as California Fitness Week, and encourages all Californians to enrich their lives through proper nutrition and exercise.

Related/Prior Legislation

ACR 15 (Chen, Resolution Chapter 6, Statutes of 2019) proclaimed the week of February 3 to February 9, 2019, as California Fitness Week.

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

SUPPORT: (Verified 4/20/20)

California Association for Health, Physical Education, Recreation and Dance

OPPOSITION: (Verified 3/4/20)

None received

Prepared by: Karen Chow / SFA / (916) 651-1520
4/22/20 10:32:48

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

SENATE RULES COMMITTEE ACR 160
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 160
Author: Gloria (D)
Introduced: 2/5/20
Vote: 21

ASSEMBLY FLOOR: 72-0, 3/5/20 (Consent) - See last page for vote

SUBJECT: Lymphedema Awareness Day

SOURCE: Author

DIGEST: This resolution declares March 6, 2020, as Lymphedema Awareness Day in California.

ANALYSIS: This resolution makes the following legislative findings:

1) Lymphedema (LE) is a serious chronic disease that plagues nearly 10 million Americans who are either born with the condition or who develop it as a result of trauma, surgical insult, radiation therapy, or a combination of these factors.

2) LE is a disease that occurs when the body's natural lymphatic drainage system is damaged or blocked or does not develop properly and the lymphatic fluid within a given area, such as the arm, leg, torso, head, or neck, is unable to drain properly. This results in extreme swelling that can cause pain and significantly impairs mobility, function, and the quality of life for the affected person.

3) Underdiagnosing and undertreating LE patients cost health care providers and health care coverage policies or plans, including the federal Medicare Program, untold millions of dollars every year because, if LE is left untreated, the potential for infection is greatly increased, possibly spreading in the course of a few hours, and requiring immediate treatment on an emergency basis.

4) Without professional treatment and self-care, the accumulation of lymphatic fluid results in the gross distention of the lymph-filled body part and chronic infections that can become life-threatening without prompt treatment.

5) LE often leaves its victims disfigured, as well as physically and emotionally disabled.

6) Persons at risk for LE must apply a regimen of self-care to prevent or delay the onset of symptoms that is nearly as rigorous as self-care requirements for patients already afflicted with LE.

7) Timely diagnosis and treatment are often not available to patients, particularly those in rural areas, making LE more difficult to manage with more negative health consequences due to delays in diagnosing and treating the condition.

8) It is important to recognize the tireless advocates and health care providers who spend so much of their time and resources battling this painful and destructive condition that affects so many members of the community.

This resolution declares March 6, 2020, as Lymphedema Awareness Day in California.

Related/Prior Legislation

ACR 33 (Gloria, Resolution Chapter 26, Statutes of 2019) declared March 6, 2019, as Lymphedema Awareness Day in California.

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

SUPPORT: (Verified 3/16/20)

None received

OPPOSITION: (Verified 3/16/20)

None received

ASSEMBLY FLOOR: 72-0, 3/5/20
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Megan Dahle, Daly, Diep, Eggman, Flora, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Grayson, Holden, Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Limón, Low, Mathis, Mayes, Medina, Melendez, Mullin, Muratsuchi, Nazarian, Obernolte, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva,

Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Mark Stone, Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Cervantes, Cunningham, Frazier, Gray, Irwin, Maienschein, McCarty, Smith

Prepared by: Karen Chow / SFA / (916) 651-1520
5/8/20 10:30:11

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

SENATE RULES COMMITTEE ACR 164
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 164
Author: Blanca Rubio (D)
Introduced: 2/10/20
Vote: 21

ASSEMBLY FLOOR: 69-0, 2/20/20 (Consent) - See last page for vote

SUBJECT: Teen Dating Violence Awareness and Prevention Month

SOURCE: California Partnership to End Domestic Violence

DIGEST: This resolution designates February 2020 as Teen Dating Violence Awareness and Prevention Month, and encourages all Californians to observe Teen Dating Violence Awareness and Prevention Month with programs and activities that promote healthy teen relationships and raise awareness about teen dating violence in their communities.

ANALYSIS: This resolution makes the following legislative findings:

1) Teen dating violence, also known as dating abuse, is a serious and growing problem throughout California; and, has been linked to other forms of violence and aggression against peers, including bullying, sexual harassment, sexual violence, and physical violence.

2) Survivors of teen dating violence are at increased risk for truancy, dropout, teen pregnancy, suicide, eating disorders, and engaging in other harmful behaviors, such as the use of alcohol, tobacco, and other drugs.

3) Teen dating violence intervention and prevention programs can help to ensure a positive school climate and safe learning environment for all youth 12 to 24 years of age, address warning signs of dating violence among youth before behaviors escalate, and protect the safety of targeted youth.

4) Youth who are survivors in high school are at higher risk for victimization during college, and adolescent perpetrators of dating violence are more likely to abuse their intimate partners as adults.

5) The establishment of Teen Dating Violence Awareness and Prevention Month will benefit schools, communities, families, and all youth.

This resolution designates February 2020 as Teen Dating Violence Awareness and Prevention Month, and encourages all Californians to observe Teen Dating Violence Awareness and Prevention Month with programs and activities that promote healthy teen relationships and raise awareness about teen dating violence in their communities.

Related/Prior Legislation

SR 75 (Rubio, 2020) proclaimed February 2020 as Teen Dating Violence Awareness and Prevention Month, and supported communities to empower teens to develop healthy and violence-free relationships throughout their lives. The resolution was adopted by the Senate.

SR 16 (Rubio, 2019) recognized the month of February 2019 as Teen Dating Violence Awareness and Prevention Month in order to raise awareness about teen dating abuse and encouraged communities to empower teens to develop healthy and violence-free relationships throughout their lives. The resolution was adopted by the Senate on February 19, 2019.

SCR 94 (Leyva, Resolution Chapter 20, Statutes of 2018) proclaimed February 2018 as Teen Dating Violence Awareness and Prevention Month, and encouraged all Californians to observe Teen Dating Violence Awareness and Prevention Month with programs and activities that raise awareness about teen dating violence.

SCR 16 (Leyva, Resolution Chapter 13, Statutes of 2017) proclaimed February 2017 as Teen Dating Violence Awareness and Prevention Month, and encouraged all Californians to observe Teen Dating Violence Awareness and Prevention Month with programs and activities that raise awareness about teen dating violence.

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

SUPPORT: (Verified 3/3/20)

California Partnership to End Domestic Violence (source)

OPPOSITION: (Verified 3/3/20)

None received

ASSEMBLY FLOOR: 69-0, 2/20/20
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Chau, Chen, Chiu, Choi, Chu, Cooper, Cunningham, Megan Dahle, Daly, Diep, Eggman, Flora, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Maienschein, Mathis, Mayes, Medina, Melendez, Mullin, Muratsuchi, Nazarian, Obernolte, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Cervantes, Cooley, Fong, Irwin, Limón, Low, McCarty, O'Donnell, Patterson, Quirk, Robert Rivas

Prepared by: Jonas Austin / SFA / (916) 651-1520
3/4/20 15:04:23

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

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

THIRD READING

Bill No: ACR 169
Author: Aguiar-Curry (D), et al.
Amended: 2/20/20 in Assembly
Vote: 21

ASSEMBLY FLOOR: 72-0, 3/5/20 (Consent) - See last page for vote

SUBJECT: Women in Construction Week

SOURCE: Author

DIGEST: This resolution proclaims the week of March 1, 2020, to March 7, 2020, inclusive, as Women in Construction Week.

ANALYSIS: This resolution makes the following legislative findings:

1) In 1987, Congress declared March as national Women's History Month in perpetuity and since then, the industry has celebrated women in construction during the first week of March.

2) The workforce in California is becoming increasingly diversified and for this state's construction industry to remain competitive in the global economy, it must also diversify its workforce by attracting significantly more women into the industry.

3) Women currently occupy only 10 percent of all apprenticeships and less than 3 percent of construction trade jobs nationally. As a state we should support policy efforts to achieve at least 20 percent by 2020.

4) The construction industry in California has tremendous need for skilled and motivated workers, managers, and entrepreneurs from all segments of the population.

5) The construction industry must strive to educate and inspire parents, educators, and career counselors to encourage California's youth to enter into rewarding career opportunities in construction.

6) Apprenticeships are a critical pathway for women to participate fully and equally in California's growing economy.

7) Women represent an untapped resource, and activities to improve women's recruitment and retention in skilled construction jobs is critically important in helping to close the workforce skills gap, build the middle class, and help meet the needs of the 21st century.

This resolution proclaims the week of March 1, 2020, to March 7, 2020, inclusive, as Women in Construction Week.

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

SUPPORT: (Verified 3/17/20)

None received

OPPOSITION: (Verified 3/17/20)

None received

ASSEMBLY FLOOR: 72-0, 3/5/20
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Megan Dahle, Daly, Diep, Eggman, Flora, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Grayson, Holden, Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Limón, Low, Mathis, Mayes, Medina, Melendez, Mullin, Muratsuchi, Nazarian, Obernolte, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Mark Stone, Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Cervantes, Cunningham, Frazier, Gray, Irwin, Maienschein, McCarty, Smith

Prepared by: Jonas Austin / SFA / (916) 651-1520
5/8/20 10:30:12

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

SENATE RULES COMMITTEE ACR 170
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 170
Author: Kamlager (D)
Introduced: 2/18/20
Vote: 21

ASSEMBLY FLOOR: 72-0, 3/5/20 (Consent) - See last page for vote

SUBJECT: Arts Education Month

SOURCE: Author

DIGEST: This resolution proclaims March 2020 as Arts Education Month and urges all residents to become interested in and give full support to quality school arts programs for children and youth.

ANALYSIS: This resolution makes the following legislative findings:

1) Arts education, which includes dance, music, theater, and the visual arts, is an essential and integral part of basic education for all pupils in prekindergarten, kindergarten, and grades 1 to 12, inclusive.

2) The arts are crucial to achieving a state educational policy that is devoted to the teaching of basic academic skills and lifelong learning capacities with the goal of truly preparing all children for success after high school regardless of gender, age, economic status, physical ability, or learning ability.

3) A systematic, substantive, and sequential visual and performing arts curriculum addresses and develops ways of thinking, questioning, expression, and learning that complement learning in other core subjects, but that is unique in what it has to offer.

4) Pupils benefit from arts learning in the areas of cultural understanding, readiness for learning and creative thinking, cognitive outcomes, emotional intelligence and expression, social interaction and collaboration, and preparation for the workplace and lifelong learning.

5) The arts are recognized as part of a quality education, and the University of California and the California State University have instituted a policy that includes visual and performing arts as a college preparatory subject for all high school pupils wishing to enter the state's institutions of higher education.

6) It is the intent of the Legislature that this funding help implement a comprehensive vision for arts education at the local level to ensure that every pupil in the state benefits from this investment.

This resolution proclaims the month of March 2020 as Arts Education Month, urges all residents to become interested in and give full support to quality school arts programs for children and youth.

Related/Prior Legislation

SCR 24 (Leyva, Resolution Chapter 47, Statutes of 2019) proclaimed March 2019 to be Arts Education Month.

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

SUPPORT: (Verified 3/16/20)

Arts Council Santa Cruz County
California Alliance for Arts Education
California Music Educators Association
Inner-City Arts

OPPOSITION: (Verified 3/16/20)

None received

ARGUMENTS IN SUPPORT: According to the Arts Council Santa Cruz County:

> Arts education promotes curiosity, creativity, and engagement. In turn, arts education improves student success in other core content areas in school, and work and life. Research shows that the arts are a critical link in student success. Arts education is linked to higher test scores across all subjects, as well as lower dropout rates. It fosters creativity and imagination, hallmarks of careers in the 21st century. Beyond the classroom, the arts are shown to nurture collaboration and civic engagement in young people.
>
> This measure will help to raise awareness among state, county and local elected officials about the essential value of arts education in our schools.

ASSEMBLY FLOOR: 72-0, 3/5/20
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Megan Dahle, Daly, Diep, Eggman, Flora, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Grayson, Holden, Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Limón, Low, Mathis, Mayes, Medina, Melendez, Mullin, Muratsuchi, Nazarian, Obernolte, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Mark Stone, Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Cervantes, Cunningham, Frazier, Gray, Irwin, Maienschein, McCarty, Smith

Prepared by: Karen Chow / SFA / (916) 651-1520
5/8/20 10:30:13

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

SENATE RULES COMMITTEE ACR 176
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 176
Author: Reyes (D)
Introduced: 2/21/20
Vote: 21

ASSEMBLY FLOOR: 72-0, 3/5/20 (Consent) - See last page for vote

SUBJECT: National Caregivers Day

SOURCE: Author

DIGEST: This resolution recognizes February 21, 2020, as National Caregivers Day and encourages all Californians to lift up those who work tirelessly to advance the health and wellness of the physically and mentally unwell in our societies and encourage those who choose to be caregivers.

ANALYSIS: This resolution makes the following legislative findings:

1) National Caregivers Day was founded by the Providers Association for Home Health and Hospice Agencies in 2015. It was first observed on February 19, 2016 and is annually observed on the third Friday in February.

2) A caregiver provides a broad range of assistance for an older person, an adult, or a child with a chronic or disabling condition. Although some caregivers are trained professionals who receive payment, most caregivers in the United States are family caregivers who may be a relative, partner, friend, or neighbor who has a significant personal relationship with the individual receiving care and who provides their services for free while simultaneously working another job.

3) Caregivers are made up of a diverse range of racial and ethnic groups, ages, genders, and socioeconomic groups; and, caregivers also serve diverse populations, with the majority serving seniors who require assistance.

4) A 2017 report by the American Association of Retired Persons (AARP) titled "Valuing the Invaluable" found that there are an estimated 41,000,000 family caregivers in the United States who provide an estimated 34 billion hours of care to an adult with limitations in daily activities.

5) According to the same report, the estimated economic value of their unpaid contributions was approximately $470 billion.

6) In 2017, throughout California, 4,450,000 caregivers provided more than 4.1 billion hours of care for an estimated total economic value of $57.7 billion.

7) In California, the number of people 60 years of age and older continues to grow rapidly, and between 1970 and 2016, the number of older adults in the state grew from 2,500,000 to 7,800,000, a 212-percent increase.

8) According to the Public Policy Institute of California, by 2030, the population of individuals over 65 years of age will grow by 4,000,000 people and more than 1,000,000 of them will require some assistance with self-care.

9) Caregivers also provide care to the states over 60,000 children and youth in foster care; and, devoted military caregivers support members of our Armed Forces when they return home and face disabling physical injury or mental illness.

10) Caregiving responsibilities fall more heavily on women, many of whom are older with health problems of their own; and, sixty percent of female caregivers report high levels of physical strain, and 41 percent of female caregivers report high levels of emotional stress as a result of their caregiving.

This resolution recognizes February 21, 2020, as National Caregivers Day and encourages all Californians to lift up those who work tirelessly to advance the health and wellness of the physically and mentally unwell in our societies and encourage those who choose to be caregivers.

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

SUPPORT: (Verified 3/17/20)

None received

OPPOSITION: (Verified 3/17/20)

None received

ASSEMBLY FLOOR: 72-0, 3/5/20
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Megan Dahle, Daly, Diep, Eggman, Flora, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Grayson, Holden, Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Limón, Low, Mathis, Mayes, Medina, Melendez, Mullin, Muratsuchi, Nazarian, Obernolte, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Mark Stone, Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Cervantes, Cunningham, Frazier, Gray, Irwin, Maienschein, McCarty, Smith

Prepared by: Jonas Austin / SFA / (916) 651-1520
5/8/20 10:30:13

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

SENATE RULES COMMITTEE ACR 178
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 178
Author: Blanca Rubio (D), et al.
Introduced: 2/25/20
Vote: 21

ASSEMBLY FLOOR: Read and adopted, 3/2/20

SUBJECT: School Breakfast Week

SOURCE: No Kid Hungry

DIGEST: This resolution proclaims March 2, 2020, to March 6, 2020, inclusive, as School Breakfast Week.

ANALYSIS: This resolution makes the following legislative findings:

1) Nearly one in five California children live in food insecure households, meaning they do not have consistent access to adequate food.

2) California ranks 33rd in the nation in school breakfast participation, and only 38 percent of pupils who qualify for free or reduced-price school meals are eating school breakfast.

3) More than 58 percent of California public school pupils qualify for free or reduced-price school meals, yet many of those low-income pupils are not eating the nutritious school breakfast offered due to barriers such as social stigma, late buses or carpools, long cafeteria lines, and tight class schedules.

4) Eating breakfast as part of the schoolday is associated with positive pupil behavioral health and academic performances, such as better test score results, improved concentration in class, lower rates of chronic absenteeism, fewer classroom disruptions, and less frequent visits to the school nurse.

5) Breakfast After the Bell programs, such as breakfast in the classroom, grab and go breakfast, and second chance breakfast, are proven meal delivery methods that boost school breakfast participation and related positive outcomes.

6) States across the nation have introduced legislation to require that schools with a high percentage of pupils who are eligible for free or reduced-price school meals implement a Breakfast After the Bell program.

This resolution proclaims March 2, 2020, to March 6, 2020, inclusive, as School Breakfast Week.

Related/Prior Legislation

ACR 40 (Blanca Rubio, Resolution Chapter 28, Statutes of 2019) proclaimed March 4, 2019, to March 8, 2019, inclusive, as School Breakfast Week.

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

SUPPORT: (Verified 3/9/20)

No Kid Hungry (source)

OPPOSITION: (Verified 3/9/20)

None received

ARGUMENTS IN SUPPORT: According to the author, "As a former teacher, I saw many students come in on an empty stomach, which then affected their performance at school. This resolution highlights how invaluable school breakfast is not only to fight child hunger, but also to support the academic success of a vulnerable California population. Students who eat school breakfast attend an average of 1.5 more days of school per year, score 17.5 percent higher on math tests, and are 20 percent more likely to graduate high school. Essentially, school breakfast is an investment in California's future."

Prepared by: Karen Chow / SFA / (916) 651-1520
3/11/20 13:55:25

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