**2021-22 SESSION**

# SENATE
# THIRD READING PACKET

**THURSDAY, JUNE 24, 2021**

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 24, 2021.

| Note | Measure | Author | Location |
|---|---|---|---|
| | SCR 34 | Archuleta | Senate Bills - Third Reading File |
| | SCR 37 | Archuleta | Senate Bills - Third Reading File |
| RA | SCR 49 | Hueso | Senate Bills - Third Reading File |
| | SCR 51 | Pan | Senate Bills - Third Reading File |
| + | SCR 52 | McGuire | Senate Bills - Third Reading File |
| + | SR 41 | Caballero | Senate Bills - Third Reading File |
| + | SR 43 | Roth | Senate Bills - Third Reading File |
| RA | AB 120 | Salas | Consent Calendar Second Legislative Day |
| RA | AB 239 | Villapudua | Assembly Bills - Third Reading File |
| RA | AB 246 | Quirk | Consent Calendar Second Legislative Day |
| | AB 251 | Choi | Special Consent Calendar No.5 |
| RA | AB 271 | Robert Rivas | Assembly Bills - Third Reading File |
| | AB 272 | Kiley | Assembly Bills - Third Reading File |
| RA | AB 289 | Calderon | Assembly Bills - Third Reading File |
| | AB 302 | Ward | Consent Calendar Second Legislative Day |
| RA | AB 306 | O'Donnell | Consent Calendar Second Legislative Day |
| RA | AB 335 | Boerner Horvath | Assembly Bills - Third Reading File |
| + | AB 351 | Cristina Garcia | Consent Calendar First Legislative Day |
| RA | AB 382 | Kamlager | Consent Calendar Second Legislative Day |
| RA | AB 398 | Fong | Consent Calendar Second Legislative Day |
| + | AB 419 | Davies | Assembly Bills - Third Reading File |
| RA | AB 429 | Megan Dahle | Consent Calendar Second Legislative Day |
| RA | AB 440 | Bigelow | Consent Calendar Second Legislative Day |
| RA | AB 444 | Committee on Public Employment and Retirement | Consent Calendar Second Legislative Day |
| RA | AB 445 | Calderon | Assembly Bills - Third Reading File |
| RA | AB 451 | Arambula | Assembly Bills - Third Reading File |
| RA | AB 466 | Petrie-Norris | Consent Calendar Second Legislative Day |
| | AB 477 | Blanca Rubio | Special Consent Calendar No.5 |
| RA | AB 482 | Ward | Assembly Bills - Third Reading File |
| RA | AB 504 | McCarty | Consent Calendar Second Legislative Day |
| RA | AB 532 | Wood | Consent Calendar Second Legislative Day |
| RA | AB 569 | Grayson | Assembly Bills - Third Reading File |
| | AB 583 | Davies | Assembly Bills - Third Reading File |
| | AB 591 | Villapudua | Consent Calendar Second Legislative Day |
| RA | AB 627 | Waldron | Consent Calendar Second Legislative Day |
| RA | AB 634 | Carrillo | Assembly Bills - Third Reading File |
| RA | AB 638 | Quirk-Silva | Assembly Bills - Third Reading File |
| RA | AB 644 | Waldron | Consent Calendar Second Legislative Day |
| RA | AB 689 | Petrie-Norris | Consent Calendar Second Legislative Day |
| RA | AB 698 | Committee on Environmental Safety and Toxic Materials | Consent Calendar Second Legislative Day |
| + | AB 706 | Cooley | Assembly Bills - Third Reading File |
| RA | AB 712 | Calderon | Consent Calendar Second Legislative Day |
| RA | AB 726 | Eduardo Garcia | Assembly Bills - Third Reading File |
| RA | AB 742 | Calderon | Consent Calendar Second Legislative Day |
| RA | AB 819 | Levine | Consent Calendar Second Legislative Day |

\+ ADDS
RA Revised Analysis
* Analysis pending

| Note | Measure | Author | Location |
|---|---|---|---|
| RA | AB 831 | Committee on Health | Consent Calendar Second Legislative Day |
| RA | AB 845 | Rodriguez | Assembly Bills - Third Reading File |
| RA | AB 855 | Ramos | Assembly Bills - Third Reading File |
| RA | AB 856 | Maienschein | Assembly Bills - Third Reading File |
| | AB 861 | Bennett | Assembly Bills - Third Reading File |
| RA | AB 869 | Bloom | Consent Calendar Second Legislative Day |
| | AB 900 | Reyes | Assembly Bills - Third Reading File |
| RA | AB 957 | Salas | Consent Calendar Second Legislative Day |
| RA | AB 1004 | Calderon | Assembly Bills - Third Reading File |
| RA | AB 1010 | Berman | Assembly Bills - Third Reading File |
| RA | AB 1058 | Cristina Garcia | Assembly Bills - Third Reading File |
| RA | AB 1065 | Maienschein | Consent Calendar Second Legislative Day |
| | AB 1096 | Luz Rivas | Assembly Bills - Third Reading File |
| RA | AB 1124 | Friedman | Assembly Bills - Third Reading File |
| RA | AB 1180 | Mathis | Consent Calendar Second Legislative Day |
| + | AB 1281 | Blanca Rubio | Assembly Bills - Third Reading File |
| RA | AB 1291 | Frazier | Consent Calendar Second Legislative Day |
| RA | AB 1305 | Lackey | Consent Calendar Second Legislative Day |
| RA | AB 1426 | Mathis | Assembly Bills - Third Reading File |
| RA | AB 1428 | Quirk | Consent Calendar Second Legislative Day |
| RA | AB 1527 | Ting | Consent Calendar Second Legislative Day |
| | AB 1579 | Committee on Judiciary | Assembly Bills - Third Reading File |
| RA | AB 1582 | Committee on Revenue and Taxation | Consent Calendar Second Legislative Day |
| RA | AB 1583 | Committee on Revenue and Taxation | Consent Calendar Second Legislative Day |
| RA | AB 1585 | Committee on Health | Assembly Bills - Third Reading File |
| + | AB 1588 | Committee on Governmental Organization | Consent Calendar First Legislative Day |
| RA | AB 1593 | Lorena Gonzalez | Assembly Bills - Third Reading File |
| | ACR 2 | Quirk-Silva | Special Consent Calendar No.5 |
| | ACR 17 | Voepel | Special Consent Calendar No.5 |
| | ACR 36 | O'Donnell | Special Consent Calendar No.5 |
| | ACR 41 | Holden | Special Consent Calendar No.5 |
| RA | ACR 53 | Ward | Consent Calendar Second Legislative Day |
| + | ACR 59 | Aguiar-Curry | Assembly Bills - Third Reading File |
| | ACR 68 | O'Donnell | Assembly Bills - Third Reading File |
| | ACR 70 | Choi | Special Consent Calendar No.5 |
| + | ACR 72 | Nguyen | Assembly Bills - Third Reading File |
| | ACR 77 | Bennett | Assembly Bills - Third Reading File |
| + | ACR 83 | McCarty | Assembly Bills - Third Reading File |
| | ACR 84 | Cooley | Special Consent Calendar No.5 |
| | ACR 86 | Gipson | Special Consent Calendar No.5 |
| | ACR 87 | Gipson | Assembly Bills - Third Reading File |
| + | ACR 90 | Mathis | Assembly Bills - Third Reading File |
| | AJR 2 | O'Donnell | Special Consent Calendar No.5 |
| | AJR 4 | Cristina Garcia | Assembly Bills - Third Reading File |
| + | AJR 14 | Boerner Horvath | Assembly Bills - Third Reading File |

+ ADDS
RA Revised Analysis
* Analysis pending

**SENATE RULES COMMITTEE** SCR 34
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SCR 34
Author: Archuleta (D)
Introduced: 4/8/21
Vote: 21

**SUBJECT:** Veterans' Home of California

**SOURCE:** Author

**DIGEST:** This resolution acknowledges the Department of Veterans Affairs staff for their service to California's veterans during the COVID-19 pandemic.

**ANALYSIS:** This resolution makes the following legislative findings:

1) The COVID-19 pandemic has had a devastating impact on California, disproportionately affecting aged and disabled individuals for nearly a year.

2) While the large number of nursing home deaths have been the greatest horror of the COVID-19 crisis across the country, the long-term care system operated by California's Department of Veterans Affairs (CalVet) has experienced a tiny fraction of these most tragic outcomes.

3) Weeks before the Governor's stay-at-home order, in spring 2020, CalVet enacted in its Veterans' Home of California facilities an ambitious action plan designed to aggressively ward off the virus and safeguard California's veterans under their care. CalVet leaders adapted this plan over the course of the pandemic to include a rigorous program of testing, contact tracing, screening, and stocking of personal protective equipment.

4) The leaders of the Veterans' Home of California established designated isolation areas at each facility and established protocols for specialized care and infection containment when necessary.

5) CalVet's success in limiting the impacts of the virus within its system and the staff's continued devotion to their mission sets these homes apart from other health care facilities across the state and nation.

This resolution:

1) Recognizes the staff at all levels in the Veterans' Home of California facilities for their hard work and dedication. The staff have been second to none in their commitment to provide quality care and have saved the lives of countless veterans during the pandemic.

2) Thanks CalVet staff in all divisions for continuing to fulfil their sacred mission to honor and serve all California veterans through administering clinical care, providing housing assistance, offering home loans, and connecting veterans with their earned benefits through education and advocacy even in times of crisis.

3) Honors the tireless efforts of CalVet's employees to protect the health, safety, and prosperity of California's veterans.

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

**SUPPORT:** (Verified 4/21/21)

None received

**OPPOSITION:** (Verified 4/21/21)

None received

Prepared by: Karen Chow / SFA / (916) 651-1520
4/21/21 15:22:49

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

**SENATE RULES COMMITTEE** SCR 37
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SCR 37
Author: Archuleta (D), et al.
Amended: 5/20/21
Vote: 21

**SUBJECT:** Latino Veterans Day

**SOURCE:** Author

**DIGEST:** This resolution proclaims September 20, 2021, as Latino Veterans Day.

*Senate Floor Amendments* of 5/20/21 delete a finding relative to Loreta Janeta Velázquez.

**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 that 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) Several thousand Latino volunteers, mostly from the southwestern United States, fought with distinction in the United States Army during the Spanish-American War.

4) 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.

5) 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.

6) 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".

7) 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.

8) Today, Latinos make up approximately 14 percent of America's fighting force. Since the beginning of this century, Latinos have been among the boots on the ground in antiterrorism operations.

9) 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, 2021, as Latino Veterans Day.

**Related/Prior Legislation**

SCR 80 (Archuleta, 2020) would have proclaimed September 20, 2020, as Latino Veterans Day. The resolution died in the Assembly.

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

**SUPPORT:** (Verified 5/21/21)

None received

**OPPOSITION:** (Verified 5/21/21)

None received

Prepared by: Melissa Ward / SFA / (916) 651-1520
5/25/21 10:47:30

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

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

THIRD READING

Bill No: SCR 49
Author: Hueso (D), et al.
Introduced: 5/28/21
Vote: 21

**SUBJECT:** Public Power Week

**SOURCE:** Northern California Power Agency

**DIGEST:** This resolution designates the first full week of October of each year as "Public Power Week" in the State of California in honor of public power utilities and their customer-owners, policymakers, and employees who work together to provide the best possible energy service for the benefit of their communities.

**ANALYSIS:** This resolution makes the following legislative findings:

1) Public power utilities:

   a) Have served California for more than a century with reliable, affordable, and sustainable electricity.

   b) Provide homes, businesses, schools, and government agencies with safe, reliable, and efficient electricity and employ sound business practices designed to ensure the best possible service at not-for-profit rates.

   c) Are valuable community assets that contribute to the well-being of local residents through energy efficiency, customer service, environmental protection, economic development, and safety awareness.

   d) Are dependable and trustworthy institutions whose local operations continue to make California a better place to live and work, all while making contributions to enhancing statewide climate solutions.

2) Over 10,000,000 Californians in 46 communities are served by a community-owned, not-for-profit public power utility.

3) The residents and businesses in those communities have a direct say in utility operations and policies that shape their community's energy future.

4) California's public power communities are part of a national community of more than 2,000 other public power systems in the United States.

This resolution designates the first full week of October each year as "Public Power Week" in the State of California in honor of public power utilities and their customer-owners, policymakers, and employees who work together to provide the best possible energy service for the benefit of their communities.

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

**SUPPORT:** (Verified 6/21/21)

Northern California Power Agency (source)
California Municipal Utilities Association
Sacramento Municipal Utility District
Southern California Public Power Authority

**OPPOSITION:** (Verified 6/21/21)

None received

Prepared by: Melissa Ward / SFA / (916) 651-1520
6/21/21 11:07:35

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

**SENATE RULES COMMITTEE** SCR 51
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SCR 51
Author: Pan (D), et al.
Introduced: 6/7/21
Vote: 21

**SUBJECT:** Sacramento Municipal Utility District: zero-carbon emissions goal

**SOURCE:** Sacramento Municipal Utility District

**DIGEST:** This resolution (1) recognizes the Sacramento Municipal Utility District (SMUD) for setting the most ambitious carbon reduction goal of any large utility in the country and applaud SMUD's commitment to finding innovative ways to reach its zero-carbon emissions goal without impacting reliability or rates; and (2) recognizes that SMUD's zero-carbon emissions goal puts the Sacramento region on the map as an example to follow and as a region where innovative, climate-friendly businesses want to be, the achieving the zero-carbon emissions goal that brings benefits not only globally, but also locally, the reduced emissions improve our local air quality and overall health and create jobs, and that SMUD is helping create a cleaner, more prosperous, and healthier region for all.

**ANALYSIS:** This resolution makes the following legislative findings:

1) Globally, 2016 and 2020 were the hottest years on record and Californians have witnessed firsthand the devastating impacts of carbon on our climate, including devastating wildfires, rising temperatures, and decreased snowpacks.

2) Locally, Sacramento is one of the most polluted cities in the country—a recent report by the American Lung Association ranked the Sacramento area sixth in the nation based on days of unhealthy and unsafe levels of air pollution in the ozone layer.

3) For nearly 75 years, the community-owned, not-for-profit Sacramento Municipal Utility District has been the Sacramento region's committed electricity partner and has led the way in providing environmentally responsible electricity and environmental stewardship to benefit its customers and community.

4) SMUD has been a consistent leader in carbon reduction and became the first large California utility to have at least 20% of its electricity come from renewable sources. SMUD has reduced its emissions of greenhouse gases (GHG) by nearly 50% from 1990 levels in 2017, 2018, and 2019 and has reduced the carbon intensity of its electricity mix, which is now, on average, more than 50% carbon free.

5) Through SMUD's Sustainable Communities Program, the utility engages community partners to target and maximize GHG emissions reduction benefits to neighborhoods that are likely to be underserved or in distress due to lack of community development, livable wage employment, training opportunities, affordable housing options, education, or transportation, among other factors.

6) SMUD spearheaded the development of the California Mobility Center, a public-private consortium to foster clean, scalable e-mobility technologies and solutions that are poised to generate $2.5 billion, in economic activity and 8,500 new jobs over the next five years.

7) On April 28, 2021, SMUD's Board of Directors solidified SMUD's commitment to leading the way to a clean energy future with the approval of SMUD's 2030 Zero Carbon Plan. The Plan is a flexible roadmap to completely eliminate carbon emissions from SMUD's electricity supply by 2030, without compromising affordability or reliability and in a manner that engages all customers and promotes environmental justice and equity.

8) SMUD has committed to keeping rate increases within the rate of inflation; and is committed to working in partnership with its customers, the community, government agencies, community leaders and organizations, business leaders and the business community, legislators, regulators, and others to help align resources and programs for maximum impact in all communities.

This resolution recognizes SMUD for setting the most ambitious carbon reduction goal of any large utility in the country and applauds SMUD's commitment to finding innovative ways to reach its zero-carbon emissions goal without impacting reliability or rates, which are among the lowest in California; and recognizes (1) that this ambitious zero-carbon emissions goal puts the Sacramento region on the map as an example to follow and as a region where innovative, climate-friendly businesses want to be; (2) that achieving the zero-carbon emissions goal brings benefits not only globally, but also locally, and reduced emissions improve our local air quality and overall health and create jobs; and (3) that SMUD is helping create a cleaner, more prosperous, and healthier region for all.

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

**SUPPORT:** (Verified 6/15/21)

Sacramento Municipal Utility District (source)

**OPPOSITION:** (Verified 6/15/21)

None received

Prepared by: Melissa Ward / SFA / (916) 651-1520
6/16/21 14:54:20

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

**SENATE RULES COMMITTEE** SCR 52
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SCR 52
Author: McGuire (D), et al.
Introduced: 6/14/21
Vote: 21

**SUBJECT:** California Parks and Recreation Professionals Month

**SOURCE:** Author

**DIGEST:** This resolution proclaims the month of July 2021 as California Parks and Recreation Professionals Month to celebrate the accomplishments and resilience of parks and recreation professionals throughout the COVID-19 pandemic.

**ANALYSIS:** This resolution makes the following legislative findings:

1) Parks and recreation professionals maintain millions of acres of public lands in order to safely facilitate the use of the state's local parks, open spaces, trails, recreation facilities, and programs.

2) Parks and recreation professionals promote the physical and mental health of Californians by making outdoor activities and sports available to able and disabled children, teens, adults, and seniors.

3) Parks and recreation professionals sustain and steward the state's natural resources by protecting habitat and open space, connecting people to nature, and promoting the ecological function of parkland.

4) When the COVID-19 pandemic hit California's communities, parks and recreation professionals responded immediately by implementing best practices designed to ensure the public could safely find respite in local outdoor parks and open spaces.

5) When the health care sector was overwhelmed by the burden of responding to COVID-19, parks and recreation departments and park districts stepped in to assist by converting their facilities into COVID-19 testing centers and later vaccination administration sites.

6) When California faced intense heat waves during 2020, parks and recreation professionals protected the homeless population from the health effects of heat waves by creating cooling centers in air conditioned public spaces.

7) When the pandemic was overlapped with devastating wildfires, parks and recreation professionals persevered and continued to serve California's communities by turning their facilities into firefighter staging centers, emergency event management centers, and emergency shelters.

This resolution proclaims the month of July 2021 as California Parks and Recreation Professionals Month to celebrate the accomplishments and resilience of parks and recreation professionals throughout the COVID-19 pandemic.

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

**SUPPORT:** (Verified 6/21/21)

None received

**OPPOSITION:** (Verified 6/21/21)

None received

Prepared by: Karen Chow / SFA / (916) 651-1520
6/23/21 15:17:24

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

**SENATE RULES COMMITTEE** SR 41
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SR 41
Author: Caballero (D)
Introduced: 6/10/21
Vote: Majority

**SUBJECT:** Motorcycle profiling

**SOURCE:** Author

**DIGEST:** This resolution states that the Senate promotes increased public awareness on the issue of motorcycle profiling; encourages collaboration and communication between the motorcycle community and local and state law enforcement agencies to engage in efforts to end motorcycle profiling; and urges state law enforcement officials to include statements condemning motorcycle profiling in written policies and training materials.

**ANALYSIS:** This resolution makes the following legislative findings:

1) Motorcycle profiling is the illegal use of the fact that a person rides a motorcycle or wears motorcycle-related apparel as a factor in deciding to stop and question, take enforcement action, arrest, or search a person or vehicle with or without legal basis under the Constitution of the United States.

2) As of January 2021, the annual National Motorcycle Profiling Survey conducted during 2020 by the Motorcycle Profiling Project found that of those who reported being profiled by law enforcement, 5.58 percent were members of religious clubs, 11.84 percent were members of veteran clubs, 28.57 percent were members of traditional motorcycle clubs, and 31.02 percent were independent riders.

3) As of January 2020, this same National Motorcycle Profiling Survey showed that between 2014 and 2019, survey participants reported that they felt that the reason they were profiled was because they were either riding a motorcycle or wearing motorcycle-related clothing or colors. In addition, the number of riders who felt this way increased from nearly 20 percent in 2014 to nearly 50 percent in 2019.

4) As of January 2021, this same National Motorcycle Profiling Survey showed that motorcycle profiling was occurring throughout the State of California from Redding and Eureka to Ukiah and Oroville, to Santa Rosa and Sacramento, to Alameda and Modesto, to San Jose and Santa Cruz, to Fresno and Lemoore, to Los Angeles and Palm Springs, to San Diego and many other locations in between.

5) Complaints regarding motorcycle profiling have been cited in all 50 states. Rallies to raise awareness and combat motorcycle profiling have been held in multiple states and six times at the California State Capitol since 2011.

6) In 2011, the State of Washington enacted a law requiring the criminal justice training commission to ensure that issues related to motorcycle profiling are addressed in basic law enforcement training and offered to in-service law enforcement officers in conjunction with existing training regarding profiling. Reported incidents of motorcycle profiling have dropped by approximately 90 percent in the State of Washington since the 2011 legislation was enacted.

7) In December of 2018, the United States Senate unanimously passed a resolution promoting awareness of motorcycle profiling across all 50 states.

This resolution states that the Senate promotes increased public awareness on the issue of motorcycle profiling; encourages collaboration and communication between the motorcycle community and local and state law enforcement agencies to engage in efforts to end motorcycle profiling; and urges state law enforcement officials to include statements condemning motorcycle profiling in written policies and training materials.

**Related/Prior Legislation**

SR 63 (Caballero, 2020) was nearly identical to this resolution. SR 63 was introduced, but was never heard or referred. SR 63 died in the Senate Rules Committee.

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

**SUPPORT:** (Verified 6/22/21)

ABATE Of California
American Motorcyclist Association
California Motorcycle Anti-Profiling Coalition
Modified Motorcycle Association
Motorcycle Riders Foundation

**OPPOSITION:** (Verified 6/22/21)

None received

Prepared by: Jonas Austin / SFA / (916) 651-1520
6/23/21 15:17:25

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

**SENATE RULES COMMITTEE** SR 43
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SR 43
Author: Roth D
Introduced: 6/14/21
Vote: Majority

**SUBJECT:** Fight Crime: Invest in Kids

**SOURCE:** Fight Crime: Invest in Kids

**DIGEST:** This resolution expresses gratitude to Fight Crime: Invest in Kids for its invaluable contribution to the promotion of the well-being of all of the children of California and offers its congratulations on the organization's 25th anniversary.

**ANALYSIS:** This resolution makes the following legislative findings:

1) Fight Crime: Invest in Kids, a nonprofit, nonpartisan organization composed of sheriffs, chiefs of police, district attorneys, and victim advocates has promoted evidence-based policies and programs for 25 years that protect public safety by steering the children of California towards successful lives and away from crime.

2) The law enforcement leaders who comprise Fight Crime: Invest in Kids volunteer their time and voices to ensure the children of California and their families have access to high-quality programs, including voluntary home visiting, early childhood care and education, and after school and antirecidivism programs.

3) Fight Crime: Invest in Kids will celebrate its 25th anniversary as an organization dedicated to increasing public safety by ensuring all children have the opportunity to achieve their potential.

4) The Senate recognizes the contribution California's law enforcement leaders and victim advocates have made as members of Fight Crime: Invest in Kids with respect to the health, security, and well-being of the children of California.

This resolution expresses gratitude to Fight Crime: Invest in Kids for its invaluable contribution to the promotion of the well-being of all of the children of California and offers its congratulations on the organization's 25th anniversary.

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

**SUPPORT:** (Verified 6/21/21)

Fight Crime: Invest in Kids (source)

**OPPOSITION:** (Verified 6/21/21)

None received

Prepared by: Melissa Ward / SFA / (916) 651-1520
6/23/21 15:17:25

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

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

CONSENT

Bill No: AB 120
Author: Salas (D), et al.
Introduced: 12/18/20
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 14-0, 6/8/21
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Borgeas, Bradford, Glazer, Hueso, Jones, Kamlager, Portantino, Rubio, Wilk
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 5/6/21 (Consent) - See last page for vote

**SUBJECT:** Gambling Control Act

**SOURCE:** Author

**DIGEST:** This bill allows the California Gambling Control Commission (Commission) to take action to deny or approve an application at a Commission meeting and require an evidentiary hearing only if requested by an applicant, upon denial of an application or if the application is approved with limits, restrictions, or conditions, as defined.

**ANALYSIS:**

Existing law:

1) Provides, under the Gambling Control Act (Act), for the licensure of certain individuals and gambling establishments involved in various gambling activities, and for the regulation of those activities by the Commission.

2) Provides for the enforcement of those gambling activities by the Bureau of Gambling Control (Bureau) under the California Department of Justice (DOJ).

3) Requires every person who, either as owner, lessee, or employee, deals, operates, carries on, conducts, maintains, or exposes for play any controlled game, or who receives, directly or indirectly, any compensation or reward, or any percentage or share of the money or property played, for keeping, running, or carrying on any controlled game, to apply for and obtain from the Commission a valid state gambling license, key employee license, or work permit, as specified.

4) Prohibits a person from being employed as a gambling enterprise employee unless the person has a work permit or is an independent contractor not required to hold a work permit.

5) Requires the Commission to hold a meeting that is conducted in accordance with specified evidentiary rules, similar to a hearing, in order to deny an application or grant a gambling license to an applicant.

6) Authorizes the Commission to deem a person suitable to hold a state gambling license even if the person has a specified financial interest in a business that conducts gambling activities outside the state that would violate California law if conducted within the state.

7) Allows an applicant to request a withdrawal of their application at any time prior to a final action by the Bureau.

This bill:

1) Allows the Commission to take action to deny or approve an application at a Commission meeting and require an evidentiary hearing only if requested by an applicant, upon denial of an application or if the application is approved with limits, restrictions, or conditions, as defined.

2) Allows an applicant to request a withdrawal of their application at any time prior to a final action by the Commission.

3) Makes technical and conforming changes to the Act.

**Comments**

*Purpose of the bill.* According to the author's office, "AB 120 will allow the Commission to take action to grant or deny a license at a regular meeting and would require an evidentiary hearing only if requested by an applicant, upon denial. Consolidating hearings for the approval and denial of licenses will reduce

delays and inefficiencies in the regulation of gambling, as recommended by the California State Auditor."

*Evidentiary hearings.* Existing law requires the Commission to hold a meeting that is conducted in accordance with specified evidentiary rules, similar to a hearing, in order to deny an application or grant a gambling license to an applicant. The evidentiary hearings may be held pursuant to the Act or the Administrative Procedures Act. If the Commission sends a licensing application to an administrative hearing, the applicant will receive a referral letter and a Notice of Defense Form.

Once the Notice of Defense has been returned to the Commission and the Bureau requesting a hearing, a notice of hearing will be sent to the applicant which will identify who will present the Bureau's Investigation Report, as well as the date, time, and type of hearing. If the applicant waives his/her right to a hearing or fails to return the Notice of Defense form, the notice of hearing will also affirm the applicant's rights have been waived and include an advisory that the Commission may issue a default decision on the application.

An administrative hearing, also known as an evidentiary hearing, is a fair and impartial opportunity for an individual to present the merits of their application or other approval to the Commission through a semi-formal proceeding. If the application or other approval has been referred to an administrative hearing, the Commission will hear evidence and arguments presented at the hearing to determine the facts and review the relevant law applicable to the application, and issue a decision after the hearing is concluded.

The Bureau or complainant will present the relevant facts and argument contained in the Bureau's Background Investigation Report along with any specific issues identified by the Commissioners in advance of the hearing. The applicant will have the opportunity to present facts and arguments in favor of their suitability.

*California State Auditor – Audit Report Number: 2018-132.* As directed by the Joint Legislative Audit Committee, the California State Auditor conducted an audit of the Bureau and the Commission. The audit report concluded that the Bureau's and Commission's inconsistent procedures have contributed to delays and backlogs for gaming license applicants and have resulted in unequal treatment for applicants and licensees. The audit report made various recommendations to the Legislature, the Bureau and the Commission. Specifically, the Auditor recommend:

> "To prevent unnecessary delays and use of resources and to ensure its compliance with state law, the commission should, following the Legislature's amendment of the Act that we recommend, revise its regulations and policies for conducting evidentiary hearings. These revisions should specify that the commission may vote at regular meetings on a final basis to approve or deny licenses, registrations, permits, findings of suitability, or other matters and that it is not required to conduct evidentiary hearings unless applicants request that it do so."

AB 120 implements the State Auditor's stated recommendation to the Legislature by amending the Act to allow the Commission to take action at its regular licensing meetings rather than requiring it to hold evidentiary hearings. The State Auditor believes this action will prevent delays and the unnecessary use of resources in the processing of licensing applications.

*Gambling regulation/enforcement in California*. The Act created a comprehensive scheme for statewide regulation of legal gambling under a bifurcated system of administration involving the Bureau within DOJ and the five-member Commission by the Governor. The Commission is authorized to establish minimum regulatory standards for the gambling industry and to ensure that the state gambling licenses are not issued to, or held by, unsuitable or unqualified individuals.

The Bureau monitors the conduct of gaming operations to ensure compliance with state gambling laws and conducts extensive background investigations of applicants seeking a state gambling license. The Bureau also conducts background checks for all key employees and state gambling licensees and vendor applications.

The Bureau inspects premises where gambling is conducted, examines gambling equipment, audits papers, books, and records of the gambling establishment, investigates suspected violations of gambling laws, and is ultimately responsible for enforcing compliance with all state laws pertaining to gambling.

**Related/Prior Legislation**

SB 819 (Committee on Governmental Organization, 2021) excludes from the definition of "gambling enterprise employee" and "key employee" individuals who are employed solely to serve or prepare food or beverages if those duties are performed only in areas of the establishments in which gambling is not authorized. In addition, this bill makes various clarifying changes to the Act. (Pending in the Assembly Governmental Organization Committee)

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

**SUPPORT:** (Verified 6/21/21)

California Gambling Control Commission

**OPPOSITION:** (Verified 6/21/21)

None received

**ARGUMENTS IN SUPPORT:** According to the California Gambling Control Commission, "AB 120 provides the Commission the necessary authority to issue preliminary denials or approvals with conditions, limitations, or restrictions at a regular licensing meeting, in lieu of an inefficient requirement to conduct an evidentiary hearing prior to a denial or an application. This bill notably still provides applicants an opportunity to request an evidentiary hearing."

ASSEMBLY FLOOR: 77-0, 5/6/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Mullin

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
6/23/21 15:10:09

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

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(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 239
Author: Villapudua (D) and Robert Rivas (D), et al.
Introduced: 1/13/21
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 14-0, 6/8/21
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Borgeas, Bradford, Glazer, Hueso, Jones, Kamlager, Portantino, Rubio, Wilk
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 5/6/21 (Consent) - See last page for vote

**SUBJECT:** Winegrowers and brandy manufacturers: exercise of privileges: locations

**SOURCE:** Author

**DIGEST:** This bill allows a licensed winegrower to sell or deliver wine in containers supplied, furnished, or sold by the customer at the winegrower's offsite tasting room.

**ANALYSIS:**

Existing law:

1) Establishes the Department of Alcoholic Beverage Control (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 and the collection of license fees for this purpose.

2) Provides, under the ABC Act, for the issuance of various alcoholic beverage licenses, including the imposition of fees, conditions, and restrictions in connection with the issuance of those licenses.

3) Separates the alcoholic beverage industry into three component parts, or tiers, of the manufacturer (including breweries, wineries, and distilleries), wholesaler, and retailer (both on-sale and off-sale). This is referred to as the "tied-house" law or "three-tier" system.

4) Authorizes licensed winegrowers and brandy manufacturers to exercise their license privileges away from their licensed premises at, or from, branch offices or warehouses or United States bonded wine cellars located away from the place of productions or manufacture, subject to specified exceptions. One of the exceptions to this authorization is the sale or delivery of wine to consumers in containers supplied, furnished, or sold by the consumer.

5) Permits an on-sale beer and wine public premises licensee and a licensed winegrower to allow a person who has purchased a partially consumed a bottle of wine to remove the partially consumed bottle from the premises upon departure.

This bill allows a licensed winegrower to sell or deliver wine in containers supplied, furnished, or sold by the customer at the winegrower's offsite tasting room.

**Background**

*Purpose of the bill.* According to the author's office, "under AB 239, the restriction for wineries will be removed, allowing licensed winegrowers to fill consumer-provided bottles at their wineries and tasting rooms. Allowing wineries to refill consumer bottles will not only bring parity to existing law governing breweries, but it will also limit waste by reducing the amount of bottles needed in the packaging process."

*Type 02 alcohol licenses.* A Type 02 license authorizes the sale of wine and brandy to any person holding a license authorizing the sale of wine and brandy, and to consumers for consumption off the premises where sold. Wineries holding a Type 02 license may obtain what is known as a Duplicate Type 02 license, which allows a winery to have a tasting room away from the facilities where the wine is made. Some wineries have tasting rooms both at the facility where they produce

their wine and a tasting room at a different location. Either way, a winery may have no more than one off-site tasting room.

Wineries are authorized to offer tasting of wine for free or for a charge at their tasting room. They also have the ability to sell wine by the glass or bottle for consumption on or off the premises. Some wineries operate under an "alternating proprietor" agreement, which allows two or more persons or entities to alternate on the use of the same space and equipment to produce wine. Of the 6,511 total winegrower licensees, 1,627 winegrowers currently hold one duplicate license.

Typically, though not in every jurisdiction, a winery owner is required to obtain a local permit. These local permits can vary dramatically and not every tasting room is required to obtain a local permit. These requirements are all dependent on the location where the prospective tasting room is to be located and the local requirements of that jurisdiction.

Existing law prohibits a winegrower with a Type 02 license from filling or refilling containers supplied by a consumer at premises licensed with a duplicate Type 02 license. A winegrower can fill bottles that they own at premises that are licensed with a duplicate, but they cannot fill consumer-supplied containers. This bill removes that prohibition.

**Related/Prior Legislation**

SB 19 (Glazer, 2021) authorizes a licensed winegrower or brandy manufacturer to operate two off-site tasting rooms under its winegrower license. (Pending in the Assembly Governmental Organization Committee)

SB 264 (Glazer, 2020) would have authorized a licensed winegrower or brandy manufacturer to operate two off-site tasting rooms under its winegrower license. (Held on the Assembly Appropriations Committee Suspense File)

AB 2752 (Bauer-Kahan, 2020) would have authorized a licensed winegrower or brandy manufacturer to operate two off-site tasting rooms under its winegrower license. (Never heard in the Assembly Governmental Organization Committee)

AB 2957 (Robert Rivas, 2020) would have allowed a licensed winegrower to sell or deliver wine in containers supplied, furnished, or sold by the customer at the winegrower’s off-site tasting room. (Never heard in the Senate Governmental Organization Committee)

SB 1430 (Glazer, 2018) would have authorized a licensed winegrower or brandy manufacturer to operate two off-site tasting rooms under its winegrower license. (Held on the Assembly Appropriations Committee Suspense File)

AB 2488 (Levine, Chapter 98, Statutes of 2014) authorized a licensed winegrower to conduct limited wine tastings for consumers at certified farmers' markets under certain circumstances.

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

**SUPPORT:** (Verified 6/21/21)

Amador Vintners Association
Anderson Valley Winegrowers Association
California Association of Winegrape Growers
California Farm Bureau
El Dorado Winery Association
Family Winemakers of California
Mendocino Winegrowers, Inc.
Monterey County Vintners & Growers Association
Morgan Hill Chamber of Commerce
Placer County Wine & Grape Association
Santa Barbara Vintners
Santa Cruz Mountains Winegrowers Association
Temecula Valley Winegrowers Association
Wine Institute
Wineries of Santa Clara Valley

**OPPOSITION:** (Verified 6/21/21)

Alcohol Justice

**ARGUMENTS IN SUPPORT:** According to the Monterey County Vintners & Growers Association, "many Californians regularly visit the local brewery to refill their 'growler' with beer. Others have warm memories of traveling through Spain and Italy, refilling their bottles with wine for evening meals. Besides being fun and enchanting, these practices bring people closer to the source of their food and wine and build stronger relationships within the community it is also an environmentally sustainable practice aligned with other sustainable practices of many vineyards, wineries, and tasting rooms."

**ARGUMENTS IN OPPOSITION:** According to Alcohol Justice, "there are issues of product safety and over-consumption in allowing wine or brandy to be sold or delivered off of their licensed premises in containers controlled by the consumer. We can imagine wine delivery trucks looking much like a barrel pulling up curbside to a venue and poured from a spigot to a non-sanitary bucket. This simple language allows a wide range of malfeasance and throws caution to the wind."

ASSEMBLY FLOOR: 77-0, 5/6/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Mullin

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
6/23/21 15:10:10

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

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(916) 651-1520 Fax: (916) 327-4478

CONSENT

Bill No: AB 246
Author: Quirk (D) and Mathis (R), et al.
Introduced: 1/13/21
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 12-0, 6/7/21
AYES: Roth, Archuleta, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Melendez, Bates

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/22/21 (Consent) - See last page for vote

**SUBJECT:** Contractors: disciplinary actions

**SOURCE:** Author

**DIGEST:** This bill authorizes the Contractors State License Board (CSLB) to take disciplinary action against a licensee for the improper disposal of contractor-related materials/debris if such disposal is a violation determined by a local government or agency.

**ANALYSIS:**

Existing law:

1) Establishes the CSLB within the Department of Consumer Affairs (DCA) to license and regulate contractors and home improvement salespersons, and requires the CSLB in consultation with the Director of DCA to appoint a registrar of contractors (Registrar). (Business and Professions Code (BPC) § 7000 *et seq*.)

2) Authorizes the Registrar upon their own motion, and requires the Registrar upon a verified complaint, to investigate the actions of any applicant,

contractor, or home improvement salesperson and take disciplinary action, as specified, for violations of the contractors state license laws (license law). (BPC § 7090)

3) Prohibits the dumping of waste matter in a public or private highway or road, private property, public park or other public property other than property designated or set aside for that purpose by the governing board, as specified. (Penal Code (PC) § 374.3(a))

4) Makes its unlawful to place, deposit, or dump rocks, concrete, asphalt, or dirt in a private highway or road, or private property, without the consent of the owner, or a contractor under contract with the owner for the materials, or in or upon a public park or other public property, without the consent of the state or local agency having jurisdiction over the highway, road, or property, as specified. (PEN 374.3(b))

This bill adds illegal dumping, as determined by a local government or agency, to the list of violations the CSLB may take enforcement action against a licensee and makes other technical and conforming changes.

**Background**

*Contractors and the CSLB.* The CSLB is responsible for the implementation and enforcement of the Contractors' State License Law (license law), (the laws and regulations related to the licensure, practice and discipline of the construction industry in California). The CSLB has statutory authority to discipline a licensed contractor for a number of violations of the license law; however, the CSLB does not have specific authorization to take action against a licensee for violations not specifically authorized in statute or specified in regulations, including illegal dumping provisions specified in the PC, or ordinances created by local governments.

The issue of illegal dumping is a problem across a number of regions in California. According to information from CalRecycle, *"…Illegal dumping poses significant social, environmental, and economic impacts statewide. California local government spends tens of millions of dollars annually to remove illegally dumped materials, and private property owners incur significant costs to clean up illegal dumping. Illegal dump sites that are not abated often grow in size and can then become illegal disposal sites."* A March 24, 2021 article in the Los Angeles Times, *L.A.'s illegal dumping problem is worsening, controller's report says*, discussed the current challenges in the Los Angeles area with illegal dumping and its increase and noted, "In some cases, businesses and individuals dump

mattresses, furniture, construction materials and other trash to avoid having to pay waste removal fees." A KCRA news story from September 9, 2020, *Report: Illegal dumping is getting worse in San Joaquin County* noted, "Illegal dumping of trash and garbage has become progressively worse in San Joaquin County."

Current law (BPC § 7110) does not include a specific reference to violations of the PC as a reason for the CSLB to take enforcement actions against a contractor who violates waste disposal laws in the course of contracting business. This bill adds a violation of illegal dumping as specified in the PC along with local government ordinances as a reason for the CSLB to take enforcement actions against a licensee. As noted by the CSLB, it would rely on the finding of a local or state agency that a violation occurred as the necessary evidence to take disciplinary action against a licensee.

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

**SUPPORT:** (Verified 6/22/21)

Alameda County Supervisor, Nate Miley
American Subcontractors Association-California
California Legislative Conference of Plumbing, Heating & Piping Industry
California Pool & Spa Association
California Product Stewardship Council
California State Council of Laborers
City of El Segundo
City of San Rafael
Contractors State License Board
Flasher Barricade Association
Housing Contractors of California
Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force
Mendo Recycle
National Electrical Contractors Association
National Stewardship Action Council
Northern California Allied Trades
Plumbing-Heating-Cooling Contractors Association of California
Pool & Hot Tub Alliance
Republic Services - Western Region
Rural County Representatives of California
Santa Barbara County Resource Recovery & Waste Management Authority
South Bay Cities Council of Governments

Southern California Glass Management Association
United Contractors
Upper Valley Waste Management Agency
Wall and Ceiling Alliance
Western Electrical Contractors Association
Western Wall and Ceiling Contractors Association

**OPPOSITION:** (Verified 6/22/21)

None received

**ARGUMENTS IN SUPPORT:** Supporters note that this bill will help address unscrupulous contractors and the health and safety issues affected by illegal dumping.

ASSEMBLY FLOOR: 77-0, 4/22/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Holden, Reyes

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
6/23/21 15:04:03

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

**SENATE RULES COMMITTEE** AB 251
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 251
Author: Choi (R) and McCarty (D)
Amended: 3/8/21 in Assembly
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 6/9/21
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, McGuire, Pan

ASSEMBLY FLOOR: 74-0, 4/8/21 - See last page for vote

**SUBJECT:** Public postsecondary education: admission by exception

**SOURCE:** Author

**DIGEST:** This bill prohibits certain senior administrators from being one of the three senior administrators tasked with approving students' admission by exception applications to a campus within the California State University (CSU) and if adopted by the University of California (UC) Board of Regents, the UC system.

**ANALYSIS:**

Existing law:

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

2) Provides that statutes related to UC (and most other aspects of the governance and operation of UC) are applicable only to the extent that the Regents of UC make such provisions applicable. (EC § 67400)

3) Establishes the CSU system, made of 23 campuses, and bestows upon the CSU Trustees, through the Board of Trustees, the power, duties, and functions with

respect to the management, administration, and control of the CSU system (EC Section 66606 and 89030 et. Seq.).

4) Prohibits a campus of the CSU and, if adopted by the Regents of the UC by appropriate resolution, the UC, from admitting an applicant by admission by exception, as defined, unless the admission by exception has been approved, before the student's enrollment, by at least three senior campus administrators, the applicant is a California resident who is receiving an institution-based scholarship to attend the campus, or the applicant is accepted by an educational opportunity program for admission to the campus. (Education Code § 66022.5 et. al.)

This bill prohibits certain senior administrators from being one of the three senior administrators tasked with approving students' admission by exception applications to a campus within the CSU and if adopted by the UC Board of Regents, the UC system. Specifically, for purposes related to admission by exception decisions, this bill defines a "senior campus administrator," to mean staff that are *not associated* with campus development, external affairs, fundraising, donor relations, alumni relations or alumni outreach.

**Comments**

1) *Need for the bill*. According to the author, "AB 251 builds upon the solution enacted by AB 1383 by prohibiting senior campus administrators who engage in the admission by exception approval process from working in various departments identified by the California State Auditor's audit of UC Admissions as improperly influencing admissions procedures. By closing this loophole, AB 251 will not only restore the public's trust in the college admission process, but will also ensure there is a procedure in place to verify that prospective students are admitted by merit and not by who they know."

2) *Admission gaming*. In 2019, the Department of Justice charged several dozen individuals accused of cheating and accepting bribes to gain students' unlawful admission to top universities, including to UCs. Athletic coaches from Yale, Stanford, University of Southern California, Wake Forest and Georgetown, among others, were implicated, as well as parents and exam administrators. In response, the Legislature approved AB 1383 (McCarty, Chapter 522, Statutes of 2019) which required approval from three campus administrators prior to UC or CSU admitting a student through their respective admission by exception policies. Although the CSU had no part in the scandal, the CSU is subject to the provisions established by AB 1383 and this bill.

3) *California State Audit of the University of California Admission Process*. In September 2020, the California State Auditor (Auditor) published an audit report which reviewed the general admission practices and the admission of athletes at three UC campuses: UC, Berkeley, UC, Los Angeles, UC, San Diego, and the admission of athletes at UC, Santa Barbara. The report concluded that, over a six-year period, the identified campuses admitted 64 applicants based on their personal or family connections to donors and university staff. Campuses admitted 22 students through their student-athlete admissions process, despite those students lacking the athletic qualifications required to compete at the university. UC, Berkeley admitted the remaining students, most of whom were referred to the admissions office because of their families histories as donors or because they were related or connected to university staff. The Auditor's report asserts that their records did not demonstrate competitive qualifications for admissions to UC, Berkeley.

   Additionally, the report identified cases in which the admission office of a campus actively engaged with development offices to ensure students who were connected to donors or potential donors would receive admission to the university. The Auditor's report issued 12 recommendations to UC, including a recommendation related to this bill, to establish protocols for admissions processes that prohibit communication between a campus's development office and its admissions office about applicants and prospective applicants. The CSU was included in the audit.

4) *UC's response to the audit*. In their August 2020 letter, the UC stated it is committed to safeguarding the integrity of its admissions practices and will take prompt action to address issues raised in the State Auditor's draft report. It further states that many of the report's recommendations are similar to those that UC internal audits identified and presented to the Board of Regents over the past year, and that UC campuses and the Office of the President have largely implemented. This bill seeks to establish firmer parameters around which types of senior administrators may be tasked with approving UC and CSU students' admission by exception applications.

**Related/Prior Legislation**

AB 233 (Boerner Horvath, 2021) requests the UC Regents to require the UC Office of the President to establish systemwide protocols based to the Auditor recommendations related to the student admissions processes by April 15, 2022. AB 233 has been referred to the Senate Education Committee.

AB 1215 (Boerner Horvath, 2021) requests the UC Regents to adopt a policy directing the UC Office of the President implement other various Auditor recommendations related to the student admission process to be effective for the UC's 2023 admissions cycle. AB 1215 has been referred to the Senate Education Committee.

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

**SUPPORT:** (Verified 6/10/21)

None received

**OPPOSITION:** (Verified 6/10/21)

None received

ASSEMBLY FLOOR: 74-0, 4/8/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Wicks, Rendon
NO VOTE RECORDED: Holden, Mullin, Patterson, Wood

Prepared by: Olgalilia Ramirez / ED. / (916) 651-4105
6/11/21 8:31:18

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

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THIRD READING

Bill No: AB 271
Author: Robert Rivas (D), et al.
Amended: 4/5/21 in Assembly
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/10/21
AYES: McGuire, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-1, 4/19/21 - See last page for vote

**SUBJECT:** Santa Clara Valley Water District: contracts: best value procurement

**SOURCE:** Santa Clara Valley Water District

**DIGEST:** This bill allows the Santa Clara Valley Water District to award contracts on a best value basis for any construction work to improve the safety of the Leroy Anderson Dam and Reservoir.

**ANALYSIS:**

Existing law:

1) Requires, pursuant to the Local Agency Public Construction Act (Act), local agencies to invite bids for construction projects and award contracts to the lowest responsible bidder, unless otherwise specified.

2) Allows local agencies completing projects using specified alternative procurement methods to evaluate bids on a "best-value" basis, incorporating technical factors, such as qualifications, in addition to price.

3) Requires that projects utilizing best value:

a) Must be evaluated using only the criteria and selection procedures specifically identified in the request for proposals (RFP). The awarding authority may reserve the right to request revisions and conduct negotiations with responsive proposers, if the authority specifies in the RFP how it will ensure that negotiations are conducted in good faith. The authority may hold discussions or negotiations with responsive proposers using the process specified in the RFP.

b) Rank responsive proposers based on value provided and award the contract to the responsible bidder whose proposal is determined by the contracting authority to have offered the best value to the public. Upon issuance of a contract award, the awarding authority must publicly announce its award, identifying the bidder to which the award is made, along with a written decision supporting its contract award and stating the basis of the award.

This bill:

1) Allows Santa Clara Valley Water District (Valley Water), upon approval of its board of directors, to award contracts on a best value basis for any work for the Anderson Dam project.

2) Defines the Anderson Dam project to include:

   a) Any activity or work of construction to retrofit, repair, replace, or improve the safety of the Leroy Anderson Dam and Reservoir, including any upstream or downstream construction, improvements, changes in operational activities, and flood protection measures that may be required to implement that activity or work.

   b) Any avoidance, minimization, or mitigation measures, including the Coyote Creek-related Phase 1 measures of the Fisheries and Aquatic Habitat Collaborative Effort (FAHCE) Settlement Agreement.

3) Provides that, if the board elects to award a contract on a best value basis, it must:

   a) Prepare documents that set forth the scope and price of the project as specified.

   b) Have a licensed design professional prepare the performance specifications and any plans.

c) Prepare and issue a request for qualifications (RFQ) in order to prequalify or short-list the entities, including subcontractors and suppliers. The RFQ must at least include the following elements:

   i) Basic scope and needs of the project or contract, including the cost range and the method to evaluate and select bids;

   ii) Significant factors the District expects to consider, including technical design-related expertise, construction expertise, acceptable safety records, and all other non-price-related factors; and

   iii) A standard template request for statements of qualifications that requires bidders to provide shareholder information, experience with other similar projects, any credentials the project requires, evidence of insurance and performance bonding, worker safety and compensation history, and an acceptable safety record.

4) Requires Valley Water to evaluate bids using only the criteria and selection procedures specifically identified in the procurement process documents, including the RFQ, and the price.

5) Prohibits a best value contractor from being prequalified, shortlisted, or awarded a contract, regardless of whether the best value process is used, unless the contractor, and its subcontractors, commit to using a skilled-and-trained workforce on all project work. This provision doesn't apply if the district has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project or contract to use a skilled and trained workforce.

**Background**

*Best value contracting.* Local agencies typically use the traditional design-bid-build method for constructing public works. This approach splits construction projects into two distinct phases: design and construction. During the design phase, the local agency prepares detailed project plans and specifications using its own employees or by hiring outside architects and engineers. Once project designs are complete, local officials invite bids from the construction industry and award the contract to the lowest responsible bidder. Although design-bid-build generally results in the lowest cost construction contract, it is not without its drawbacks, including delays and inconsistencies between the design phase and construction phase of the project.

Over the last couple of decades, legislators have gradually expanded local agencies' authority to procure construction projects using various alternatives to the design-bid-build project delivery method. These alternatives include:

- "Design-build" contracting allows local agencies to procure both design and construction services from a single company before the development of complete plans and specifications (SB 785, Wolk, Chapter 931, Statutes of 2014); and,

- "Construction manager at risk" contracting allows local agencies to retain a construction manager, who provides pre-construction services during the design period, who later becomes the general contractor during the construction process, and is responsible for delivering the project within an agreed upon price, thereby assuming the risk for cost overruns (SB 328, Knight, Chapter 517, Statutes of 2013).

During the bidding phase, these alternative procurement methods allow a local agency to evaluate bids on a "best-value" basis, incorporating technical factors, such as qualifications, in addition to price. For example, the statutes authorizing design-build contracting allow local agencies to award a contract based on consideration of objective criteria that include features, functions, lifecycle costs, experience, and past performance.

*Santa Clara Valley Water District.* Valley Water is the primary water resources agency for Santa Clara County. First formed as the Santa Clara Valley Water Conservation District in 1929, it now acts as the County's water wholesaler and the steward for its streams, creeks, underground aquifers, and district-built reservoirs. Valley Water has the authority to use design-build contacting on flood protection improvements, habitat restoration, water treatment facilities, and existing surface water storage facility projects, but must award all other non-emergency contracts above $50,000 to the lowest responsible bidder.

*Leroy Anderson Dam and Reservoir.* Anderson Dam is a 235 feet (72 meter) high earthen dam located near Morgan Hill, California, that impounds Santa Clara County's largest surface water reservoir – Anderson Reservoir.

On February 20, 2020, the Federal Energy Regulatory Commission (FERC) ordered Valley Water to begin draining the reservoir by October 1, 2020, to deadpool – the level at which water in the reservoir cannot be drained by gravity through the dam's outlet – and to construct a low level outlet tunnel as soon as possible. FERC ordered this due to new information that showed the Anderson

Dam is more vulnerable in a 100-year earthquake than previously understood. In addition, there is still uncertainty about when the dam will be reconstructed. Due to its complex design, FERC's independent Board of Consultants recommended using the best value contracting method for the Anderson Dam Project. The Anderson Dam Seismic Retrofit Project started in 2012 and the Districts estimates project costs at $576 million.

*Fisheries and Aquatic Habitat Collaborative Effort Settlement.* In 2003, Valley Water entered into the FAHCE settlement agreement to resolve a water rights complaint that the Guadalupe-Coyote Resource Conservation District filed against the District with the State Water Resources Control Board in 1996. The FAHCE settlement includes provisions intended to improve aquatic spawning and rearing habitat and fish passage within the Stevens Creek, Coyote Creek and Guadalupe River watersheds. While agreed to 17 years ago, the FAHCE is still in the planning phase.

**Comments**

1) *Purpose of the bill.* According to the author, "Anderson Dam and Reservoir is Santa Clara County's largest surface water storage facility, capturing local rainfall-runoff and serving as a holding tank for imported water from the federal Central Valley Project. Built in 1950 to the safety standards of the day, Anderson Dam would not withstand a large earthquake on the nearby Calaveras and Coyote Creek faults. A breach of the dam at full capacity would have catastrophic consequences for life and property, inundating an area with 450,000 residents and thousands of job creating Silicon Valley businesses. The inundation zone extends more than 30 miles northwest to San Francisco Bay, including the cities of San José, Santa Clara, Sunnyvale, Milpitas, and more than 40 miles southeast to Monterey Bay, including the cities of Morgan Hill, Gilroy, and Watsonville. Assembly Bill 271 will authorize use of the 'best value' method to select the construction contractor for the Anderson Dam Seismic Retrofit Project (Anderson Project), instead of a mandated selection of the lowest bidder, and also require the use of a skilled and trained workforce. An independent Board of Consultants convened pursuant to the Federal Energy Regulatory Commission process, consisting of some of the nation's foremost dam safety experts, have recommended the best value method of contractor selection for the Anderson Project due to its complex design, delivery, and installation. Using best value method for contractor selection will allow the safest and best overall value for the removal and replacement of Silicon Valley's largest and most critical local water storage facility."

2) *The right focus?* AB 271 gives Valley Water blanket authority to use best value contracting on any work associated with the Anderson Dam project, including those necessary to abide by the FAHCE settlement. While best value contracting has been generally recognized as a viable alternative to the lowest responsible bidder model, especially for highly complex projects like Anderson Dam, the bill gives the District this authority without identifying the specific components of the Anderson Dam project where it will use best value contracting. The District reports using emergency authority to complete a tunnel drainage project using best value, and argues that it needs this blanket authority to complete different parts of the project, which may evolve over the course of the project, without returning for further legislative authority. Should Valley Water have this broad best value authority for all work associated with the Anderson Dam project?

**Related/Prior Legislation**

AB 3005 (Robert Rivas, 2020) would have expedited review of the Anderson Dam project under the California Environmental Quality Act (CEQA), and best value contracting authorization similar to AB 271. Governor Newsom vetoed the bill due to concerns regarding the expedited CEQA review and other regulatory processes. AB 271 removes the expedited CEQA review provisions the Governor took issue with in his veto message, but maintains the best value contracting provisions. According to Valley Water, they have participated in an Anderson Dam working group with the Administration to help resolve any permitting conflicts and address any concerns with the Anderson Dam project.

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

**SUPPORT:** (Verified 6/22/21)

Santa Clara Valley Water District (source)
Association of California Water Agencies
California Municipal Utilities Association
California Special Districts Association
Cities Association of Santa Clara County
City of Gilroy
City of Morgan Hill
City of San Jose
County of Santa Clara
Cupertino Chamber of Commerce

Employees Association, American Federation of State, County and Municipal Employees 101, Council 57
Engineers Society Chapter, International Federation of Professional and Technical Engineers, Local 21, AFL-CIO
Midpeninsula Regional Open Space District
Milpitas Chamber of Commerce
Professional Managers Association Chapter, International Federation of Professional and Technical Engineers, Local 21, AFL-CIO
San Jose/Silicon Valley Branch of the NAACP
Santa Clara & San Benito Counties Building & Construction Trades Council
Santa Clara County Congressional Delegation
Santa Clara Valley Open Space Authority
State Building and Construction Trades Council of California
Sustainable Silicon Valley
The Bay Area Council
Together Bay Area

**OPPOSITION:** (Verified 6/22/21)

Plumbing-Heating-Cooling Contractors Association of California
Western Electrical Contractors Association

ASSEMBLY FLOOR: 76-1, 4/19/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Kiley
NO VOTE RECORDED: Mayes, Patterson

Prepared by: Jonathan Peterson / GOV. & F. / (916) 651-4119
6/23/21 15:07:58

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

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THIRD READING

Bill No: AB 272
Author: Kiley (R), et al.
Introduced: 1/19/21
Vote: 21

SENATE JUDICIARY COMMITTEE: 10-0, 6/15/21
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Jones, Laird, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Hertzberg

ASSEMBLY FLOOR: 72-0, 5/10/21 - See last page for vote

**SUBJECT:** Enrollment agreements

**SOURCE:** Author

**DIGEST:** This bill authorizes a minor to disaffirm a provision in an educational institution's enrollment agreement that purports to waive a legal right, remedy, forum, proceeding, or procedure, arising out of a criminal sexual assault or criminal sexual battery, as defined, on that minor regardless of whether a parent or legal guardian has signed the enrollment agreement on the minor's behalf.

**ANALYSIS:**

Existing law:

1) Provides that a contract must include parties capable of contracting, their consent, a lawful object of the contract, and a sufficient cause or consideration. (Civ. Code § 1550.)

2) Provides that a minor may make a contract in the same manner as an adult, subject to the power of disaffirmance. (Fam. Code § 6700.) The only exceptions are that a minor cannot give a delegation of power; make a contract relating to real property or any interest therein; or make a contract relating to any personal

property not in the immediate possession or control of the minor. (Fam. Code § 6701.)

3) Provides that, except as otherwise provided by statute, a contract of a minor may be disaffirmed by the minor before the age of majority or within a reasonable time afterwards or, in case of the minor's death within that period, by the minor's heirs or personal representative. (Fam. Code § 6710.)

4) Prohibits a contract, otherwise valid, entered into during minority, from being disaffirmed on that ground either during the actual minority of the person entering into the contract, or at any time thereafter, if all of the following requirements are satisfied:

   a) the contract is to pay the reasonable value of things necessary for the support of the minor or the minor's family;
   b) these things have been actually furnished to the minor or to the minor's family; and
   c) the contract is entered into by the minor when not under the care of a parent or guardian able to provide for the minor or the minor's family. (Fam. Code § 6712.)

5) Provides that if, before the contract of a minor is disaffirmed, goods the minor has sold are transferred to another purchaser who bought them in good faith for value and without notice of the transferor's defect of title, the minor cannot recover the goods from an innocent purchaser. (Fam. Code § 6713.)

6) Establishes various matters involving medical treatment to which a minor may consent and which are not subject to disaffirmance. (Fam. Code § 6920 et seq.)

7) Provides that, if the court as a matter of law finds a contract or any clause of the contract to have been unconscionable at the time it was made the court may refuse to enforce the contract, or it may enforce the remainder of the contract without the unconscionable clause, or it may so limit the application of any unconscionable clause as to avoid any unconscionable result. (Civ. Code § 1670.5.)

8) Provides, pursuant to the Federal Arbitration Act (FAA), that agreements to arbitrate shall be valid, irrevocable, and enforceable, except on such grounds as exist at law or in equity for the revocation of any contract. (9 U.S.C. § 2.)

9) Establishes the California Arbitration Act, which provides that agreements to arbitrate shall be valid, irrevocable, and enforceable, except on such grounds as exist at law or in equity for the revocation of any contract. (Code Civ. Proc. § 1280 et seq.)

This bill:

1) Provides that, notwithstanding Family Code Section 6710 et seq., a provision in an educational institution's enrollment agreement that purports to waive a legal right, remedy, forum, proceeding, or procedure may be disaffirmed by the minor, regardless of whether a parent or legal guardian has signed the enrollment agreement on the minor's behalf, to the extent that the provision is construed to require the minor to waive a legal right, remedy, forum, proceeding, or procedure arising out of a criminal sexual assault or criminal sexual battery on that minor.

2) Clarifies that the fact that a provision in an enrollment agreement has been disaffirmed by the minor does not affect the validity or enforceability of any other provision of the enrollment agreement.

3) Defines the following terms:

    a) "criminal sexual assault" means an act that was perpetrated against a person under 18 years of age and that would be a crime under Section 261.5, 286, 287, 288, 288.7, or 289 of the Penal Code, or any predecessor statute;
    b) "criminal sexual battery" means an act that was perpetrated against a person under 18 years of age and that would be a crime under Section 243.4 of the Penal Code;
    c) "educational institution" means a public or private school maintaining a kindergarten or any of grades 1 through 12; and
    d) "enrollment agreement" means a written contract between a student and institution concerning an educational program.

4) States the Legislature finds and declares that it is unconscionable for a parent, on behalf of the parent's minor child, to be required to waive a legal right, remedy, forum, proceeding, or procedure, including the right to file and pursue a civil action, belonging to that minor child with respect to claims arising out of a criminal sexual assault or criminal sexual battery as a condition of enrollment in an educational institution.

**Background**

Four elements are essential to the existence of a contract: parties capable of contracting; their consent; a lawful object; and a sufficient cause or consideration. As to consent, the law requires it to be free, mutual, and communicated by each to the other. A minor cannot make a contract relating to real property or relating to any personal property not in the immediate possession or control of the minor. However, a minor may otherwise make a contract in the same manner as an adult, subject to the power of disaffirmance. A minor may disaffirm the contract any time before reaching the age of majority or within a reasonable time afterwards, with limited exceptions.

This bill allows a minor to disaffirm a provision in an educational institution's enrollment agreement that purports to waive a legal right, remedy, forum, proceeding, or procedure, regardless of whether a parent or legal guardian has signed on the minor's behalf, to the extent that the provision is construed to require the minor to waive a legal right, remedy, forum, proceeding, or procedure arising out of a criminal sexual assault or criminal sexual battery on that minor.

This bill is author-sponsored. It is supported by the Children's Advocacy Institute at the University of San Diego, School of Law, the Consumer Attorneys of California, and the Capitol Resource Institute. It is opposed by the California Chamber of Commerce. For a more thorough discussion, see the Senate Judiciary Committee analysis of the bill.

**Comments**

*Empowering minors in connection with school enrollment agreements*. This bill authorizes a minor to disaffirm a provision in an educational institution's enrollment agreement that purports to waive a legal right, remedy, forum, proceeding, or procedure, to the extent that the provision is construed to require the minor to waive a legal right, remedy, forum, proceeding, or procedure arising out of a criminal sexual assault or criminal sexual battery on that minor. This applies regardless of whether a parent or legal guardian has signed the agreement on the minor's behalf. It applies to a public or private school maintaining a kindergarten or any of grades 1 through 12. The bill makes clear that the disaffirmance of such a provision does not affect the validity or enforceability of any other provision of the enrollment agreement.

As discussed above, generally a minor may make a contract in the same manner as an adult, however, such contracts are subject to the power of disaffirmance by the minor. This bill narrowly addresses the situation where enrollment agreements

signed by parents or guardians are construed to require the minor at issue to waive legal rights in connection with specified sexual crimes perpetrated against the minor.

According to the author:

> Assembly Bill 272 clarifies that a person should not be required to waive their right to recourse as part of a school enrollment agreement in respect to claims of childhood sexual assault. Students in California should expect a safe learning environment. AB 272 furthers this right and ensures that students will no longer be silenced by educational institutions meant to protect them.

*Arbitration laws.* The Federal Arbitration Act (FAA) provides:

> A written provision in any maritime transaction or a contract evidencing a transaction involving commerce to settle by arbitration a controversy thereafter arising out of such contract or transaction, or the refusal to perform the whole or any part thereof, or an agreement in writing to submit to arbitration an existing controversy arising out of such a contract, transaction, or refusal, shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract.[1]

In assessing whether a state law is preempted by the FAA, three key aspects of the law surrounding arbitration and preemption are especially relevant. First, the federal courts have ruled that the FAA was intended to promote arbitration.[2] Second, state laws or rules that interfere with the enforcement of arbitration agreements are preempted, except on such grounds as exist at law or in equity for the revocation of any contract.[3] Third, state laws that explicitly or covertly discriminate against arbitration agreements as compared to other contracts are also preempted.[4]

The author disputes arguments that this bill is likely preempted by the FAA: "*Concepcion* made it clear that rules generally applicable to contracts (and not only to arbitration agreements) are allowable under the FAA, even where there is a disproportionate effect on arbitration agreements." The author points to case law

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[1] 9 U.S.C. § 2.
[2] *Epic Sys. Corp. v. Lewis* (2018) ___U.S.___ [138 S.Ct. 1612, 1621].
[3] 9 U.S.C. Sec. 2; *AT&T Mobility LLC v. Concepcion* (2011) 563 U.S. 333, 339.
[4] *Epic Sys. Corp.*, 138 S.Ct. at 1645-1646.

strongly supporting the operation of this bill. For instance, in *In re Marriage of Bereznak* (2003) 110 Cal.App.4th 1062, 1069, the California Appellate Court found:

> Children have the "right to have the court hear and determine all matters [that] concern their welfare and they cannot be deprived of this right by any agreement of their parents." (*In re Marriage of Lambe & Meehan* (1995) 37 Cal.App.4th 388, 393 [44 Cal. Rptr. 2d 641].) Thus, these agreements are not binding on the children or the court . . . .

There is no doubt that the reach of the FAA's preemptive effect is vast and that a bill such as this is likely to be challenged on such grounds. However, the savings clause of the FAA provides some room that this bill arguably finds itself. The clause provides that arbitration provisions are enforceable "save upon such grounds as exist at law or in equity for the revocation of any contract." This bill states the following findings and declaration:

> The Legislature finds and declares that it is unconscionable for a parent, on behalf of the parent's minor child, to be required to waive a legal right, remedy, forum, proceeding, or procedure, including the right to file and pursue a civil action, belonging to that minor child with respect to claims arising out of a criminal sexual assault or criminal sexual battery as a condition of enrollment in an educational institution.

This bill thus urges that it does not run afoul of the FAA because its enforcement would simply be applying a well-recognized ground for the revocation of a contract, unconscionability, in the very limited circumstances laid out in this bill. The author writes:

> Unlike contracts for services or other business ventures, a student does not have the ability to opt-out of their education. California law requires minors to attend school, and education is crucial to their future success. The Federal Arbitration Act does not speak to the issue of a parent's capacity to contractually bind a minor. Further, childhood sexual assault is an unconscionable and unforeseeable circumstance during the signing of a contract. The unconscionable standard is continually upheld even after *Concepcion*. Thus, this is an issue that we can act on at the state level.

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

**SUPPORT:** (Verified 6/17/21)

Capitol Resource Institute
Children's Advocacy Institute at the University of San Diego, School of Law
Consumer Attorneys of California

**OPPOSITION:** (Verified 6/17/21)

California Chamber of Commerce

**ARGUMENTS IN SUPPORT:** The Children's Advocacy Institute at the University of San Diego, School of Law, writes in support: "If our child-serving institutions always elevated the interests of children above all other interests, your bill would not be necessary. It should go without saying -- or legislating -- that our schools should [not] aggressively seek to obtain tactical legal advantage over children who are sexually abused by adults in their employ.

"But, for example, when a chemistry teacher at a Los Angeles School was indicted for felony counts of sexual assault and rape, the school successfully brought a motion to compel arbitration of the child's claims based on a clause in the enrollment agreement.

"It has long been the law that while children may sign contracts [those] contracts may not be enforced against minors. (*See* Family Code section 6710.) Parents signing a contract allegedly waiving the right of a child who has been the victim of criminal sexual assault or criminal sexual battery to have the child's claims heard in court should be subject to the same ability of the child to disaffirm the contract as if the child had signed it.

"That is what your bill does in the narrow circumstances of school employees sexually assaulting and battering children. Holding schools accountable to the maximum extent permitted by the law, and preventing them from unilaterally in boilerplate enrollment agreements achieving tactical legal advantage over sexually abused children, laudably motivates schools to take maximum care in their treatment of the vulnerable children under their care."

**ARGUMENTS IN OPPOSITION:** Writing in opposition, the California Chamber of Commerce argues the bill is likely preempted by the FAA: "As the Supreme Court made clear in *Concepcion*, states cannot utilize state contract law to

attempt to create defenses to a contract that apply only to arbitration. In *Concepcion*, the Court discussed explicitly whether, under the FAA's so called "savings clause", a state law relating to a contract defense could render arbitration agreements invalid. The court was explicit:

"[The FAA] permits agreements to arbitrate to be invalidated by 'generally applicable contract defenses, such as fraud, duress, or unconscionability,' but not by defenses that apply only to arbitration or that derive their meaning from the fact that an agreement to arbitrate is at issue.

"Here, AB 272 does just that – it provides that a generally applicable contract defense (unconscionability) applies specifically to arbitration clauses in otherwise valid enrollment agreements. As a result, AB 272, if passed, would be preempted. In case that was not clear enough, AB 272's specific mechanism underlies this discrimination against arbitration. It would allow individuals to disaffirm any arbitration provision – but no other types of provisions – which their parents signed on their behalf in an enrollment agreement. In other words: no generally applicable changes are being made to state contract law related to parents' ability to contract for their children – an arbitration-specific contract defense is being created. That is exactly what the Supreme Court made clear was unacceptable in *Concepcion*."

ASSEMBLY FLOOR: 72-0, 5/10/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Gipson, Lorena Gonzalez, Grayson, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Chen, Frazier, Eduardo Garcia, Gray, Holden, Patterson

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
6/18/21 10:50:35

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

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THIRD READING

Bill No: AB 289
Author: Calderon (D)
Amended: 3/4/21 in Assembly
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 6/7/21
AYES: Cortese, Ochoa Bogh, Durazo, Laird, Newman

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 70-0, 5/13/21 - See last page for vote

**SUBJECT:** Classified school employees: merit system: adoption and termination

**SOURCE:** California School Employees Association, AFL-CIO

**DIGEST:** This bill changes existing merit system election procedures for classified school employees, as specified.

**ANALYSIS:**

Existing law:

1) Authorizes both the adoption and termination of a merit system in a school or community college district by a majority vote of its classified employees, or by a majority vote of the voting electors of the district. For school (but not community college) districts, a majority vote of the district board and the superintendent of schools with the consent of a majority of the county board of education may also adopt a merit system, as specified. (Education Code § 45220 et seq. and § 88050 et seq.)

2) Requires the governing board of a school district (but not a community college district) within 120 days after receipt of the petition to adopt a merit system by the classified members to obtain the services of competent and qualified

persons to present the pros and cons of a merit system (However, the classified employees who submitted the petition may select the person or persons to present the proponent position on the issue) and to provide adequate and ample opportunity for all of its classified personnel to attend one or more meetings at which the issue is presented. (ED § 45221)

3) Requires members of the classified service to be provided an adequate and ample opportunity to be informed of the arguments in favor of, and in opposition to, termination of the merit system before conducting an election, and that the opportunity must include an open forum where both the proponents and opponents of the termination must be permitted to debate the issue. (ED § 45319 (f) and § 88138 9(f))

4) Establishes specified procedures to conduct the election. (ED § 45220 et seq. and § 88050 et seq.)

5) Provides for the appointment process of a personnel commission should a school or community college district adopt a merit system election. (ED § 45240 et seq. and § 88060 et seq.)

6) Provides, under the Educational Employment Relations Act (EERA), public school and community college employees the right to form, join, and participate in the activities of employee organizations of their choosing for the purpose of representation on all matters of employer-employee relations. Provides that employee organizations have the right to represent their members in their employment relations with public school employers. Provides that the scope of representation is limited to matters relating to wages, hours of employment, and other terms and conditions of employment. (Government Code § 3540 et seq.)

7) Establishes the Public Employment Relations Board (PERB), a quasi-judicial administrative agency charged with resolving disputes and enforcing the statutory duties and rights of public agency employers and employee organizations, but provides the City and County of Los Angeles a local alternative to PERB oversight. (GC § 3541 et seq.)

8) Establishes the Public Employees Communication Chapter (PECC) to give exclusive representatives of California's public employees specific rights designed to provide them with meaningful access to, and the ability to

effectively communicate with, their represented members. PERB has jurisdiction to enforce the PECC. (GC § 3555 et seq.)

9) Provides that any person who intimidates, coerces, or discriminates in any way against any classified employee for the doing of any act authorized related to a merit system shall be personally liable to such employee for all damages suffered thereby and such exemplary damages as the court may allow. (ED § 45226 and ED § 88056)

10) Defines the scope of representation in collective bargaining between a governing board and the employees' exclusive representative as limited to matters relating to wages, hours, and other terms and conditions of employment. (GC § 3543.2)

11) Provides that any employee organization shall have standing to sue under EERA in any action or proceeding instituted by it as representative and on behalf of one or more of its members. This does not apply to unfair labor practices or arbitration practices brought under EERA. (GC § 3543.8)

12) Requires an employer that rejects an employee organization's settlement offer to pay the employee organization's reasonable attorney fees and expenses if the employer fails to obtain a judgment or reward more favorable than that provided in the settlement offer, as specified. The fee shifting procedure would not apply to unfair practice or arbitration proceedings brought under EERA. (GC § 3543.8)

This bill:

1) Requires the tabulation committee to include at least one classified employee designated by the largest classified employee union within the district.

2) Prohibits district representatives from marking any employee's envelope or ballot, except that the tabulation committee may adopt a system of uniformly stamping in a consistent manner and in the same location on all ballots received, counted, or both, to help ensure an accurate count.

3) Requires that if a district communicates with classified employees in opposition to adopting the merit system, the district must provide at least equal time to any classified employee union within the district to communicate in favor of the system.

4) Provides that this measure not be construed to limit the union's rights under EERA for access to communicate its position on adopting the merit system.

5) Requires all election procedures not provided for in statute be within the union's scope of representation, as specified, including the rules for campaigning, the election date, time, place, translation of the ballot, electioneering near the polls, and balloting methods.

6) Gives classified employee unions standing to sue districts under EERA over merit election procedures by deeming this measure's provisions minimum working conditions. The bill also authorizes the union to proffer binding settlement offers to the district and requires the district to reimburse union legal fees if the district fails to prevail in court with an outcome greater than the union's proffered settlement offer.

**Comments**

*Need for this bill?* According to the author, "Assembly Bill 289 seeks to ensure fairness in school district merit system elections. Existing laws have deficiencies that have been exploited by school districts opposed to merit systems. Currently, a school merit based system can be adopted or removed by a majority vote of classified employees, such as paraeducators, transportation specialists, or custodians. It is imperative the laws regarding merit system elections are equal for both school districts and classified employees. This bill accomplishes this by adding important checks and balances to the election process."

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

**SUPPORT:** (Verified 6/22/21)

California School Employees Association, AFL-CIO (source)
American Federation of State, County and Municipal Employees, AFL-CIO
California Federation of Teachers, AFL-CIO
California Labor Federation, AFL-CIO
California Teachers Association
Peace Officers Research Association of California
San Dieguito Union High School District Personnel Commission
Santa Paula Unified School District Personnel Commission
SEIU California State Council

**OPPOSITION:** (Verified 6/22/21)

None received

**ARGUMENTS IN SUPPORT:** According to the sponsor, California School Employees Association, AFL-CIO:

Statute provides classified employees with the right to vote for the creation or elimination of merit systems in a secret-ballot election. It also requires that a meeting must be held allowing both sides to present and that a tabulation committee count the vote. While the law is well intended, it is inequitable and must be updated to address significant problems, including the following:

1) Allowing administrators to mark ballots and their envelopes. This undermines the secret ballot requirement and has a chilling effect on classified employees who fear retribution or retaliation for voting to approve a merit system. AB 289 only permits a uniform stamp to be used to mark all ballots and envelopes in the same location.

2) Providing districts with a statutory representative on the tabulation committee, but not classified employees. It is unfair and undermines the integrity of the election when district representatives count the votes but classified employees are not involved in vote counting. AB 289 adds classified employees with a statutory representative on tabulation committees.

3) Permitting management to express their opposition to merit systems in unrelated meetings or in other communications without allowing the other side to present their views. This intimidates employees and is inequitable. AB 289 requires districts to include both sides in any employee communication.

AB 289 remedies these problems and clarifies that election issues, like time, place, and location of the election, are subject to collective bargaining.

ASSEMBLY FLOOR: 70-0, 5/13/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Chau, Chiu, Cooley, Cooper, Cunningham, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Patterson,

Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Cervantes, Chen, Choi, Megan Dahle, Kiley, Nguyen, Ting

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
6/23/21 15:14:22

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

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CONSENT

Bill No: AB 302
Author: Ward (D)
Amended: 6/16/21 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 17-0, 6/15/21
AYES: Gonzalez, Bates, Allen, Archuleta, Becker, Cortese, Dahle, Dodd, McGuire, Melendez, Min, Newman, Rubio, Skinner, Umberg, Wieckowski, Wilk

ASSEMBLY FLOOR: 74-0, 4/8/21 (Consent) - See last page for vote

**SUBJECT:** San Diego Metropolitan Transit Development Board: regulation of for-hire vehicle and passenger jitney services

**SOURCE:** San Diego Metropolitan Transit System

**DIGEST:** This bill expands the ability of the San Diego Metropolitan Transit System (MTS) to enter into contracts to license or regulate certain transportation services.

**ANALYSIS:**

Existing law:

1) Establishes the San Diego Metropolitan Transit Development Board, also known as MTS.

2) Provides for local regulation of taxicab services to protect the public health, safety and welfare, as specified.

This bill:

1) Provides that MTS may enter into contracts with any city in the County of San Diego to license or regulate by ordinance any for-hire vehicle services, as specified.

2) Defines "for-hire vehicle services" as vehicles, other than public transportation vehicles, transporting passengers over public streets for compensation, which includes taxicabs, passenger jitney service, low-speed vehicles, non-emergency medical vehicles, charters, and sightseeing vehicles. The term "for-hire vehicle services" does not include any public transportation services operated by the North County Transit District, as specified.

3) Specifies that MTS may, by ordinance, regulate vehicle safety and driver qualifications for passenger jitney service operating between cities in the County of San Diego and between a city in the County of San Diego and unincorporated portions of the County of San Diego.

4) Defines, for purposes of MTS regulation, "passenger jitney service" to include every corporation or person engaged as a common carrier, for compensation, in the ownership, control, operation, or management of a passenger transportation service by motor vehicles of not more than 15-passenger capacity, excluding the driver, which operate between fixed termini and over a regular route and generally on short, nonscheduled, headways.

**Background**

MTS is a public entity that provides bus, light rail, and freight service through much of San Diego county, as well as regulating taxicabs, jitneys, and other private for-hire passenger transportation services by contract with the Cities of San Diego, Chula Vista, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, and Santee. It is governed by a 15-member board appointed from the mayors and members of the governing boards of the cities and county in which it operates.

*A Bit of a Mess*. Regulation of passenger transportation companies is jurisdictionally complicated. Some is regulated by the California Public Utilities Commission (e.g. Lyft, Uber, limousines) and some is regulated at the local level (e.g. taxis) and some is administered at the local level because they are the providers (e.g. public transit). This bill allows the regulation to be simplified a bit by permitting cities in San Diego County to turn over that responsibility to MTS, potentially reducing the regulatory burden on some companies by creating a more consistent regulatory structure with fewer regulators.

**Comments**

*Author's Statement*. AB 302 expands the authority of MTS to regulate for-hire vehicle services in San Diego County and any City within the County of San

Diego, regardless of MTS jurisdiction. This provides San Diego County, and each of the San Diego County cities outside of the MTS jurisdiction, the option to transfer for-hire vehicle regulatory safety responsibilities to MTS, which provides vital cost savings without sacrificing vehicle safety.

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

**SUPPORT:** (Verified 6/16/21)

San Diego Metropolitan Transit System (source)
County of San Diego
North County Transit District

**OPPOSITION:** (Verified 6/16/21)

None received

ASSEMBLY FLOOR: 74-0, 4/8/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Wicks, Rendon
NO VOTE RECORDED: Cooley, Holden, Mullin, Wood

Prepared by: Randy Chinn / TRANS. / (916) 651-4121
6/16/21 16:00:05

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

**SENATE RULES COMMITTEE** AB 306
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

CONSENT

Bill No: AB 306
Author: O'Donnell (D)
Amended: 4/5/21 in Assembly
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 6/9/21
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, McGuire, Pan

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/29/21 (Consent) - See last page for vote

**SUBJECT:** School districts and community college districts: employee housing

**SOURCE:** Los Angeles Unified School District

**DIGEST:** This bill exempts school and community college district employee housing architectural plans from the requirement to receive approval from the Department of General Services' (DGS) Division of State Architect (DSA).

**ANALYSIS:**

Existing law:

1) Prohibits the State Allocation Board (SAB) from apportioning funds to any school district that has not received approval from the DSA that the project meets Field Act requirements. (Education Code § 17074.15 and 17072.30 )

2) Requires the DSA, under the police power of the state, to supervise the design and construction of any school building or the reconstruction or alteration of or addition to any school building to ensure that plans and specifications comply with existing law and Title 24 regulations (California Building Standards Code and EC § 17280)

3) Specifies that "school building" means and includes any building used, or designed to be used, for elementary or secondary school purposes and

constructed, reconstructed, altered, or added to, by the state or by any city or city and county, or by any political subdivision, or by any school district of any kind within the state, or by any regional occupational center or program created by or authorized to act by an agreement under joint exercise of power, or by the United States government, or any agency thereof. (EC § 17283)

4) Requires the DGS, under the police power of the state, to supervise the design and construction of any school building or the reconstruction or alteration of, or addition to, any school building, if not exempted under existing law, to ensure that plans and specifications comply with specified rules and regulations and building standards published in Title 24 of the California Code of Regulations, and to ensure that the work of construction has been performed in accordance with the approved plans and specifications, for the protection of life and property. (EC § 81130)

5) Defines "school building" as any building used, or designed to be used, for community college purposes and constructed by the state, by any city, county, or city and county, by any district of any kind within the state, by any regional occupational center or program created by or authorized to act by an agreement under joint exercise of power, or by the United States government, or any agency thereof. (EC § 81050)

6) Requires each school building constructed, reconstructed, modified, or expanded after July 1, 2006, on a community college campus to be built according to the Field Act or according to the California Building Standards Code, as adopted by the California Building Standards Commission. (EC § 81052)

7) Prohibits contracts to be awarded for the construction of elementary school, secondary school, or community college buildings and facilities until the DGS has issued written approval stating that the plans and specifications comply with the intent of specified provisions in the Government Code, when funds from the state, county, municipalities, or other political subdivisions are used. (Government Code § 4454)

This bill exempts school and community college district employee housing architectural plans from the requirement to receive approval from the DSA. This bill further defines residential housing as any building used as a personal residence by a teacher or employee of a school district or community college district, with the teacher's or employee's family, if applicable.

**Comments**

1) *Need for the bill.* According to the author, this bill is necessary in order to help school districts and community college districts expedite the availability of housing for teachers and other school staff. The author states, "School buildings are required to be constructed with more stringent requirements under the Field Act in order to protect children during earthquakes. As long as employee housing projects comply with local building codes, it is unnecessary to consider residential projects for adults as 'school buildings' and be required to comply with the Field Act. AB 306 will help expedite the development of school district and community college district employee housing projects, which are becoming more important for teacher recruitment and retention."

2) *Teacher housing and affordability*. The Teacher Housing Act of 2016 authorizes school districts to establish and implement programs that address the housing needs of teachers and school district employees who face challenges in securing affordable housing. School districts can utilize these programs as an additional incentive for teachers to enter and stay in their schools. School districts located in high cost areas have had particular challenges attracting and retaining teachers and other school staff. Some districts report that teachers commute long distances because they cannot afford to live in the areas where they teach.

3) *Learning Policy Institute (LPI) report.* The LPI's 2016 report, "Addressing California's Emerging Teacher Shortage: An Analysis of Sources and Solutions" included the following summary: "After many years of teacher layoffs in California, school districts around the state are hiring again. With the influx of new K-12 funding, districts are looking to lower student-teacher ratios and reinstate classes and programs that were reduced or eliminated during the Great Recession. However, mounting evidence indicates that teacher supply has not kept pace with the increased demand." The report included the following findings:

   a) Enrollment in educator preparation programs has dropped by more than 70 percent over the last decade.

   b) In 2014-15, provisional and short-term permits nearly tripled from the number issued two years earlier, growing from about 850 to more than 2,400.

c) The number of teachers hired on substandard permits and credentials nearly doubled in the last two years, to more than 7,700 comprising a third of all the new credentials issued in 2014-15.

d) Estimated teacher hires for the 2015-16 school year increased by 25 percent from the previous year while enrollment in the University of California and the California State University teacher education programs increased by only about 3.8 percent.

The LPI report offered several policy recommendations for consideration, including the creation of more innovative pipelines into teaching.

4) *Legislative Analyst Office (LAO) assessment*. As part of the Proposition 98 Education Analysis for the 2016-17 Governor's Budget released in February 2016, the LAO included a section on teacher workforce trends in which it examined evidence for teacher shortages in specific areas, identified and assessed past policy responses to these shortages, and raised issues for the Legislature to consider going forward in terms of new policy responses. In the report, the LAO indicated that the statewide teacher market will help alleviate existing shortages over time and that the shortages may decrease without direct state action. However, the LAO noted there are perennial staffing difficulties in specific areas, such as special education, math, and science, for which they encouraged the Legislature to address with narrowly tailored policies rather than with broad statewide policies.

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

**SUPPORT:** (Verified 6/21/21)

Los Angeles Unified School District (source)
California Apartment Association
California Coalition for Adequate School Housing
California School Boards Association
Community College Facility Coalition
Community College League of California

**OPPOSITION:** (Verified 6/21/21)

None received

**ARGUMENTS IN SUPPORT:** The Los Angeles Unified School District, the sponsor of this bill, states, "The Division of the State Architect (DSA) conducts plan review and approval for construction projects done by school districts for

classroom buildings. These projects must be completed under robust building code requirements of the Field Act to protect students in school buildings in the event of an earthquake. By contrast, projects done by school districts for employee residential housing are not required to be built to the standard of the Field Act. Historically, these projects have been built to the standards applied to similar residential housing by the local jurisdiction with authority to enforce building code requirements, typically the local municipality….As school districts explore opportunities to offer housing options to their employees, it is imperative that unnecessary regulatory barriers are eliminated to streamline housing projects, AB 306 aides in achieving this goal."

ASSEMBLY FLOOR: 77-0, 4/29/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Luz Rivas

Prepared by: Ian Johnson / ED. / (916) 651-4105
6/23/21 15:04:04

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

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THIRD READING

Bill No: AB 335
Author: Boerner Horvath (D), et al.
Amended: 3/26/21 in Assembly
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 6/8/21
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 74-1, 5/3/21 - See last page for vote

**SUBJECT:** California Consumer Privacy Act of 2018: vessel information

**SOURCE:** National Marine Manufacturers Association

**DIGEST:** This bill exempts from the California Consumer Privacy Act's (CCPA) right to opt out certain information related to vessels that is retained or shared in connection with a vessel warranty or recall, as specified.

**ANALYSIS:**

Existing law:

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

2) Provides a consumer the right, at any time, to direct a business that sells personal information about the consumer to third parties not to sell the consumer's personal information. It requires such a business to provide notice to consumers, as specified, that this information may be sold and that

consumers have the right to opt out of the sale of their personal information. (Civ. Code § 1798.120.)

3) Provides various exemptions from the obligations imposed by the CCPA, including where they would restrict a business' ability to comply with federal, state, or local laws. (Civ. Code § 1798.145.)

4) Establishes the California Privacy Rights Act of 2020 (CPRA), which amends the CCPA and permits further amendment by a majority vote of each house of the Legislature and the signature of the Governor provided such amendments are consistent with and further the purpose and intent of this act as set forth therein. (Civ. Code § 798.100 et seq.; Proposition 24 (2020).)

5) Defines "vessel" to include every description of a watercraft or other artificial contrivance used or capable of being used as a means of transportation on water, except a seaplane on the water or a watercraft specifically designed to operate on a permanently fixed course, the movement of which is restricted to a fixed track or arm to which the watercraft is attached or by which the watercraft is controlled. (Harb. & Nav. Code § 651(aa).)

6) Defines "manufacturer" as any person engaged in any of the following:

   a) the manufacture, construction, or assembly of boats or associated equipment;

   b) the manufacture or construction of components for boats and associated equipment to be sold for subsequent assembly; or

   c) the importation into this state for sale of boats, associated equipment, or components thereof. (Harb. & Nav. Code § 651(l).)

This bill:

1) Provides that Section 1798.120 shall not apply to vessel information or ownership information retained or shared between a vessel dealer and the vessel's manufacturer, as defined in Section 651 of the Harbors and Navigation Code, if the vessel information or ownership information is shared for the purpose of effectuating, or in anticipation of effectuating, a vessel repair covered by a vessel warranty or a recall conducted pursuant to Section 4310 of Title 46 of the United States Code.

2) Provides that the vessel dealer or vessel manufacturer with which the vessel information or ownership information is shared does not sell, share, or use that information for any other purpose.

3) Defines "vessel dealer" as a person who is engaged, wholly or in part, in the business of selling or offering for sale, buying or taking in trade for the purpose of resale, or exchanging, any vessel or vessels, as defined in Section 651 of the Harbors and Navigation Code, and receives or expects to receive money, profit, or any other thing of value.

4) Defines "vessel information" as the hull identification number, model, year, month and year of production, and information describing any of the following equipment as shipped, transferred, or sold from the place of manufacture, including all attached parts and accessories:

   a) an inboard or outboard engine;
   b) a stern drive unit; and
   c) an inflatable personal flotation device, as provided.

5) Defines "ownership information" as the name or names of the registered owner or owners and the contact information for the owner or owners.

**Comments**

*Executive Summary*

The CCPA grants consumers certain rights with regard to their personal information, including enhanced notice, access, and disclosure; the right to deletion; the right to restrict the sale of information; and protection from discrimination for exercising these rights. (Civ. Code § 1798.100 et seq.) It places attendant obligations on businesses to respect those rights. In the November 3, 2020, election, voters approved Proposition 24, which established the CPRA. The CPRA amends the CCPA, limits further amendment, and creates the California Privacy Protection Agency.

The author and sponsor assert that there is ambiguity about the ability to retain or share consumer information between dealers and manufacturers of various watercraft and other water-based transportation vessels. This bill addresses their concern by exempting from the CCPA right to opt out vessel information or ownership information retained or shared between a vessel dealer and the vessel's manufacturer, if the information is shared for the purpose of effectuating or in anticipation of effectuating a vessel repair covered by a vessel warranty or a recall. Opposition argues, among other things, that this bill runs afoul of Proposition 24's restriction on further amendment.

According to the author:

> Currently, boat and marine engine dealers send a buyer's contact information to the product's manufacturer. Manufacturers use this information to verify warranty eligibility and to conduct safety recalls. Dealers use these data to verify the products' ownership and eligibility at the point of repair.
>
> AB 335 will provide manufacturers the legal certainty they need to collect and retain this information and to use it to perform safety recalls while benefiting consumers who purchase these products with this limited use of data.

*Exemptions for personal information related to warranties and recalls*

AB 1146 (Berman, Chapter 751, Statutes of 2019) provided that a business is not required to comply with a consumer's request to delete the consumer's personal information if it is necessary to maintain the consumer's personal information in order to fulfill the terms of a written warranty or product recall conducted in accordance with federal law. It further provided that the right to opt out did not apply to vehicle or ownership information retained or shared between a new motor vehicle dealer and the manufacturer if the information is shared for the purpose of effectuating, or in anticipation of effectuating, a vehicle repair covered by a vehicle warranty or a recall conducted pursuant federal law. The parties are prohibited from selling, sharing, or using that information for any other purpose.

This bill provides that Section 1798.120, the section granting consumers the right to opt out of the sale (or sharing) of their personal information, shall not apply to vessel or ownership information retained or shared between a vessel dealer and manufacturer, as defined, if the vessel information or ownership information is shared for the purpose of effectuating, or in anticipation of effectuating, a vessel repair covered by a vessel warranty or a recall. The bill prohibits the vessel dealer or vessel manufacturer with which the relevant vessel information or ownership information is shared from selling, sharing, or using that information for any other purpose.

The sponsors of this bill assert that this is a federal mandate and the CCPA must be amended to accommodate these communications. However, it should be noted that the CCPA already has broad exemptions. It specifically provides that the obligations it imposes on businesses cannot restrict a business' ability to comply with federal law. (Civ. Code § 1798.145(a)(1).)

*Is this a permissible amendment of the CCPA pursuant to the CPRA?*

Section 25 of the CPRA, passed by voters in November 2020, requires any amendments thereto to be "consistent with and further the purpose and intent of this act as set forth in Section 3." Section 3 declares that "it is the purpose and intent of the people of the State of California to further protect consumers' rights, including the constitutional right of privacy." It then lays out a series of guiding principles.

This bill simply states: "The Legislature finds and declares that this act furthers the purposes and intent of The California Privacy Rights Act of 2020." The author argues that ultimately this bill effectuates a change to law that promotes consumer protections and therefore furthers the purpose and intent of the CPRA. As seen below, consumer and privacy groups in opposition believe this is an unnecessary and impermissible amendment of the CCPA.

At root, this bill is limiting a right granted to consumers by the CCPA. Given the strength of the language in the CPRA restricting further amendment, this change to the CCPA arguably runs afoul of it and may be the subject of future litigation for the reasons articulated by those in opposition. Generally, adding provisions that facilitate critical safety measures that protect consumers, as recalls and repairs of defective products surely are, certainly furthers consumer protection. However, as pointed out by the opposition, consumers already have the choice to allow such communications to take place, and in fact that is the default. What this bill does is remove the ability of consumers to decide that they no longer wish for their personal information to be retained and shared in this manner.

NOTE: For a more thorough discussion of this bill, see the Senate Judiciary Committee analysis of the bill.

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

**SUPPORT:** (Verified 6/21/21)

National Marine Manufacturers Association (source)
Action Boats
Aktion Parks
Bass Cat
Bayliner
BoatUS
Boston Whaler
Brunswick Boat Group

Bryant Boats
California Association of Harbor Masters and Port Captains
Centurion Boats
Chaparral Boats
Chris-Craft
Correct Craft
Crestliner
Cypress Cay
Everglades Boats
Formula Boats
Harris Boats
Heyday Boats
Lowe Boats
Lund Boats
Marine Recreation Association
Mercury Marine
Nautique Boats
Parker Boats
Pleasure Craft Engine Group
Princess Yachts America
Ranger Tugs
Recreational Boaters of California
Regulator Marine
Sailfish Boats/Seminole Marine Group
Sea Ray
SeaArk
Skeeter Boats
Sportsman Boats
Supreme Boats
Suzuki Marine
Thunder Jet
Tiara Yachts
Volvo Penta
Water Craft Group
Watershed Boats
Yamaha
Yar Craft

**OPPOSITION:** (Verified 6/21/21)

ACLU California Action

Common Sense
Consumer Federation of California
Privacy Rights Clearinghouse

**ARGUMENTS IN SUPPORT:** The National Marine Manufacturers Association, the sponsor of this bill, explains the need for and the operation of the bill: "AB 335 uses the exact same language and framework as the Berman bill. Just as with cars, federal law requires recreational boat and engine manufacturers to be able to contact boat and marine engine owners regarding warranty and product safety recalls and to provide the instructions they need to have their boat or engine repaired without charge.

"Currently, boat and marine engine dealers send a buyer's contact information to the product's manufacturer. Manufacturers use this information to verify warranty eligibility and to conduct safety recalls. Dealers use these data to verify the products' ownership and eligibility at the point of repair. In order for the process to work, the vessel manufacturer must know who bought the vessel or engine that is subject to a recall.

"AB 335 would ensure that California's landmark consumer privacy law would allow manufacturers of recreational boats and marine engines to receive and retain specific contact information for buyers of its products, for the limited and exclusive use of conducting product safety recalls and warranty verification as required by federal law. By allowing this limited sharing and retention of information, the [L]egislature will ensure that consumers receive important and timely safety recall information and can easily confirm warranty eligibility."

**ARGUMENTS IN OPPOSITION:** Writing in opposition, a coalition of groups argue this bill is an impermissible amendment of the CPRA: "The fundamental purpose and intent of Proposition 24 was to protect consumer privacy and to stop further attempts to weaken privacy law in California in the future. This is evident from the text of Proposition 24 and direct statements from the authors, including those in the ballot summaries distributed to the electorate ahead of the 2020 election. Indeed, the authors of Proposition 24 published thirty-seven separate press releases between June 25 and November 4, 2020, and each and every one stressed that the initiative would prevent amendments to weaken privacy protections in the future. Any amending legislation therefore must strengthen consumer privacy and better protect consumers.

"The exemption sought here by the boat industry would not enhance consumer privacy. Rather, it would eliminate privacy rights that California consumers currently have to stop the sale of their personal information. A new exception to California's privacy law is not necessary for interested Californians to get warranty information for their vessels. The CCPA in no way prevents consumers from receiving warranty information they desire. Rather, the CCPA enables consumers who want to stop the sale of their personal information between businesses--for boat warranties or any other purpose--from doing so. This bill would take that right away.

"California voters have spoken, and they intended to make it harder to pass laws that erode their newly gained CCPA protections. The purposes and intent of Proposition 24 were not ambiguous. The amendment restrictions embedded in Proposition 24 were intended to prevent precisely this situation. SB 335 does not further the purposes and intent of Proposition 24, and does not strengthen consumer privacy."

ASSEMBLY FLOOR: 74-1, 5/3/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Stone
NO VOTE RECORDED: Friedman, Muratsuchi, Quirk

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
6/23/21 15:14:19

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

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

CONSENT

Bill No: AB 351
Author: Cristina Garcia (D)
Amended: 4/15/21 in Assembly
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 15-0, 6/22/21
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Borgeas, Bradford, Glazer, Hueso, Jones, Kamlager, Melendez, Portantino, Rubio, Wilk

ASSEMBLY FLOOR: 77-0, 4/29/21 (Consent) - See last page for vote

**SUBJECT:** Gambling: horse racing

**SOURCE:** Author

**DIGEST:** This bill adds the Pegasus World Cup to the group of out-of-state horseraces that are exempt from the 50-race per day limit on imported races in California.

**ANALYSIS:**

Existing law:

1) Provides, pursuant to Article IV, Section 19(b) of the Constitution of the State of California, that the Legislature may provide for the regulation of horse races and horse race meetings and wagering on the results.

2) Grants the California Horse Racing Board (CHRB) the authority to regulate the various forms of horse racing authorized in this state.

3) Authorizes thoroughbred racing associations or fairs to distribute the audiovisual signal and accept wagers on the results of out-of-state and international thoroughbred races during the calendar period the association or fair is conducting live racing, including days on which there is no live racing being conducted by the association or fair.

4) Limits the number of races that may be imported by associations and fairs to no more than 50 races per day on days when live thoroughbred or fair racing is being conducted in this state, with specified exceptions.

5) Exempts from that 50-race per day limit races imported races that are part of the race card of certain prominent races, including the Kentucky Derby, the Kentucky Oaks, the Preakness Stakes, the Belmont Stakes, the Jockey Club Gold Cup, the Travers Stakes, the Arlington Million, the Breeders' Cup, the Dubai Cup, the Arkansas Derby, the Apple Blossom Handicap, and the Haskell Invitational.

This bill:

1) Adds the Pegasus World Cup Invitational to the existing list of out-of-state horseraces that are exempt from the 50 imported race per day limitation.

2) Repeals an obsolete provision of existing law.

**Background**

*Purpose of the bill.* According to the author's office, "the Pegasus World Cup is a premier, invitation-only event on the global racing calendar featuring some of the best international and domestic Thoroughbreds. The inaugural running was on January 28, 2017 at Gulfstream Park in Hallandale Beach, Florida. Simulcasting is the process of transmitting the audio and video signal of a live racing performance from one facility to a satellite for re-transmission to other locations or venues where pari-mutuel wagering is permitted. Simulcasting provides racetracks with the opportunity to increase revenues by exporting their live racing content to as many wagering locations as possible, such as other racetracks, fair satellite facilities, and Indian casinos. Revenues are increased because simulcasting provides racetracks that export their live content with additional customers in multiple locations who would not have otherwise been able to place wagers on the live racing event."

Further, the author's office states that, "satellite wagering via an off-track facility has been legal in California since the 1980s when California racetracks were beginning to experience declining attendance and handle figures. The industry believed that making the product easier to access not only would expose and

market horse racing to potential customers, but also would make it more convenient for the existing patrons to wager more often."

*Simulcasting*. Simulcasting is the process of transmitting the audio and video signal of a live racing performance from one facility to a satellite for re-transmission to other locations or venues where pari-mutuel wagering is permitted. Simulcasting provides racetracks with the opportunity to increase revenues by exporting their live racing content to as many wagering locations as possible, such as other racetracks, fair satellite facilities, and Indian casinos. Revenues increase because simulcasting provides racetracks that export their live content with additional customers in multiple locations who would not have otherwise been able to place wagers on the live racing event. Existing law limits the total number of races imported by associations or fairs on a statewide basis not to exceed 50 per day on days when live thoroughbred racing or fair racing is being conducted in the state. This bill adds the Pegasus World Cup to an existing list of exempted races under the current limit.

*Racetrack attendance*. Prior to the COVID-19 Pandemic, and closure of non-essential businesses in California, the horse racing industry had been witnessing a general decline in the number of people attending and wagering at live tracks in California for more than three decades due to a number of factors including; increased competition from other forms of gaming, unwillingness of customers to travel a significant distance to racetracks, and the availability of off-track wagering. The declining attendance at live horse racing events has prompted racetracks to rely on revenues from in-state and out-of-state satellite wagering and account wagering.

During the early stages of the pandemic, horseracing in California was one of the first sports to return to live action. Currently, parimutuel wagering through ADWs is the only authorized form of online gaming in California. This allows fans of horseracing to enjoy the sport and place wagers from the safety of their own homes. The author argues that by adding the race card of the Delaware Handicap to the currently listed horseraces that are exempt from the 50-day race limitation, fans of horseracing will be granted more access to horseracing while observing proper social distancing during the COVID-19 Pandemic.

*Pegasus World Cup Invitational Stakes*. The Pegasus World Cup Invitational Stakes is an American thoroughbred horse race whose first running was on January 28, 2017, at Gulfstream Park in Hallandale Beach, Florida. It is run on a dirt track

at the distance of 1 1/8 miles (9 furlongs) and is open to horses four years old and up.

With a purse of $12 million for its inaugural running, the Pegasus World Cup surpassed the Dubai World Cup as the richest horse race in the world for the year 2017 and 2018. The purse of the event rose to $16 million in 2018, but dropped to $9 million in 2019. The race is named for Pegasus, a Greek mythical hose, a 110-foot statue of which stands at Gulfstream Park.

The fifth running of the Pegasus World Cup was held on Saturday, January 23, 2021. Knicks Go, the 6-5 favorite ridden by Joel Rosaria, took early command of the 1 1/8-mile race for older horses and crossed the finish line 2 ¾ lengths ahead of the runner. Approximately 1,500 people attended the event.

This bill adds the Pegasus World Cup to the group of out-of-state horseraces that are exempt from the 50-race per day limit on imported races in California.

**Related/Prior Legislation**

SB 494 (Dodd, 2021) adds the Delaware Handicap to the group of out-of-state horseraces that are exempt from the 50-race per day limit on imported races in California. (Gutted and amended to an unrelated issue)

AB 1437 (Frazier, 2021) adds the Whitney Stakes to the group of out-of-state horseraces that are exempt from the 50-race per day limit on imported races in California. (Pending in the Assembly Governmental Organization Committee)

AB 2270 (McCarty, Chapter 100, Statutes of 2018) authorized wagering on a nightly program of out-of-country harness racing from a single racetrack, regardless of the number of races offered, if specified conditions are met.

AB 2693 (Assembly Governmental Organization Committee, Chapter 350, Statutes of 2012) added the Arkansas Derby to the group of out-of-state horseraces that are exempt from the 50-race per day limit on imported races in California.

ACA 119 (Hornblower, Resolution Chapter 101, Statutes of 1933) placed Proposition 3 on the June 1933 ballot, which was approved by the voters and authorized the Legislature to provide for the regulation of horse races and horse race meetings and wagering on the results thereof.

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

**SUPPORT:** (Verified 6/21/21)

None received

**OPPOSITION:** (Verified 6/21/21)

None received

ASSEMBLY FLOOR: 77-0, 4/29/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Luz Rivas

Prepared by: Brian Duke / G.O. / (916) 651-1530
6/23/21 15:10:14

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

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

CONSENT

Bill No: AB 382
Author: Kamlager (D) , et al.
Amended: 4/29/21 in Assembly
Vote: 21

SENATE HEALTH COMMITTEE: 10-0, 6/10/21
AYES: Pan, Eggman, Gonzalez, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 5/6/21 - See last page for vote

**SUBJECT:** Whole Child Model program

**SOURCE:** California Children's Hospital Association

**DIGEST:** This bill extends the sunset of the Whole Child Model stakeholder advisory group from December 1, 2021, to December 31, 2023.

**ANALYSIS:**

Existing law:

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

2) Establishes the California Children's Services Program (CCS), administered by the DHCS, under which individuals under the age of 21, who have specified health conditions and meet financial requirements, are eligible to receive medically necessary services and treatments. [HSC §123800, et seq.]

3) Prohibits CCS covered services from being be incorporated into any Medi-Cal managed care contract (known as the CCS "carve out") entered into after

August 1, 1994, until January 1, 2022, except for contracts entered into for county organized health systems (COHS) or Regional Health Authority in the Counties of San Mateo, Santa Barbara, Solano, Yolo, Marin, and Napa. [WIC 14094.3.]

4) Authorizes DHCS, no sooner than July 1, 2017, to establish a "Whole Child Model" (WCM) program for Medi-Cal enrolled children who are also enrolled in CCS in specified counties. [WIC §14094.4.]

5) Requires DHCS to establish a statewide WCM stakeholder advisory group composed of specified stakeholders. Requires DHCS to consult with the WCM stakeholder advisory group on the implementation of the WCM program and consider recommendations of the stakeholder advisory group for the WCM monitoring and evaluation process. Sunsets the WCM stakeholder advisory group on December 31, 2021. [WIC §14094.10]

This bill:

1) Extends the sunset of the WCM stakeholder advisory group to December 31, 2023.

2) Makes technical and clarifying changes regarding the members of the WCM stakeholder advisory group.

**Comments**

1) *Author's statement.* According to the author, when WCM was first authorized, implementation was expected to take place fairly quickly, and it was not envisioned that the advisory group would have much work to do beyond 2021. However, due to several delays, the WCM was not fully implemented until July of 2019, and the evaluation and decisions about potential future expansions of the program have been delayed until at least the end of 2022.

   The WCM Advisory Group provides an invaluable opportunity for stakeholders representing CCS children and their families, CCS providers, county CCS staff, and Medi-Cal managed care plans (MCMC) to discuss ways to improve care delivery to children in the CCS program. It is important that this group remain intact at least until after the WCM evaluation has been submitted to the Legislature and a decision is made about whether or not the model will be expanded.

2) *CCS "carve out."* CCS is a state-only health program for children, up to the age of 21, with certain diseases or health problems, including bleeding disorders,

cystic fibrosis, Duchenne muscular dystrophy, and other genetic conditions and rare diseases. CCS requires applicants to meet additional requirements, such as income limits or expected out-of-pocket medical expenses. CCS provides coverage for a variety of medical visits, medical case management, and care at sickle cell disease centers. Children who are eligible for both Medi-Cal and the CCS program are enrolled in a Medi-Cal managed care plan (MCMC) and receive CCS-covered services through the CCS program on a fee-for-service basis. This is known as the CCS "carve out," which been extended a number of times since it was first established by SB 1371 (Bergeson, Chapter 917, Statutes of 1994).

3) *WCM.* When the CCS program reached the end of one of its "carve out" authorization periods in 2015, the Brown Administration indicated that it would support an extension of the "carve out" only if it is accompanied by a plan for a more organized delivery system. SB 586 (Hernandez, Chapter 625, Statutes of 2015) authorized DHCS to establish the WCM in 21 counties, in which both Medi-Cal and most CCS services would be covered and paid for by the MCMC. SB 586 also required DHCS to create a statewide WCM stakeholder advisory group to inform implementation, as well as, the development of the monitoring and evaluation process.

**Related/Prior Legislation**

AB 1688 (Committee on Health, Chapter 511, Statutes of 2017) required DHCS to provide a report on the CCS WCM by the later of January 1, 2021, or three years from the date when all counties in which DHCS is authorized to establish the WCM program are fully operational, instead of by January 1, 2021, under prior law.

SB 586 (Hernandez, Chapter 625, Statutes of 2015) authorized the WCM for children enrolled in both CCS and Medi-Cal in 21 counties where both Medi-Cal and most CCS services would be covered by the MCMC.

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

**SUPPORT:** (Verified 6/22/21)

California Children's Hospital Association (source)
American Academy of Pediatrics, California
Children Now
Children's Specialty Care Coalition
County Heath Executives Association of California

Los Angeles County Office of Education
Western Center on Law & Poverty

**OPPOSITION:** (Verified 6/22/21)

None received

**ARGUMENTS IN SUPPORT:** This bill is sponsored by the California Children's Hospital Association, which writes that WCM stakeholder advisory group provides an invaluable opportunity for stakeholders representing CCS children and their families, CCS providers, county CCS staff, and Medi-Cal managed care plans to discuss ways to improve care delivery to children in the CCS program. They state that it is important that this group remain intact at least until after the WCM evaluation has been submitted to the Legislature and a decision is made about whether or not the model will be expanded.

This bill is also supported by the American Academy of Pediatrics, California. They state The WCM stakeholder advisory group brings together CCS children and their families, CCS providers, county CCS staff, and MCMC representatives to find the best ways to make the program work and evaluate if it should be expanded. They state that the group was first authorized in 2016 with the expectation that their work would be completed by 2021. That has not, however, been the case. Delays in implementation have meant that decisions about expansion of the program will not take place until late 2022 or beyond. The American Academy of Pediatrics, California argues that this bill is needed so that the WCM stakeholder advisory group can complete its work.

ASSEMBLY FLOOR: 76-0, 5/6/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Gallagher, Mullin

Prepared by: Kimberly Chen / HEALTH / (916) 651-4111
6/23/21 15:12:13

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

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(916) 651-1520 Fax: (916) 327-4478

CONSENT

Bill No: AB 398
Author: Fong (R) and Chau (D)
Amended: 5/26/21 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 6/8/21
AYES: Bradford, Kamlager, Skinner, Wiener
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 5/6/21 (Consent) - See last page for vote

**SUBJECT:** Department of Motor Vehicles: records

**SOURCE:** Author

**DIGEST:** This bill limits Department of Motor Vehicle's (DMV) ability to recover costs for document requests to the actual cost of providing such documents.

**ANALYSIS:**

Existing law:

1) Designates 23 classes of persons, primarily in law enforcement fields, plus the spouses and children of those persons, that may request that their home addresses be held confidential by DMV. The home addresses of these persons may only be disclosed to a court; a law enforcement agency; the State Board of Equalization (BOE); an attorney in a civil or criminal action who demonstrates to a court the need for the home address, if the disclosure is made pursuant to a subpoena; and any governmental agency legally required to be furnished the information. (Vehicle Code §§ 1808.4 and 1808.6 - began in 1977.)

2) States that all residence addresses in any record of the Department of Motor Vehicles (DMV) are confidential and shall not be disclosed to any person, except a court, law enforcement agency, or other governmental agency, or as authorized in section 1808.22 of the Vehicle Code. (Vehicle Code §§ 1808.21 - added in 1989.)

3) States that any person may seek suppression of any DMV registration or driver's license record if he or she can show that he or she is the subject of stalking or a threat of death or great bodily injury. The suppression will be for a period of one year renewable for two more one year periods. (Vehicle Code § 1808.21(d).)

4) Provides that the willful, unauthorized disclosure of this information as it relates to specified law enforcement (peace officers, employees of city police departments, and county sheriffs' offices and their families) that results in the bodily injury to the individual or individuals whose specified information was confidential, is a felony. (Vehicle Code §§ 1808.4.)

5) Provides that no person or agent shall directly or indirectly obtain information from DMV files using false representations or distribute restricted or confidential information to any person or use the information for a reason not authorized or specified in a requester code application. Any person who violates this section, in addition to any other penalty provided in this code, is liable for civil penalties up to one hundred thousand dollars ($100,000) and shall have its requester code privileges suspended for a period of up to five years, or revoked. The regulatory agencies having jurisdiction over any licensed person receiving information pursuant to this chapter shall implement procedures to review the procedures of any licensee which receives information to ensure compliance with the limitations on the use of information as part of the agency's regular oversight of the licensees. The agency shall report noncompliance to the department. (Vehicle Code § 1808.46)

6) Except as otherwise provided, allows for DMV to allow the inspection of information regarding the registration of a vehicle and allows for DMV to charge for the service. (Vehicle Code § 1810)

7) Requires specified verification information from a person making a request for registration information but does not require that verification if the person has been given a requester code from DMV. (Vehicle Code § 1810)

This bill:

1) Clarifies that the cost charged to the requester shall not exceed the actual cost to DMV.

2) Clarifies that the verification information is not required if an organization has been given a requester code from DMV.

**Background**

*DMV Confidentiality.* Vehicle Code section 1808.4 was added by statute in 1977 to provide confidentiality of home addresses to specified public employees and their families.

In 1989, after the murder of actress Rebecca Schaeffer, Vehicle Code section 1808.21 was added to make all residence addresses contained within the Department of Motor Vehicle files confidential. Vehicle Code section 1808.21(a) states the following:

The residence address in any record of the department is confidential and cannot be disclosed to any person except a court, law enforcement agency, or other governmental agency, or as authorized in Section 1808.22 or 1808.23.

This section was further amended in 1994 to allow individuals under specific circumstances to request that their entire records be suppressed. Any individual who is the subject of stalking or who is experiencing a threat of death or great bodily injury to his or her person may request their entire record to be suppressed under this section.

Upon suppression of a record, each request for information about that record has to be authorized by the subject of the record or verified as legitimate by other investigative means by the DMV before the information is released.

A record is suppressed for a one-year period. At the end of the one year period, the suppression is continued for a period determined by the department and if the person submits verification acceptable to the department that he or she continues to

have reasonable cause to believe that he or she is the subject of stalking or that there exists a threat of death or great bodily injury to his or her person.

DMV has long maintained that all residence addresses are suppressed and only persons authorized by statute can access this information.

Under sections 1808.4 and 1808.6 the home addresses of specific individuals are suppressed and can only be accessed through the Confidential Records Unit of the Department of Motor Vehicles while under section 1808.21, the residence address portion of all individuals' records are suppressed but can be accessed by a court, law enforcement agency, or other governmental agency or other authorized persons.

*Authorized release of information*. On November 25, 2019, Vice News ran a story entitled "The California DMV is Making $50 million a Year Selling Drivers' Personal Information." The article states that "In a public record acts request, Motherboard asked the California DMV for the total dollar amounts paid by commercial requesters of data for the past six years. The responsive document shows the total revenue in fiscal year 2013-14 as $41.6 million before steadily climbing to $52.1 million in fiscal year 2017-18."

The Vice News article is accurate in terms of the amount of money received, but misleading. DMV does not sell personal information except for legitimate business purposes explicitly authorized by the Legislature. The transactions the article talks about are fees DMV charges for legitimate business inquiries that the Legislature permits. Insurance companies are permitted to request data from DMV when collisions occur and they need to find out the address of the other driver, or to get driving records for the purposes of determining insurance rates. DMV charges them for accessing the records as a means of recovering their costs for retrieving the data. Prospective employers pay a fee to access accident records as required for certain transportation-related jobs. Vehicle manufacturers are allowed to request addresses for the purposes of sending out a safety recall. Otherwise, Vehicle Code 1808.21 prohibits DMV from sharing personal addresses.

As a result of the Vice News Story, DMV created a webpage detailing what limited circumstances DMV records can be requested. https://www.dmv.ca.gov/portal/driver-education-and-safety/educational-materials/fast-facts/how-your-information-is-shared-ffdmv-17/.

This bill clarifies that the fees charged for these authorized information requests cannot exceed the actual costs to DMV.

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

**SUPPORT:** (Verified 6/22/21)

Howard Jarvis Taxpayers Association

**OPPOSITION:** (Verified 6/22/21)

None received

ASSEMBLY FLOOR: 77-0, 5/6/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Mullin

Prepared by: Mary Kennedy / PUB. S. /
6/23/21 15:15:54

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

**SENATE RULES COMMITTEE** AB 419
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 419
Author: Davies (R)
Amended: 3/25/21 in Assembly
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/22/21
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

ASSEMBLY FLOOR: 74-0, 4/12/21 - See last page for vote

**SUBJECT:** Criminal procedure: victim and witness privacy

**SOURCE:** Conference of California Bar Associations

**DIGEST:** This bill expands the prohibition of an attorney disclosing identifying information to a defendant, members of the defendant's family, or anyone else, to include any personal identifying information, as defined, of the victim or witness.

**ANALYSIS:**

Existing law:

1) Requires the prosecuting attorney to disclose to the defendant or his or her attorney all of the following materials and information, if it is in the possession of the prosecuting attorney or if the prosecuting attorney knows it to be in the possession of the investigating agencies:

   a) The names and addresses of persons the prosecutor intends to call as witnesses at trial;

   b) Statements of all defendants;

   c) All relevant real evidence seized or obtained as part of the investigation of the offenses charged;

d) The existence of a felony conviction of any material witnesses whose credibility is likely to be critical to the outcome of the trial;

e) Any exculpatory evidence; and

f) Relevant written or recorded statements of witnesses or reports of the statements of witnesses whom the prosecutor intends to call at the trial, including any reports or statements of experts made in conjunction with the case, including the results of physical or mental examinations, scientific test, experiments, or comparisons which the prosecutor intends to offer in evidence at trial. (Pen. Code, § 1054.1.)

2) States, except as provided, that no attorney may disclose or permit to be disclosed to a defendant, members of the defendant's family, or anyone else, the address or telephone number of a victim or witness whose name is disclosed to the attorney by the prosecution, unless specifically permitted to do so by the court after a hearing a showing of good cause. A willful violation of this section is a misdemeanor. (Pen. Code, § 1054.2, subd. (a)(1) and (3).)

3) States, notwithstanding the above prohibition, an attorney may disclose or permit to be disclosed the address or telephone number of a victim or witness to persons employed by the attorney or to persons appointed by the court to assist in the preparation of a defendant's case if that disclosure is required for that preparation. Persons provided this information by an attorney shall be informed by the attorney that further dissemination of the information, except as provided, is prohibited. (Pen. Code, § 1054.2, subd. (a)(2).)

This bill:

1) Prohibits an attorney from disclosing all personal identifying information of a victim or witness, instead of merely prohibiting the disclosure of their address and telephone number.

2) Eliminates the existing misdemeanor penalty for willfully disclosing such information.

3) Defines "personal identifying information," by cross reference to Penal Code Section 530.55, as "any address, telephone number, health insurance number, taxpayer identification number, school identification number, state or federal driver's license, or identification number, social security number, employee identification number, professional or occupational number, mother's maiden name, demand deposit account number, savings account number, checking

account number, PIN (personal identification number) or password, alien registration number, government passport number, date of birth, unique biometric data including fingerprint, facial scan identifiers, voiceprint, retina or iris image, or other unique physical representation, unique electronic data including information identification number assigned to the person, address or routing code, telecommunication identifying information or access device, information contained in a birth or death certificate, or credit card number of an individual person," but does not include name, place of employment or an equivalent form of identification.

**Comments**

According to the author:

> Penal Code section 1054.2 currently prohibits the disclosure of a victim or witness's address or telephone number to a defendant, a member of the defendant's family, or anyone else unless specifically permitted by the court. The same section prohibits disclosure to staff of the defense unless it is required to prepare for the case. Finally, if a defendant is self-represented, the defendant may only contact the witness or victim through a private investigator licensed by the Department of Consumer Affairs and appointed by the court, unless good cause otherwise dictates. This protects victims and witnesses from the risk of threats or harassment by defendants. However, under current law, a victim or witness's social security number, birthdate, and biometric information, are not similarly protected; a defendant or their family could request and receive that information without a court order.

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

**SUPPORT:** (Verified 6/22/21)

Conference of California Bar Associations (source)

**OPPOSITION:** (Verified 6/22/21)

California Attorneys for Criminal Justice

**ARGUMENTS IN SUPPORT:** According to the Conference of California Bar Associations, the sponsor of this bill:

> AB 419 would allow the protected information of victims and witnesses to include most forms of personal identifying information listed under Penal

Code section 530.55, including dates of birth, social security numbers, financial account numbers, and driver's license information. In addition to protecting the privacy rights of victims and witnesses, this measure would provide a legal basis for a defense attorney to resist a demand made by client or family for police reports containing a victim or witness' personal identifying information, other than their address or telephone number.

**ARGUMENTS IN OPPOSITION:** According to California Attorneys for Criminal Justice:

This bill would greatly expand the amount and types of information that an attorney is prohibited from disclosing to a defendant or their family.

Currently, attorneys are prohibited from disclosing the address or telephone number of a victim or witness to a defendant. AB 419 takes this prohibition to an extreme by prohibiting the disclosure of a wide swath of personally identifiable information, damaging a defendant's ability to review their own discovery. . . . This bill would put a large burden on attorneys not to accidentally disclose a vastly expanded array of information. This bill could also hurt defendants by prohibiting their attorney from disclosing information to them that may be necessary for building their defense.

ASSEMBLY FLOOR: 74-0, 4/12/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Gipson, Lorena Gonzalez, Grayson, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Wicks, Wood, Rendon
NO VOTE RECORDED: Chen, Eduardo Garcia, Gray, Holden

Prepared by: Stella Choe / PUB. S. /
6/23/21 15:15:57

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

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CONSENT

Bill No: AB 429
Author: Megan Dahle (R)
Introduced: 2/4/21
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 6/8/21
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/22/21 (Consent) - See last page for vote

**SUBJECT:** Child support: access to records

**SOURCE:** Family Law Section of the California Lawyers Association

**DIGEST:** This bill, as of January 1, 2023, eliminates the provisions governing the confidentiality of proceedings and records under the Uniform Parentage Act (UPA), except in parentage cases involving assisted reproduction.

**ANALYSIS:**

Existing law:

1) Establishes the right to privacy under the Federal Constitution and California Constitution. (U.S. Const., 14th Amend.; *Griswold v. Connecticut* (1965) 381 U.S. 479, 484; Cal. Const. art. I, § 1.)

2) Provides that the public has a presumptive right of access under the First Amendment to the United States Constitution to ordinary civil trials and proceedings. (*NBC Subsidiary (KNBC-TV), Inc. v. Superior Court* (1999) 20 Cal.4th 1178, 1212.) Furthermore:

a) Provides, under the California Constitution, that "[t]he people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny." (Cal. Const., art. I, § (b)(1).)
b) Provides that this right of access does not supersede or modify the right of privacy provided under the California Constitution, nor affect any statute, court rule, or other authority protecting that right. (*Id.* at (b)(3).)

3) Requires that the sittings of every court be public, except as provided in Family Code section 214 or any other provision of law. (Code Civ. Proc. § 124.) Provides that a court may, when it considers it necessary in the interests of justice and the persons involved, direct the trial of any issue of fact joined in a proceeding under the Family Code to be private, and may exclude all persons except the officers of the court, the parties, their witnesses, and counsel. (Fam. Code § 214.) [1]

4) Establishes the UPA (§ 7600 et seq.), which governs the parent-child relationships and the rights and duties flowing from the relationship.

5) Provides that a hearing or trial held under the UPA may be held in closed court without admittance of any person other than those necessary to the action or proceeding. (§ 7643(a).)

6) Provides that all papers and records, other than the final judgment, pertaining to the action or proceeding, whether part of the permanent record of the court or of a file in a public agency or elsewhere, are subject to inspection or copying only in exceptional cases upon an order of the court for good cause shown (*id.*), except in the following circumstances:

   a) the papers or records are requested by the parties to the action, or their attorneys or agents, if authorized by the parties; or
   b) the papers or records are required by a local child support agency for purposes of establishing parentage and establishing and enforcing child support orders (*id.* at (b)).

[1] All further section references are to the Family Code unless otherwise specified.

This bill:

1) Eliminates, as of January 1, 2023, the provisions governing the confidentiality of proceedings and records under the UPA, except in parentage cases involving assisted reproduction.

2) Requires the Judicial Council to create or modify forms, as it deems appropriate, to require parties who initiate actions or proceedings relating to parentage involving assisted reproduction to designate the action or proceeding as such.

**Comments**

1) *Public access to judicial proceedings and records*. The United States Supreme Court has held that there is a First Amendment right of public access to criminal proceedings. "As a matter of law and virtually immemorial custom, public trials have been the essentially unwavering rule in ancestral England and in our own Nation. [Citation.] Such abiding adherence to the principle of open trials '[reflects] a profound judgment about the way in which law should be enforced and justice administered.' [Citation.]" (*Richmond Newspapers v. Va.* (1980) 448 U.S. 555, 593, Brennan, J., concurring.) "Open trials assure the public that procedural rights are respected, and that justice is afforded equally. Closed trials breed suspicion of prejudice and arbitrariness, which in turn spawns disrespect for law. Public access is essential, therefore, if trial adjudication is to achieve the objective of maintaining public confidence in the administration of justice." (*Id.* at 595.) The California Supreme Court held that this right of access presumptively applies to ordinary civil trials and proceedings. (*NBC Subsidiary (KNBC-TV), Inc. v. Superior Court* (1999) 20 Cal.4th 1178, 1212.)

   Family Code section 214, in turn, provides: "Except as otherwise provided in this code or by court rule, the court may, when it considers it necessary in the interests of justice and the persons involved, direct the trial of any issue of fact joined in a proceeding under this code to be private, and may exclude all persons except the officers of the court, the parties, their witnesses, and counsel."[2] Additionally, the Family Code contains specific provisions that close certain proceedings to the public. (See, e.g., §§ 1818 [conciliation proceedings],

[2] This section protects from public scrutiny not only the proceeding itself, but also any transcript of it and documents introduced into the court's files at or in connection with it, including pleadings and exhibits. (*In re Marriage of Lechowick* (1998) 65 Cal.App.4th 1406, 1415.) However, court files in family law cases should be treated no differently than the court files in any other cases for purposes of considering the appropriateness of granting a motion to seal any of those files. (*Id.* at 1414.)

7884 [proceeding to declare child free from parental custody and control], 8611 [adoption proceedings].) In particular, section 7643, the subject of this bill, provides for the confidentiality of hearings and records under the UPA.

"The [UPA] establishes the framework for judicial determinations of parentage, and governs paternity and custody disputes, private adoptions and dependency proceedings."(*In re D.S.* (2012) 207 Cal.App.4th 1088, 1094 [citation omitted].) The UPA was part of a package of legislation introduced in 1975 (SB 347, Beilenson, Chapter 1244, Statutes of 1975) based on a model act from the National Conference of Commissioners on Uniform State Laws. The UPA was originally intended to eliminate the pejorative legal distinction between legitimate and illegitimate children. "The major premise of the act is to provide for substantive equality of children regardless of the marital status of the parents."(*Griffith v. Gibson* (1977) 73 Cal.App.3d 465, 470.) The UPA thus applies to adjudications in connection with the "parent and child relationship," defined as "the legal relationship existing between a child and the child's natural or adoptive parents incident to which the law confers or imposes rights, privileges, duties, and obligations." (§ 7601(b).) The UPA further provides that "the parent and child relationship extends equally to every child and to every parent, regardless of the marital status of the parents." (§ 7602.) In recent years, the UPA has been updated and modernized as it relates to same-sex parents, genetic testing, and children conceived with donated gametes. (*See* AB 2684, Bloom, Ch. 876, Stats. 2018.)

A hearing or trial under the UPA may be held in closed court. (§ 7643(a).) Other than the final judgement, records pertaining to the action or proceeding are not available to the public, except to the parties and their attorneys or agents, local child support agencies, or in exceptional cases upon order of the court for good cause. (*Id.* at (a), (b).) As a result, when parentage actions involve determinations of child support and custody, they are presumptively closed to the public, even though they would not be if the child was born to married parents.

2) *Equal public access to proceedings and records, regardless of parents' marital status*The purpose of designating a file confidential is to protect the parties from the outside world knowing about the proceedings. (*Louden v. Olpin* (1981) 118 Cal.App.3d 565, 569.) However, in the case of the UPA, these confidentiality provisions arise out of an outdated stigma towards children born out of wedlock. The UPA is based on a 1973 proposal from the National Conference of Commissioners on Uniform State Laws (NCCUSL). At common law, a child

whose mother was not married was considered "illegitimate," and the father had no legal rights or obligations to the child. Consequently, before 1973, the parentage laws in most states failed to recognize two legal parents for children born to unmarried mothers. Recognizing that such treatment of children was becoming socially and legally untenable, the NCCUSL drafted and promulgated a uniform act that identified two legal parents for both children born in and outside of wedlock. The model uniform act ultimately led to changes in parentage laws of every state in the country, including California.

In 1975, California enacted its own version of the UPA, thereby abolishing the concept of illegitimacy in the state. (§ 7600 et seq.) The UPA established a procedure to determine the existence or nonexistence of the parent-child relationship, and abolished most distinctions between children of married and unmarried parents. (*See* §§ 7630, 7650, 7602.) Because the nature of paternity actions were considered to be especially sensitive, the uniform act promulgated by the NCCUSL contained provisions that made all papers and documents part of the permanent court record subject to inspection only by the parties and their attorneys. California's UPA likewise incorporated these confidentiality provisions. (§ 7643.)

While the confidentiality provisions in the 1973 act were omitted from the revised versions issued by the NCCUSL in 2000 and 2002, California's provision remains largely intact. The most significant change that provision came via AB 1679 (Evans, Chapter 50, Statutes of 2008), which added agents of a party, and of the party's attorney, to the list of persons who are permitted to inspect court files pertaining to paternity actions if so authorized. This Committee's analysis of the bill stated, without elaboration, that the NCCUSL omitted confidentiality provisions from the revised act, but stated nevertheless that "a repeal of the statute would be premature and unjustified as there are many valid arguments as to why paternity records should remain confidential, even if the stigma of having a child out of wedlock has significantly diminished since 1973."[3]

This view no longer seems to be the consensus. Today, roughly 40 percent of children are born to unmarried parents.[4] Additionally, the average age at which

[3] Sen. Jud. Analysis of AB 1679 (2007-2008 Reg. Sess.), as amended March 3, 2008 (June 10, 2008 hearing), at p. 3.

[4] *Centers for Disease Control and Prevention, National Center for Health Statistics*, available at **https://www.cdc.gov/nchs/pressroom/states/california/california.htm** (as of May 28, 2021). California is slightly below the national average with 37.5 percent of all births to unmarried mothers. (*Ibid.*)

a person gets married is 27 years of age, compared to 20 years of age in 1960.[5] The bill is supported by organizations that represent family law practitioners who agree that the UPA's confidentiality provisions no longer serve a compelling purpose. The Family Law Section of the Los Angeles County Bar Association writes:

> There is no longer a stigma attached to children born outside of marriage and thus no compelling reason to override the constitutional right of access to court records and proceedings. Moreover, removing the restrictions on access to such records will allow family lawyers to better represent their clients in these proceedings, with ease of access to files and records, and also allow information pertaining to those litigants to be available in other party-related proceedings, such as domestic violence, child support, and child custody proceedings.

By eliminating the UPA's confidentiality provisions, this bill would, in effect, declare that the mere fact that a child is born out of wedlock no longer justifies blocking public scrutiny of proceedings under the UPA. The author notes that "[l]itigants in these cases, just like litigants in other cases, will instead be able to request an order that records be filed under seal in a specific case."

However, the bill continues to provide for the confidentiality of parentage hearings and court records for a parent who used assisted reproduction, including use of surrogates or donated semen or ova. Specifically, once the bill's provisions become operative on January 1, 2023, the substance of the current confidentiality provisions would be preserved and would remain applicable to actions brought by parties to an assisted reproduction agreement. (*See* §§ 7613, 7630(f), 7960 et seq.)

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

**SUPPORT:** (Verified 6/23/21)

Family Law Section of the California Lawyers Association (source)
California Association of Certified Family Law Specialists
California Judges Association
Child Support Directors Association
Los Angeles County Bar Association, Family Law Section

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[5] Hans Johnson, *Birth Rates in California, 9 California Counts Population Trends and Profiles 2*, Public Policy Institute of California (Nov. 2007).

**OPPOSITION:** (Verified 6/23/21)

None received

**ARGUMENTS IN SUPPORT:** In support of the bill, the sponsor, the Family Law Section of the California Lawyers Association, writes:

> Under existing law, all papers, records and hearings pertaining to parentage actions are confidential under Family Code Section 7643. This requires a level of secrecy in child custody and child support cases involving unmarried or single parents that is not required in cases involving married or formerly married parents.
>
> Section 7643 was originally enacted as Civil Code Section 7014 in 1975 as part of California's adoption of the Uniform Parentage Act (UPA). The UPA in turn was drafted in 1973. At that time, births outside marriage only accounted for 11.3% of all births in the United States. In 2018, births outside marriage accounted for 37.1% of all births in California. Family Code section 7643 is an anachronism. The confidentiality provisions relate back to a time when it was considered immoral to have a child born out of wedlock. It was this perceived stigma that formed the basis for including confidentiality provisions in the UPA.

ASSEMBLY FLOOR: 77-0, 4/22/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Holden, Reyes

Prepared by: Josh Tosney / JUD. / (916) 651-4113
6/23/21 15:14:20

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

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

CONSENT

Bill No: AB 440
Author: Bigelow (R)
Amended: 3/24/21 in Assembly
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 7-0, 6/14/21
AYES: Allen, Bates, Dahle, Gonzalez, Skinner, Stern, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/22/21 (Consent) - See last page for vote

**SUBJECT:** Bear Lake Reservoir: recreational use

**SOURCE:** Lake Alpine Water

**DIGEST:** This bill deletes the sunset on the bodily contact prohibition exemption for Bear Lake Reservoir, and deletes other bodily contact restrictions, thus authorizing, if specified conditions are met, bodily contact with the water at Bear Lake Reservoir to occur all year and in perpetuity.

**ANALYSIS:**

Existing law:

1) Establishes as state policy that all public waters should be used for multiple purposes, to the extent that the uses are consistent with public health and public safety. (Health and Safety Code (HSC) § 115825 (a))

2) Prohibits recreational uses in which the participant has bodily contact with water in a reservoir in which water is stored for domestic use, except as provided in statute for specified reservoirs and under specified conditions. (HSC § 115825 (b))

3) Prohibits bodily contact with the water in Bear Lake Reservoir, unless all of the following conditions, among others, are satisfied:

a) The water subsequently receives, as specified, complete water treatment, in compliance with all applicable State Water Resources Control Board (State Water Board) regulations, including oxidation, filtration, and disinfection, before being used for domestic purposes;

b) The Lake Alpine Water Company conducts a monitoring program for cryptosporidium, giardia, and total coliform bacteria, including E. coli and fecal coliform, at the reservoir intake and at post treatment at a frequency determined by the State Water Board, but no less than three times during the period when bodily contact is allowed;

c) The reservoir is operated in compliance with regulations of the State Water Board; and,

d) Bodily contact is allowed for no more than four months each year. (HSC § 115843.6 (a))

4) Provides that the recreational use of Bear Lake Reservoir shall be subject to additional conditions and restrictions adopted by the entity operating the water supply reservoir, or required by the State Water Board, that are required to further protect or enhance the public health and safety and do not conflict with the regulations of the State Water Board. (HSC § 115843.6 (b))

5) Requires the Lake Alpine Water Company to file, on or before December 31, 2017, and biennially thereafter, with the Legislature, a report, as specified, on the recreational uses at Bear Lake Reservoir and the water treatment program for that reservoir. (HSC § 115843.6 (c))

6) Requires the State Water Board to, at the end of each recreational season, annually review monitoring and reporting data from Bear Lake Reservoir to ensure full compliance. (HSC § 115843.6 (e)(1))

7) Provides that if at any time the State Water Board finds a failure to comply with monitoring, treatment, or reporting requirements, the bodily contact restriction exemption shall cease immediately, and a permit issued to the Lake Alpine Water Company pursuant to California Safe Drinking Water Act may be subject to suspension, amendment, or revocation. (HSC § 115843.6 (e)(2))

8) Provides that failure of the Lake Alpine Water Company to comply with the bodily contact exemption requirements shall be deemed a violation of the California Safe Drinking Water Act and shall be subject to any applicable fines, penalties, or other enforcement action provided under that Act. (HSC § 115843.6 (e)(2))

9) Sunsets the bodily contact exemption for Bear Lake Reservoir on January 1, 2022. (HSC § 115843.6 (g)

10) Authorizes body contact sports in reservoirs constructed and operated as part of the State Water Project, other than terminal reservoirs from which water is supplied for domestic use without purification treatment after withdrawal from such reservoirs, to the extent that it is compatible with public health and safety requirements. (Water Code § 12944.(a))

This bill:

1) Deletes the requirement that, for bodily contact to occur at Bear Lake Reservoir, the Lake Alpine Water Company conduct monitoring for cryptosporidium, giardia, and total coliform bacteria, including E. coli and fecal coliform, at the reservoir intake and at post treatment no less than three times during the four month period when bodily contact is allowed, thus reverting monitoring requirements to be at a frequency determined by the State Water Board.

2) Deletes the four month per year bodily contact restriction at Bear Lake Reservoir.

3) Deletes the January 1, 2022 sunset on the bodily contact exemption for Bear Lake Reservoir.

**Background**

1) *Bodily contact with water in California reservoirs*. The California Health and Safety Code (HSC) establishes as state policy that all public waters are to be used for multiple purposes, as long as the uses are consistent with public health and safety. To this end, HSC prohibits recreational uses in which the participant has bodily contact with water in a reservoir in which water is stored for domestic use. Bodily contact with domestic water supplies can be a source of fecal pathogens and other contaminants that, if not treated, can be a serious threat to public health. The HSC does provide exemptions from this bodily contact prohibition, however, for all reservoirs in San Diego County, the Nacimiento Reservoir, the Modesto Reservoir, the Sly Park Reservoir, the Canyon Lake Reservoir, and the Bear Lake Reservoir. In each of these cases, statute delineates health and safety requirements, including monitoring and treatment requirements, which must be met in order for the exemption to stay in effect. California Water Code makes an additional exemption for bodily contact with water in reservoirs constructed and operated as part of the State

Water Project, to the extent that the recreation is compatible with public health and safety requirements.

2) *Lake Alpine Water Company*. Lake Alpine Water Company is a privately owned water utility serving Bear Valley in Alpine County. Lake Alpine Water Company serves nearly 300 single family homes, 20 businesses, and 179 condominium units. Lake Alpine Water Company is regulated by the California Public Utilities Commission and the State Water Board. The water source for Lake Alpine Water Company is the Bear Lake Reservoir, contained by an earthen dam in the town of Bear Valley. All water is obtained from springs and snow melt into Bear Lake.

3) *Bear Lake Reservoir*. According to Lake Alpine Water Company, Bear Lake is a private thirteen-acre lake surrounded by a lodge pole pine and white fir forest and residential homes in the unincorporated community of Bear Valley in Alpine County. Access to the lake is provided by three small sandy beaches. All other shoreline is private property or earthen dam. The lake is frozen or snowed over from mid-November through mid-May. The weather allows for recreational use of the lake from June through September. The lake is posted as private and is used only by the members and guests of Bear Valley Residents Incorporated. Uses of the lake include wading, swimming, sailing, windsurfing, paddling, and fishing. Dogs and other pets are not allowed in the lake or at any of the access points. No motorized watercrafts of any kind are allowed in the lake.

   The Lake Alpine Water Company reports that the number of visitors to Bear Lake Reservoir is weather dependent. There can be little to no use until June 15. During July and August, attendance averages 70 people per day with peak use of 130 people per day. Use tapers off again after August 15 and, due to water temperature, attendance typically drops to zero after September 15.

4) *Bodily contact recreation in Bear Lake Reservoir*. The HSC prohibits bodily contact with the water in Bear Lake Reservoir, unless all of the following conditions, among others, are satisfied:

   a) The water subsequently receives, as specified, complete water treatment, in compliance with all applicable State Water Board regulations, including oxidation, filtration, and disinfection, before being used for domestic purposes;

   b) The Lake Alpine Water Company conducts a monitoring program for cryptosporidium, giardia, and total coliform bacteria, including E. coli and

fecal coliform, at the reservoir intake and at post treatment at a frequency determined by the State Water Board, but no less than three times during the period when bodily contact is allowed;

c) The reservoir is operated in compliance with regulations of the State Water Board; and,

d) Bodily contact is allowed for no more than four months each year.

The Lake Alpine Water Company monitors Bear Lake Reservoir watershed for coliform, fecal coliform, E. coli, giardia, and cryptosporidium and provides a biennial report to the Legislature on the recreational uses at Bear Lake Reservoir and the water treatment program for that reservoir.

In its most recent report, released in 2019, the Lake Alpine Water Company noted that Bear Lake Reservoir samples for coliform increased from 2017-2019, but determined that the increase is associated with an increase in the dissolved oxygen level of the hypolimnetic layer. Oxygen is concentrated onshore and pumped into the bottom of the lake through an array of diffusion hoses. By increasing the dissolved oxygen levels in the hypolimnetic layer, the water treatment operators were able to decrease iron and manganese concentrations, therefore improving water quality. The Lake Alpine Water Company maintains that despite the higher total coliform levels, counts for both fecal coliform and E. coli levels decreased. They noted that all lake samples tested negative for both giardia and cryptosporidium.

5) *Water quality issues related to bodily contact at Bear Lake Reservoir*: The State Water Board indicates that it has not identified any specific water quality issues related to bodily contact at Bear Lake Reservoir that would raise concern, and, given the relatively limited number of users at Bear Lake Reservoir, they do not anticipate a high likelihood of violations or concerns in the future. However, should the State Water Board find a failure to comply with monitoring, treatment, or reporting requirements, the bodily contact restriction exemption shall cease immediately, and a permit issued to the Lake Alpine Water Company pursuant to California Safe Drinking Water Act may be subject to suspension, amendment, or revocation.

**Comments**

1) *Author's statement.* According to the author, "Residents of Bear Valley enjoy spending their summers in Bear Lake Reservoir, and Lake Alpine Water Company has shown that they can treat the water to account for human bodily

contact. The current use exemptions expire next year, so we should extend them to allow the community to continue to enjoy the lake."

2) *Purpose of this bill.* AB 440 deletes the sunset on the bodily contact exemption for Bear Lake Reservoir, the four-month bodily contact restriction, and the frequency by which the Lake Alpine Water Company must monitor the water during the four month period in which bodily contact is currently allowed, thus authorizing, if specified conditions are met, bodily contact with the water at Bear Lake Reservoir to occur all year and in perpetuity. The State Water Board's regulatory authority over the reservoir remains intact.

**Related/Prior Legislation**

SB 930 (Gaines, Chapter 149, Statutes of 2016) extended the sunset on the bodily contact exemption for Bear Lake Reservoir until January 1, 2022, and required the Lake Alpine Water Company to file a biennial report file with the Legislature on the recreational uses at Bear Lake Reservoir and the water treatment program for that reservoir.

SB 14 (Gaines, Chapter 172, Statutes of 2013), authorized, until January 1, 2017, recreational uses at Bear Lake Reservoir, if certain conditions are met, including water treatment, monitoring, and reporting requirements.

SB 1063 (Gaines, 2012) would have authorized, until January 1, 2016, recreational uses at Bear Lake Reservoir if certain conditions are met, including water treatment, monitoring, and reporting requirements. SB 1063 was vetoed by Governor Brown.

AB 1934 (Leslie, Chapter 374, Statutes of 2004) authorized recreational uses, until January 1, 2007, at Bear Lake Reservoir if certain conditions are met.

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

**SUPPORT:** (Verified 6/22/21)

Lake Alpine Water (source)
California Water Association

**OPPOSITION:** (Verified 6/22/21)

None received

ASSEMBLY FLOOR: 77-0, 4/22/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Holden, Reyes

Prepared by: Gabrielle Meindl / E.Q. / (916) 651-4108
6/23/21 15:05:37

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

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CONSENT

Bill No: AB 444
Author: Committee on Public Employment and Retirement
Introduced: 2/8/21
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 6/7/21
AYES: Cortese, Ochoa Bogh, Durazo, Laird, Newman

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 5/6/21 (Consent) - See last page for vote

**SUBJECT:** State and local employees: pay warrants: designees

**SOURCE:** Author

**DIGEST:** This bill changes the manner in which a state agency delivers a deceased state employee's last pay warrant to the employee's designated claimant from simply delivering the warrant to the claimant to redepositing the warrant into the treasury and reissuing a new warrant in the claimant's name. This bill also permits the designated claimant to include, but not be limited to, a corporation, trust, or estate.

**ANALYSIS:**

Existing law:

1) Authorizes a state employee to designate, with their appointing power, a primary person and up to three contingent persons who may receive the employee's warrant upon the death of the employee. (Government Code § 12479)

2) Requires an appointing power, upon sufficient proof of identity from an appropriate designee, to deliver warrants to the person claiming them, and

entitles the designated person who receives the warrants to negotiate them as if they were the payee. (GC § 12479)

3) Does not define "person" for payroll warrant designees of local public agency employees. Thus, current law does not authorize local public agency employees to designate corporate persons to receive their last payroll warrant upon their death. (GC § 53000 et seq.)

This bill:

1) Deletes existing provisions that require a state agency to deliver the employee's warrant to a designated claimant and that authorize the designated claimant to negotiate the warrant as if he or she were the payee.

2) Requires instead that the state agency, upon sufficient proof of identification, endorse and deposit the warrant in the treasury and issue a revolving fund check in the original amount payable to the designated person.

3) Defines the term "person", for purposes of delivering a warrant to a local public employee's designated claimant to include, but not be limited to, a corporation, trust, or estate.

**Comments**

*Need for this bill?* According to the author, this bill is necessary because employees often designate some person or entity that is not necessarily related to the employee, does not share financial accounts, or is not a legal fiduciary resulting in barriers for the employee's designated claimant to negotiate the instrument.

Additionally, the State Controller's Office (SCO) indicates that even though the warrant, upon release to the claimant, includes a stamp authorizing the designee to negotiate it, some financial institutions are not honoring SCO warrants released to a deceased employee's designee due to financial institutions' internal third party check cashing policies.

The author notes that the provision expanding the local public agency employee definition of a designated "person" mirrors provisions that exists in current law for state employees.

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

**SUPPORT:** (Verified 6/22/21)

State Controller's Office
Los Angeles County Sheriff's Department

**OPPOSITION:** (Verified 6/22/21)

None received

**ARGUMENTS IN SUPPORT:** According to the State Controller's Office,

> Under current law, when a state employee passes away, their final wages are issued to a specific designee who is allowed to negotiate the pay warrant is if they were the payee. However, some financial institutions have third-party check-cashing restrictions and fail to comply with this law."
>
> [This bill] will remedy the discrepancy by allowing the state government employing agency of the deceased person to reissue payment to the person's designee. The employing agency already must coordinate necessary paperwork when an employee passes away, so providing the agency authority to reissue the final pay warrant further streamlines the process.

According to the Los Angeles County Sheriff's Department,

> Currently, the government code authorizes state employees to designate a person, corporation, trust, or an estate to receive the employee's warrants upon the employee's death. While state employees are able to choose any of these designations, a county, city, municipal corporation, district, or other public agency employee can only designate a person. [This bill]… would give [a local public agency employee] the same ability to designate similar survivors as current state employees.

ASSEMBLY FLOOR: 77-0, 5/6/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty,

Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Mullin

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
6/23/21 15:14:23

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

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THIRD READING

Bill No: AB 445
Author: Calderon (D)
Introduced: 2/8/21
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 5-0, 6/8/21
AYES: Hurtado, Jones, Cortese, Kamlager, Pan

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/29/21 (Consent) - See last page for vote

**SUBJECT:** Developmental services: information collection

**SOURCE:** Association of Regional Center Agencies

**DIGEST:** This bill repeals the requirement that regional centers, which provide services and supports to individuals with developmental disabilities and their families, collect specified information about the parents of each consumer of those services and supports.

**ANALYSIS:**

Existing law:

1) Establishes the Lanterman Developmental Disabilities Services Act, which states that California is responsible for providing an array of services and supports sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life, and to support their integration into the mainstream life of the community. (*WIC 4500, et seq.)*

2) Defines a "developmental disability" to mean a disability that originates before an individual attains 18 years of age which continues, or can be expected to continue, indefinitely and constitutes a substantial disability for that individual,

including intellectual disability, cerebral palsy, epilepsy, and autism and related conditions, but excluding other handicapping conditions that are solely physical in nature. (*WIC 4512(a)*)

3) Establishes a system of nonprofit regional centers, contracted with Department of Developmental Services (DDS), to provide fixed points of contact in the community for all persons with developmental disabilities and their families, to coordinate services and supports best suited to them throughout their lifetime. (*WIC 4620(a) et seq.)*

4) Grants all individuals with developmental disabilities the right to treatment and habilitation services and supports in the least restrictive environment. *(WIC 4502)*

5) Requires regional centers collect the following information for each new case and at each review of all regional center clients in out-of-home placement:

   a) The social security numbers of the parents of the client;
   b) The birthdays of the parents of the client;
   c) The disability status of the parents of the client; and,
   d) Whether the parents of the client are deceased. *(WIC 4657)*

6) Requires regional centers to identify and pursue all possible sources of funding for consumers receiving regional center services and that any sources of funding collected by a regional center be applied against the cost of service prior to use of regional center funds for those services. Further, provides that possible sources of funding shall not pose an additional liability on parents of children with developmental disabilities, or to restrict eligibility for, or deny services to any individual who qualifies for regional center services but is unable to pay. *(WIC 4659)*

This bill repeals the requirement that the following information be collected by each regional center for each new case and at each review of all regional center clients in out-of-home placement:

- The social security numbers of the parents of the client;
- The birthdays of the parents of the client;
- The disability status of the parents of the client; and,
- Whether the parents of the client are deceased.

**Background**

According to the author, "Assembly Bill 445 removes the requirement that individuals provide specified personal parental information by repealing Welfare and Institutions Code §4657. This personal information serves no purpose in regional centers' ability to provide services. Furthermore, some families are hesitant to provide this information due to privacy concerns, or due to general lack of access to this information. Through this repeal, a small but significant barrier to service will be removed, and a bureaucratic hurdle eliminated."

*Developmental Disabilities and Regional Center Services*

In California, a developmental disability is defined as one that originates before an individual attains 18 years of age which continues, or can be expected to continue, indefinitely and constitutes a substantial disability for that individual, including intellectual disability, cerebral palsy, epilepsy, and autism and related conditions, but excluding other handicapping conditions that are solely physical in nature. If an individual is determined to have a qualifying condition, then developmental services in California are considered an entitlement to care, regardless of income or public benefit eligibility. Developmental services are coordinated for eligible individuals through California's 21 nonprofit regional centers.

Regional centers coordinate a robust array of services and supports for more than 340,000 Californians with developmental disabilities through an individual program plan (IPP). The IPP process was established to ensure that services and supports are customized to meet the needs of consumers served by regional centers. Regional center case managers must meet with the consumer and their family, as appropriate, annually to create a new IPP.

Services may include diagnosis, evaluation, treatment, and care coordination of services such as personal care, day care, special living arrangements, physical, occupational, and speech therapy. Additionally, consumers may receive training, education, supported employment, mental health services, recreation, counseling of the individual with a developmental disability and of his or her family, information and referral services, follow-along services, adaptive equipment and supplies, advocacy assistance, including self-advocacy training, assistance in locating a home, behavior training and behavior modification programs, camping, community integration services, community support, daily living skills training, emergency and crisis intervention, facilitating circles of support, habilitation, and many others. The regional center system can also provide respite for family caregivers, short-term out-of-home care, social skills training, specialized medical and dental care,

telehealth services and supports, supported living arranges, technical and financial assistance, training for parents of children with developmental disabilities, vouchers, and transportation services necessary to ensure the delivery of services to persons with developmental disabilities.

As a payer of last resort, regional centers only pay for services that no other entity is required to provide. Therefore, if a school district, insurance provider, other government entity, or public resource should provide a service, then the regional center cannot pay for that service unless a consumer has been denied by the primary entity. However, since developmental services are considered an entitlement to care, if a consumer does need services and supports that no one else has to cover then the regional center must provide and pay for that service.

*Family Cost Participation Program (FCPP) and Annual Family Program Fee (AFPF)*

In some cases, parents of regional center consumers are required to pay some or all of the costs for the services and supports provided through the regional centers. The FCPP and AFPF began in 2005 and 2011, respectively, as ways for families with means above a certain income threshold to contribute to the costs of certain regional center services. Generally, both programs only apply to families with income above 400 percent of the federal poverty level. Families must provide proof of income to the regional center within 10 working days from the date the parents sign their child's completed IPP. The family is also responsible for notifying the regional center of any changes to their income or family size so that their payment amount may be adjusted. Regional centers use this information and work with families to determine if either program applies.

This bill does not change a regional center's ability to collect information regarding the family of a consumer's gross annual income, thus it does not impact fees collected through the FCPP or AFPF.

**Related/Prior Legislation**

AB 412 (Stone, 2019) would have repealed the FCPP and the AFPF. AB 412 was held on the suspense file in the Assembly Appropriations Committee.

SB 1336 (Seymour, Chapter 1317, Statutes of 1984) added the requirements that regional centers collect specified information on the parents of the consumers they

serve. This information included parents' social security number, birthday, disability status, and whether the parents are deceased.

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

**SUPPORT:** (Verified 6/23/21)

Association of Regional Center Agencies (source)
California Disability Services Association
Disability Rights California
Educate. Advocate.
Empower Family California
Home of Guiding Hands
Integrated Community Collaborative
North Los Angeles County Regional Center
The Arc and United Cerebral Palsy California Collaboration

**OPPOSITION:** (Verified 6/23/21)

None received

ASSEMBLY FLOOR: 77-0, 4/29/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Luz Rivas

Prepared by: Marisa Shea / HUMAN S. / (916) 651-1524
6/23/21 15:54:28

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

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

THIRD READING

Bill No: AB 451
Author: Arambula (D)
Introduced: 2/8/21
Vote: 21

SENATE HEALTH COMMITTEE: 9-1, 6/10/21
AYES: Pan, Eggman, Gonzalez, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NOES: Grove
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 73-0, 5/10/21 - See last page for vote

**SUBJECT:** Health care facilities: treatment of psychiatric emergency medical conditions

**SOURCE:** California Chapter of the American College of Emergency Physician

**DIGEST:** This bill requires a psychiatric unit of a general acute care hospital, a psychiatric health facility, and an acute psychiatric hospital to provide emergency services regardless of a patient's ability to pay in order to treat a psychiatric emergency medical condition, regardless of whether the facility operates an emergency department, if the facility has appropriate facilities and qualified personnel available to provide the services.

**ANALYSIS:**

Existing law:

1) Licenses and regulates hospitals, including a general acute care hospital and an acute psychiatric hospital (APH), by the California Department of Public Health (CDPH). Permits general acute care hospitals, in addition to the basic services all hospitals are required to offer, to be approved by CDPH to offer special

services, including, among other services, an emergency department (ED), and psychiatric services. [HSC §1250 and §1255, et seq.]

2) Licenses psychiatric health facilities by the Department of Health Care Services (DHCS), which are defined as health facilities that provide 24-hour inpatient care for people with mental health disorders, whose physical health needs can be met in an affiliated hospital or in outpatient settings. [HSC §1250.2]

3) Requires EDs, under the federal Emergency Medical Treatment and Active Labor Act (EMTALA) and also under similar provisions of state law (state EMTALA), to provide emergency screening and stabilization services without regard to the patient's insurance status or ability to pay. Federal EMTALA imposes this requirement on any hospital that participates in Medicare. State EMTALA imposes this requirement on any hospital that operates an ED. [42 USC §1395dd; HSC §1317]

4) Defines "emergency services and care," under state EMTALA, as medical screening, examination, and evaluation by a physician to determine if an emergency medical condition or active labor exists and, if it does, the care, treatment, and surgery, if within the scope of that person's license, necessary to relieve or eliminate the emergency medical condition, within the capability of the facility. [HSC §1317.1 (a)(1)]

5) Defines "emergency services and care," under state EMTALA, to also mean an additional screening, examination, and evaluation by a physician, or other personnel to the extent permitted by the scope of their licensure and clinical privileges, to determine if a psychiatric emergency medical condition exists, and the care and treatment necessary to relieve or eliminate the psychiatric emergency medical condition, within the capability of the facility. Specifies that the care and treatment necessary to relieve or eliminate a psychiatric emergency medical condition may include admission or transfer to a psychiatric unit within a general acute care hospital, or to an APH. [HSC §1317.1 (a)(2)]

6) Prohibits a person needing emergency services and care from being transferred from a hospital to another hospital for any nonmedical reason (such as the person's inability to pay for any emergency service or care) unless certain conditions are met, including that the person has been provided with emergency services so that it can be determined, within reasonable medical probability, that the transfer will not create a medical hazard to the person. [HSC §1317.2]

7) Establishes the Lanterman-Petris-Short (LPS) Act and declares the intent of the Legislature to end the inappropriate, indefinite, and involuntary commitment of persons with mental health disorders, developmental disabilities, and chronic alcoholism, as well as to safeguard a person's rights, provide prompt evaluation and treatment, and provide services in the least restrictive setting appropriate to the needs of each person. [WIC §5000, et seq.]

8) Authorizes, under Section 5150 of the Welfare and Institutions Code, a peace officer, member of the attending staff of a "designated facility," as defined, member of the attending staff of a designated facility, or other professional person designated by the county, upon probable cause, to take a person with a mental disorder who is a danger to self or others, or is gravely disabled, into custody (a "5150" hold) and place in a designated facility. [WIC §5150]

9) Defines "designated facility" or "facility designated by the county for evaluation and treatment" as a facility that is licensed or certified as a mental health treatment facility or a hospital, as defined, and includes, but is not limited to, a licensed psychiatric hospital, a licensed psychiatric health facility, and a certified crisis stabilization unit. [WIC §5008]

This bill:

1) Revises state EMTALA to require a psychiatric unit within a general acute care hospital, a psychiatric health facility (PHF), as defined, and an APH, to provide emergency services and care to treat a person with a psychiatric emergency medical condition, as defined, who has been accepted by the facility consistent with provisions of state EMTALA that define emergency care for psychiatric emergency medical conditions to include admission or transfer to psychiatric units in other health facilities, regardless of whether the facility operates an ED, if all of the following requirements are met:

    a) The treating physician at the sending facility has determined that the patient is medically stable and appropriate for treatment in a psychiatric setting and has included that determination in the patient's medical record;
    b) The facility has an available bed; and,
    c) The facility has appropriate facilities and qualified personnel available to provide the services.

2) Exempts state hospitals from this requirement.

**Comments**

1) *Author's statement.* According to the author, this bill was introduced to help individuals in a mental illness crisis obtain access to appropriate care. Like many others, individuals in a mental health crisis may seek care at the nearest ED. After an evaluation by an ED physician some individuals need additional psychiatric services and require a transfer by ambulance to a psychiatric hospital. However, emergency physicians have experienced trouble trying to transfer patients to private psychiatric facilities that do not maintain an ED. It's been reported that some facilities will not accept a Medi-Cal or uninsured patient. There have also been instances of facilities not accepting a patient because the patient is not on a 5150 hold, when the patient needs more intense psychiatric services the ED cannot provide. This bill specifies an APH, regardless of whether it maintains an ED, is required to provide emergency services to relieve or eliminate a psychiatric emergency medical condition.

2) *APHs, psychiatric health facilities, and crisis stabilization units.* Generally speaking, inpatient beds for acute psychiatric patients are either provided in a distinct behavioral health unit of a general acute care hospital, in a freestanding APH, or in a PHF. All of these can be, and most are, designated LPS facilities. There are 33 licensed APHs in California, and 29 PHFs. APHs are licensed by CDPH, and are required to provide medical, nursing, rehabilitative, pharmacy and dietary services, in addition to psychiatric services. PHFs are licensed by DHCS, and while not a hospital, are licensed to provide inpatient acute psychiatric care similar to a psychiatric hospital. However, the requirements for PHFs are not the same as those for APHs. For example, PHFs are not required to provide general medical services. While a PHF is required to have a physician be on-call at all times, a patient can only be admitted to a PHF if the individual's physical health care could otherwise be managed on an outpatient basis. An APH, on the other hand, is required to provide a medical service as part of their basic services, which must include a general medicine component. The general medicine component is required to provide all incidental medical services necessary for the care and support of patients, including general medicine and surgery. PHFs historically are county-run, or under contract by counties, to provide inpatient care to Medi-Cal beneficiaries through a county mental health plan.

   In addition to inpatient facilities, counties can designate certain outpatient facilities under the LPS Act, such as crisis stabilization units. A crisis stabilization unit is generally open 24 hours a day, seven days a week, and

provides up to 23 hours of psychiatric urgent care intended to stabilize a patient suffering from psychiatric distress, with the goal of stabilizing the patient and avoiding the need for inpatient care.

3) *EMTALA.* EMTALA was passed to address the problem of hospitals refusing to treat indigent, uninsured, or Medicaid patients, or "dumping" these patients by transferring them to county hospitals or other charity hospitals. Federal EMTALA obligates Medicare-participating hospitals that offer emergency services to provide a medical screening and treatment for an emergency medical condition, including active labor, regardless of an individual's ability to pay. State EMTALA imposes its obligation on any hospital that operates an ED, and has similar requirements to federal EMTALA. Hospitals are required to provide stabilizing treatment for patients with an emergency medical condition. A patient is "stabilized" when the patient's medical condition is such that, within reasonable medical probability, no material deterioration of the patient's condition is likely to result from the release or transfer of the patient. If a hospital is unable to stabilize a patient within its capability, then a patient is required to be transferred to an appropriate facility with the necessary specialized treatment services. Once a patient is stabilized, if the patient needs post-stabilization care, the hospital will typically seek more information about the medical history of the patient, including whether the patient has insurance.

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

**SUPPORT:** (Verified 6/22/21)

California Chapter of the American College of Emergency Physicians (source)
Association of Regional Center Agencies
California Medical Association
Depression and Bipolar Support Alliance
National Alliance on Mental Illness, California
Steinberg Institute
Tenet Healthcare Corporation

**OPPOSITION:** (Verified 6/22/21)

California State Association of Counties
County Behavioral Health Directors Association of California
County of Sacramento
County of Stanislaus

**ARGUMENTS IN SUPPORT:** This bill is sponsored by the California Chapter of the American College of Emergency Physicians (California ACEP), which states that this bill improves patient access to psychiatric transfers. According to California ACEP, when people with mental illnesses are in a crisis, they seek care in the same way patients with other urgent health conditions do, by going to the nearest ED. After an evaluation by an emergency physician, some patients need additional psychiatric services and require transfer by ambulance to a psychiatric hospital to receive a higher level of mental health care. However, California ACEP states that emergency physicians report that psychiatric hospitals routinely ask for the insurance status of a patient before determining whether to accept a transfer, despite the fact this violates the spirit, if not the letter, of current law. California ACEP states that psychiatric beds should be available to all patients facing an emergency medical condition, regardless of their ability to pay. The Steinberg Institute supports this bill for similar reasons. Tenet Healthcare Corporation states in support that a patient presenting with a mental health crisis needs mental health intervention and stabilization and in most cases, EDs are no the appropriate environment for that care. Moreover, most hospitals are non-designated and do not have the staff and specialized services to treat a psychiatric patient. Tenet states that more admissions should be occurring directly to psychiatric facilities without undue delays, and that this bill requires a psychiatric unit of a general acute care hospital, a PHF, and an APH to comply with existing law requiring emergency services to be provided regardless of a patient's ability to pay in order to treat a psychiatric emergency medical condition.

**ARGUMENTS IN OPPOSITION:** The County Behavioral Health Directors Association of California (CBHDA) opposes this bill based on the inclusion of PHFs. According to CBHDA, APHs and GACHs across California are already subject to EMTALA requirements to provide emergency care to individuals if they participate in Medicare. CBHDA states that PHFs serve primarily Medi-Cal and county-funded consumers, and that 29 of the 33 PHFs statewide have 16 or fewer beds. APHs are typically in excess of 60 beds and general do not serve adults who are Medi-Cal eligible due to the federal IMD exclusion of Medi-Cal reimbursement for facilities over 16 beds. CBHDA states that with the IMD exclusion, it is exceedingly difficult to maintain facilities without the ability to have economies of scale. Requiring PHFs to treat individuals regardless of insurance status would jeopardize the viability of these PHFs, and have the unintended consequence of reducing access to medically necessary care for individuals served though our public mental health system. CBHDA states this bill will open up PHFs to accept individuals with other types of insurance to be placed in a PHF, displacing Medi-Cal beneficiaries to other facilities over 16 beds. Because of the IMD exclusion, this would mean county behavioral health would

not be able to claim federal financial participation for these individuals, and would have to pay the full cost of care for individuals placed in an IMD. CBHDA states that this bill expands the obligations of county-owned and operated PHFs to provide services to individuals without Medi-Cal, which is not their target population. CBHDA states this is particularly concerning as the Administration is proposing to terminate contracts with counties for LPS conservatees in state hospitals. CBHDA appreciates that the Legislature has rejected the LPS contract discontinuation, but notes that negotiations are ongoing. According to CBHDA, PHFs are not adequate substitutes for the level of care that state hospitals currently provide, but they may offer a limited placement to this population that counties may need to serve in the community.

ASSEMBLY FLOOR: 73-0, 5/10/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Cristina Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Chen, Gallagher, Eduardo Garcia, Gray, Patterson

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
6/23/21 15:12:14

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

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(916) 651-1520 Fax: (916) 327-4478

CONSENT

Bill No: AB 466
Author: Petrie-Norris (D)
Introduced: 2/8/21
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/10/21
AYES: McGuire, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/29/21 (Consent) - See last page for vote

**SUBJECT:** Returns: unclaimed property

**SOURCE:** Author

**DIGEST:** This bill allows the Franchise Tax Board to share information with the State Controller's Office relating to unclaimed property.

**ANALYSIS:**

Existing law:

1) Establishes the Unclaimed Property Law (UPL) that establishes procedures for the escheat of unclaimed personal property held by businesses.

2) Provides, under the UPL, that property that remains unclaimed for a set period of time "escheats" to the state, which means the state gains custody and control over the property in perpetuity until it is claimed by the rightful owner.

3) Assigns various rights and responsibilities to the owners and holders of unclaimed property, as well as to the state.

4) Sets forth procedures in the UPL when property goes unclaimed, generally for a period of three years, and escheats to the state, including requiring the holder

to annually report on unclaimed property and turn the property over to the State Controller's Office (SCO).

5) Requires the SCO to mail a notice to each person who appears to be entitled to unclaimed property according to the report filed by the holder, and publish notice to apparent owners of the property in newspapers of general circulation.

6) Defines the procedure by which a person with an interest in escheated property may file a claim to recover the property from the state.

7) Prohibits the disclosure or inspection of any income tax return information.

8) Sets forth criminal sanctions, including imprisonment, which apply to Franchise Tax Board (FTB) personnel convicted of unlawful disclosure or inspection of tax records. FTB must notify a taxpayer if criminal charges have been filed for willful unauthorized inspection or disclosure of their tax data.

9) Provides explicit exemptions that allow FTB to disclose information to certain entities, including to state agencies, for specified purposes.

10) Allows FTB to also publish aggregate statistical data related to taxpayer information so long as it cannot be used to identify a taxpayer.

11) Allows FTB to disclose specific taxpayer information to the SCO in order to locate owners of unclaimed property, limited to the taxpayer's name, address, identification number, and principal business activity code.

This bill:

1) Authorizes FTB to provide the SCO with additional information from business entity income tax returns or other business entity records that FTB maintains.

2) Allows the following information to be shared on an annual basis:
   a) The taxpayer's entity status (e.g., good standing, suspended, revoked, etc.) and that date the FTB last updated the taxpayer's entity status.
   b) The taxpayer's "revenue range," which is defined as a range of income amounts determined by FTB.
   c) Whether the taxpayer previously filed an "unclaimed property report" with the SCO and, if applicable, both of the following:
      i) The last date the taxpayer filed a report, and
      ii) The amount remitted on the taxpayer's last report.

**Background**

Over the past 10 years, there has been a decline in the number of unclaimed property reports filed with the SCO. To try to address this decline, in the Budget Act of 2019 (SB 109, Senate Committee on Budget and Fiscal Review, Chapter 363, Statutes of 2019), the Joint Legislative Budget Committee tasked FTB with researching the feasibility of adding questions regarding unclaimed property on tax returns filed by business entities returns. FTB and the SCO worked together to identity the questions to include on the business entity tax return. The questions identified are:

- Has this business entity previously filed an unclaimed property Holder Remit Report with the State Controller's Office? [Yes/No]
- If "Yes," When was the last report filed? _____
- What was the amount last remitted? $_____

However, current law does not allow FTB to share any of the additional information recently added to the business entity tax return as a result of the additional questions.

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

**SUPPORT:** (Verified 6/22/21)

State Controller Betty Yee

**OPPOSITION:** (Verified 6/22/21)

None received

**ARGUMENTS IN SUPPORT:** According to the author, "AB 466 will help connect Californians with their unclaimed property by allowing the Franchise Tax Board to share business tax information with the State Controller's Office (SCO). Due to low reporting under the unclaimed property law, the SCO estimates that businesses could be holding more than $17.6 billion in unclaimed property. This bill aims to help reunite Californians with their unclaimed property."

ASSEMBLY FLOOR: 77-0, 4/29/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Luz Rivas

Prepared by: Jessica Deitchman / GOV. & F. / (916) 651-4119
6/23/21 15:07:57

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

**SENATE RULES COMMITTEE** AB 477
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 477
Author: Blanca Rubio (D)
Amended: 5/26/21 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 4-0, 6/8/21
AYES: Hurtado, Jones, Cortese, Pan
NO VOTE RECORDED: Kamlager

ASSEMBLY FLOOR: 78-0, 4/19/21 (Consent) - See last page for vote

**SUBJECT:** Child abuse multidisciplinary personnel team: children's advocacy centers

**SOURCE:** Child Abuse Listening Interviewing Coordination Center
Child Advocacy Centers of California

**DIGEST:** This bill provides that if a county utilizes a child advocacy center (CAC) to implement their local multidisciplinary response to investigate reports of child abuse or neglect, the CAC may be included in the county child abuse multidisciplinary personnel team (MDT); and allows, in the case of an Indian child, for a representative from a child's tribe to be included in the county's MDT.

**ANALYSIS:**

Existing law:

1) Establishes a state and local system of child welfare services with the intent to provide a statewide system of services where all children are entitled to be safe and free from abuse and neglect. (WIC 16500)

2) States legislative intent that law enforcement agencies and the county welfare or probation department in each county shall develop and implement cooperative arrangements in order to coordinate existing duties in connection

with the investigation of suspected child abuse or neglect cases. (PEN 11166.3(a))

3) Mandates a local law enforcement agency having jurisdiction over a reported child abuse or neglect case to report to the district office of the California Department of Social Services (CDSS) any case reported under this section if the case involves a specified facility and the licensing of facility has not been delegated to a county agency. The law enforcement agency shall send a copy of its investigation report and any other pertinent materials to the licensing agency upon its request. (PEN 11166.3(b))

4) Defines a "multidisciplinary personnel" as any team of three or more persons who are trained in the prevention, identification, management, or treatment of child abuse or neglect cases and who are qualified to provide a broad range of services related to child abuse or neglect and may include, but not be limited to, psychiatrists, police officer, medical personnel, and social workers, among others. (WIC 18951(d))

5) Defines "child abuse or neglect" as physical injury or death inflicted by other than accidental means upon a child by another person, sexual abuse, willful harm or injury, endangerment of the person or health of a child, or unlawful corporal punishment or injury, as specified. (PEN 11165.6)

6) Includes in the definition of "child welfare services" the provision of "emergency response services," which consist of a response system providing an in-person response, 24 hours a day, seven days a week, to reports of abuse, neglect, or exploitation for the purpose of an investigation, and to determine the necessity for providing initial intake services and crisis intervention to maintain the child safely in their home, or to protect the safety of the child, as specified. (WIC 16501(2))

7) Authorizes a county, in order to implement a multidisciplinary response to investigate reports involving child physical or sexual abuse, exploitation, or maltreatment, to use a children's advocacy center that includes representatives from specified disciplines and provides dedicated child-focused settings for interviews and other services. (PEN 11166.4)

8) Mandates the Department of Justice, in cooperation with CDSS, to prescribe by regulation guidelines to investigate child abuse or neglect, as defined, in facilities licensed to care for children. (PEN 11174.1(a))

9) Requires reports of suspected child abuse or neglect to be made by mandated reporters to certain entities, including any police department or sheriff's department, county probation department, or the county welfare department, as specified. (PEN 11165.9)

10) Authorizes members of a MDT engaged in the prevention, identification, and treatment of child abuse to disclose and exchange information and writings to and with one another relating to any incidents of child abuse that may also be part of a juvenile court record or otherwise designated as confidential under state law if the member of the team having that information reasonably believes it is generally relevant to the prevention, identification, or treatment of child abuse. (WIC 830(a))

11) Provides that any county may establish a computerized database system within that county to allow provider agencies to share information, as specified, regarding families at risk for child abuse and neglect, for the purposes of forming an MDT. Requires counties to develop standards for the identification, prevention and management, or treatment of child abuse or neglect and specifies processes for sharing information regarding a child or family. (WIC 18961.5)

This bill:

1) Provides that if a county uses a CAC to implement their local, coordinated multidisciplinary response to investigate reports of child abuse or neglect, the CAC may be included in the child abuse MDT.

2) Allows, in the case of an Indian child, a representative from the child's tribe, including but not limited to a tribal social worker, tribal social services director, or tribal mental health professional, to be included in the MDT.

**Background**

According to the author, "as codified under AB 2741 (Rubio, 2020), Children's Advocacy Centers (CAC's) coordinate with a multidisciplinary team to provide services and protections to abused children. UC Berkeley researchers estimated that child maltreatment cost California over $19 Billion in 2017. In 2018, over 12,000 children were served in California by a CAC according to the National Children's Alliance. The use of CACs to coordinate investigations of child abuse and neglect has been shown to save as much as $1,000 per child in investigation costs. Currently, there are 22 CACs in California fully accredited by the National Children's Alliance (NCA). However, some lawyers - particularly county counsels

- interpret the laws surrounding these multidisciplinary teams to not include CACs which AB 477 would remedy. Ensuring consistent definitions and roles for these services prevents any delay in serving some of California's most vulnerable populations."

*Child Abuse and Neglect Investigations*. Suspicion of child abuse or neglect can be reported to either law enforcement or a county child welfare agency, usually through the Child Protective Services (CPS) hotline. Through the hotline, which is staffed 24-hours, trained social workers are available to receive calls on suspected abuse cases. These reports are often made by mandated reporters who, because of their profession, are legally required to report any suspicion of child abuse or neglect. In California, mandated reporters include: teachers, doctors, social workers, mental health professionals, and child care providers, among others. In addition to mandated reporters, any individual who believes a child may be suffering abuse or neglect can make a report to law enforcement or the county child welfare agency.

Calls received by the CPS hotline are screened by social workers who attempt to determine if the caller is reporting alleged abuse, neglect, or exploitation. Based on the information gathered in the report, CPS determines if the report warrants an in-person visit from a county social worker to investigate the allegations. If an in-person visit substantiates the allegations, the social worker may determine the family is in need of services to ensure the child's well-being and avoid court involvement, or determine it is in the child's best interests to be removed from home. If removal is determined to be in the best interest of the child, the county petitions the court to adjudicate the child as a dependent of the court, which enters the child into the state's foster care system.

In 2020, there were 391,464 reports of possible child abuse or neglect recorded in California. Out of these 391,464 reports, 102,837 were allegations of sexual or physical abuse, 198,626 were allegations of severe or general neglect, and 46,621 were allegations of emotional abuse. The remaining cases fall into the following categories: 548 were reports of exploitation; 3,701 were allegations of caretaker absence or incapacity; and 39,131 were allegations of a child being at risk because a sibling was alleged to be abused or neglected. Additionally, of the 391,464 reports of abuse or neglect, 281,663 of the allegations were investigated and 109,801 were determined to not warrant an investigation. Of the total allegations, 59,971 were substantiated and of those substantiated cases 22,562 children entered foster care. As of October 1, 2020, there were a total of 60,045 youth placed in the state's child welfare system.

*Child Advocacy Centers.* A CAC is a child-focused environment that provides safety and security to children who have been abused or neglected. According to the National Children's Alliance, which is the national association and crediting body for more than 800 CACs serving approximately 335,000 children around the country, under the CAC model a child involved with an investigation is generally asked to relay their story "only once to a trained interviewer who knows what questions to ask." This means that when a child is believed to have been subjected to abuse, maltreatment, or exploitation, instead of potentially having to relay their experience repeatedly to doctors, police, lawyers, therapists, investigators, judges, and others on multiple different occasions, they are only put into this difficult position for one interview. The MDT associated with the CAC, which per the National Children's Alliance model, includes medical professionals, law enforcement, mental health, prosecution, child protective services, victim advocacy, and other professionals, can view the recorded interview and transcripts while working together to make decisions about the child's best interests and needs. Additionally, a CAC is often a much warmer and welcoming environment, as they are designed to be child focused, as opposed to a District Attorney's office, police office, or other location where these interviews and investigations may occur. This model reduces the trauma experienced by a child victim of abuse or neglect while still ensuring all involved parties have access to necessary information.

According to the National Children's Alliance, 21 of the state's 58 counties are serviced by a CAC associated with the Alliance. An additional 31 counties are covered by a CAC or MDT that is not affiliated with the National Children's Alliance. Thus, 52 of California's 58 counties have a CAC or Child Abuse MDT.

In 2020, AB 2741 (Blanca Rubio, Chapter 353, Statutes of 2020) authorized a county to utilize a CAC in order to implement a multidisciplinary response to investigate reports involving child physical or sexual abuse, exploitation, or maltreatment. It also sets forth specified standards and requirements that a CAC must meet in order for the county to utilize their services, including the requirement of certain members being included in the associated MDT, training requirements for these members, the designation of a legal entity responsible for the governance of the CAC's operations, and the provision of a child-focused setting designed to provide a safe, comfortable, and neutral place for interviews.

*Child Abuse Multidisciplinary Personnel Teams*. MDTs have been authorized in California to allow for a coordinated interagency response to elder and child abuse cases since the passage of AB 1049 (Bader, Chapter 353, Statutes of 1987). MDTs are formed and operated at the county level and afford their members with the

ability to share confidential information among team members for the purposes of preventing, identifying, or treating child or elder abuse. MDTs are seen as an effective tool for conducting a timely and objective investigation, with the added benefit of facilitating coordination among the different agencies and entities participating on the team, enabling decisions to be made through team decision-making.

For the purposes of child abuse MDTs, current law defines a "provider agency" as meaning a governmental or other agency that has as one of its purposes the prevention, identification, management, or treatment of child abuse or neglect and includes, but is not limited to, the following entities or service agencies: social services; children's services; health services; mental health services; probation; law enforcement; and schools. Additionally, existing law provides for these teams to be made up of two or more persons who are trained in the prevention, identification, or treatment of child abuse and neglect cases and who are qualified for provide a broad range of services related to child abuse. Child abuse MDTs may include: marriage and family therapists clinical social workers, or other trained counseling personnel; police officers or other law enforcement agents; social services workers with experience or training in child abuse prevention; among others.

This bill specifies that counties utilizing CACs to implement a coordinated multidisciplinary response to child abuse, may include the CAC in a county child abuse MDT.

*Indian Child Welfare Act (ICWA)*. In the 1970s, a multiyear Congressional investigation found that Indian children were being removed from their homes at significantly high rates, and that such removal was often unwarranted. This research found that 25 to 35 percent of all Indian children were being removed from their families and that of those removed 85 percent were placed outside their families in non-Indian foster homes. This investigation found that four main factors were contributing to the high rate of removal and unnecessary termination of parental rights: state child welfare standards for assessing Indian families lacked cultural competence; due-process violations against Indian children and their parents that existed on a system-wide basis; economic incentives that favored the removal of Indian children from their families and communities; and, social conditions existing in Indian country.

In response to this investigation, ICWA was enacted by Congress in 1978 to address states "often fail[ing] to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families," and the resulting unwarranted removal of Indian children. Congress's

goal through the enactment of ICWA was to "protect the best interests of Indian children and to promote the stability and security of Indian tribes and families."[1] In an effort to meet this goal, ICWA established minimum federal standards for state courts to meet any time an Indian child is removed from their family or custodial home and placed in foster care or adoptive homes. This results in a presumption that it is in the best interest of the Indian child to retain tribal ties.

ICWA authorized states to establish higher standards that go above the federal baseline. In 2006, California adopted a state-level implementation of ICWA through the passage of SB 678 (Ducheny, Chapter 838, Statutes of 2006). SB 687 established Cal-ICWA, revising and recasting portions of state code that address Indian child custody proceedings and codifying into state law various provisions of ICWA, the Bureau of Indian Affairs Guidelines for State courts, and state Rules of Court. As a result, in any child custody proceeding in which the court knows or has reason to know that an Indian child is involved, the child's tribe must be notified of the proceeding and of their right to intervene in the proceeding.

This bill allows a representative from the child's tribe, such as a tribal social worker, tribal social services director, or tribal mental health professional, to be part of a county's child abuse MDT in the case of an Indian child.

**Related/Prior Legislation**

AB 2741 (Blanca Rubio, Chapter 353, Statutes of 2020) authorized counties to create CACs to implement a coordinated, multidisciplinary approach to investigating reports of child abuse.

AB 1221 (Cooley, 2019) would have authorized counties to utilize a CAC in order to implement a coordinated, multidisplinary response to child abuse and set certain standards and requirements, as provided. The bill was vetoed by the Governor for providing overly broad immunity from civil and criminal liability for persons providing services to children and non-offending family members.

SB 1352 (Corbett, 2012) would have authorized each county to establish a CAC and interagency protocol agreements. SB 1352 was vetoed by the Governor.

AB 1049 (Bader, Chapter 353, Statutes of 1987) authorized the use of MDTs for both child and elder abuse.

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

[1] See *25 U.S.C. 1902*

**SUPPORT:** (Verified 6/9/21)

Child Abuse Listening Interviewing Coordination Center (co-source)
Child Advocacy Centers of California (co-source)
Peace Officers Research Association of California
San Mateo County Board of Supervisors

**OPPOSITION:** (Verified 6/9/21)

None received

ASSEMBLY FLOOR: 78-0, 4/19/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Mayes

Prepared by: Marisa Shea / HUMAN S. / (916) 651-1524
6/9/21 14:03:04

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

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THIRD READING

Bill No: AB 482
Author: Ward (D)
Amended: 3/17/21 in Assembly
Vote: 21

SENATE HOUSING COMMITTEE: 7-0, 6/17/21
AYES: Wiener, Bates, Caballero, McGuire, Ochoa Bogh, Umberg, Wieckowski
NO VOTE RECORDED: Cortese, Skinner

ASSEMBLY FLOOR: 74-0, 3/25/21 (Consent) - See last page for vote

**SUBJECT:** Housing authorities: City of San Diego, County of San Bernardino, and County of Santa Clara: middle-income housing projects pilot program

**SOURCE:** City of San Diego

**DIGEST:** This bill extends the sunset, from January 1, 2022 to January 1, 2026, for the City of San Diego, and the Counties of San Bernardino and Santa Clara, to implement a pilot program to develop and finance middle-housing projects.

**ANALYSIS:**

Existing law:

1) Authorizes a housing authority in San Diego, San Bernardino County, or Santa Clara County to implement a pilot program to develop and finance middle housing projects by allowing gap financing provided this funding is not used for units occupied at or above market rate, and funds must be approved by the housing authority's legislative body by resolution at a public hearing.

2) Requires a housing authority using the middle-income pilot program to report to Legislature on or before January 1, 2020, and on or before January 1, 2022:

   a) The number of units produced using gap financing;

b) The amount of gap financing per regulated unit;

c) The levels of affordability of those units produced using gap financing; and

d) The term of affordability for those units produced using gap financing.

3) Defines the following terms for the purpose of the middle-income pilot program:

a) "Middle-income housing project" means a housing project that includes at least 40% of units that are affordable to and will be occupied by persons of low-income, as well as at least 10% of units that are affordable to and will be occupied by persons and families of middle-income;

b) "Persons of low-income" means persons and families whose income does not exceed 80% of Area Median Income (AMI);

c) "Persons and families of middle income" means persons and families whose income does not exceed 150% AMI; and

d) "Gap financing" means a loan from a housing authority to fund the remaining cost of development after other funds have been secured.

4) Sunsets the pilot program on January 1, 2022.

This bill extends the sunset to January 1, 2026, and requires the eligible jurisdictions to provide a report to the legislature every two years starting on January 1, 2022.

**Comments**

1) *Housing authorities generally*. Housing authorities are public entities that administer various federal, state, and local programs in a defined geographic region – often for a particular city or county. In the 1930s, the federal government authorized the creation of housing authorities to develop and manage public housing and carry out urban renewal initiatives. Housing authorities are responsible for administering the federal Housing Choice Voucher Program, formerly known as "Section 8 Vouchers."

Additionally, California housing authorities can issue tax-exempt revenue bonds to finance the acquisition, construction, rehabilitation, refinancing, or development of multi-family rental housing. The amount of state tax-exempt bonds that can be issued in the state is capped and projects built with these bonds are required to designate at least 20% of the units for households at 50%

or less AMI. The remaining units could be of any income, including market rate. Housing authorities are prohibited from lending on any portion of a rental housing development with affordability levels of more than 80% AMI. However, housing authorities can accept financial or other assistance from any public or private source and spend those funds for the purpose and activities allowed under state law.

2) *Middle-Income Housing Projects Pilot*. In 2017, the Legislature passed and the Governor signed into law AB 1637 (Gloria, Chapter 801, Statutes of 2017), which created the middle-income pilot program. Under this program, certain local housing authorities are authorized to provide gap financing to develop housing projects in which at least 40% of the units are reserved for low-income individuals and a minimum of 10% are available to middle-income households. Presently, only the City of San Diego and the counties of San Bernardino and Santa Clara are authorized to use this program.

   To build units for middle-income households, a housing authority may use funds from any unrestricted public or private source to finance the remaining units for middle-income households (up to 150% of AMI). This is referred to as "gap financing." The pilot program requires use of such financing by a housing authority to first be approved by the authority's legislative body following a public hearing.

   To date, the Senate Housing Committee is aware of one project that the City of San Diego's housing authority is engaged in which uses the middle-income pilot program. Once completed, it will provide 36 units for lower income households, of which 12 will be set-aside for persons experiencing homelessness; four units will be affordable to moderate-income households; and five units will be affordable to above moderate-income households.

   This bill extends the authority to finance middle-income projects for another four years, to January 1, 2026. It also extends the requirement for eligible jurisdictions to submit reports to the Legislature every two years, beginning on January 1, 2022.

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

**SUPPORT:** (Verified 6/21/21)

City of San Diego (source)
City of San Bernardino
Silicon Valley @ Home

Southern California Rental Housing Association

**OPPOSITION:** (Verified 6/21/21)

State Building and Construction Trades of California

**ARGUMENTS IN SUPPORT:** According to the author, ""The State's housing crisis affects Californians at all income levels. There is a lack of adequate sources of financing available to encourage developers to develop, construct and operate a sufficient number of mixed-income projects to provide for the continuum of housing at various income levels. This measure promotes housing investments available to multiple levels of the income strata at no cost to the State. The Hillcrest project in San Diego was a success because of the provisions of AB 1637, but additional time is needed to fully study the value of the statute. Extending the sunset on this important measure will enable the pilot program to continue an additional four years."

**ARGUMENTS IN OPPOSITION:** The State Building and Construction Trades are opposed because "the bill does not require AB 482-funded projects to pay construction workers at least the prevailing wage and to utilize a skilled-and-trained workforce to prevent developers from exploiting workers."

ASSEMBLY FLOOR: 74-0, 3/25/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Wicks, Wood, Rendon
NO VOTE RECORDED: Fong, Mullin, Nguyen, Quirk

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
6/23/21 15:12:11

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

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(916) 651-1520 Fax: (916) 327-4478

CONSENT

Bill No: AB 504
Author: McCarty (D)
Introduced: 2/9/21
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 7-0, 6/14/21
AYES: Allen, Bates, Dahle, Gonzalez, Skinner, Stern, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/22/21 (Consent) - See last page for vote

**SUBJECT:** Solid waste: commercial and organic waste: recycling bins

**SOURCE:** California Attractions and Parks Association

**DIGEST:** This bill clarifies the requirements for recycling bins and organic bins in restaurants that are buffet style or self-service and in entertainment park food facilities.

**ANALYSIS:**

Existing law, under the Integrated Waste Management Act (IWMA):

1) Establishes a state recycling goal of 75% of solid waste generated by diverting from landfill disposal by 2020 through source reduction, recycling, and composting. (Public Resources Code (PRC) § 41780.01)

2) Requires each local jurisdiction to divert 50% of solid waste from landfill disposal through source reduction, recycling, and composting. (PRC §41780)

3) Establishes methane emission reduction goals that include targets to reduce the landfill disposal of organic waste by 50% by 2020 and 75% by 2025 from the 2014 level to reduce greenhouse gas (GHG) emissions. Requires the Department of Resources Recycling and Recovery (CalRecycle), in consultation with the Air Resources Board (ARB), to adopt regulations to

achieve the organics reduction targets, which go into effect in 2022. (Health & Safety Code §39730.6, PRC §42652.5)

4) Requires commercial waste generators, including multi-family dwellings, to arrange for recycling services and requires local governments to implement a commercial solid waste recycling program designed to divert commercial solid waste from those businesses. (PRC §§42649.2, 42649.3)

5) Requires organic waste generators (food and yard waste) to arrange for recycling services for that material and requires local governments to implement organic waste recycling programs designed to divert organic waste from those businesses. (PRC §§42649.81, 42649.82)

6) Requires commercial waste generators that provide customers access to the business to provide customers with a commercial solid waste recycling bin or an organic waste recycling bin to collect material purchased on the premises. (PRC §§ 42649.2, 42649.81)

7) Exempts from these solid waste recycling bin and organic waste recycling bin requirements full-service restaurants if the restaurant provides its employees with a bin to collect the material and implements a recycling program for commercial solid waste and organic waste, respectively. (PRC §§42649.2, 42649.81)

8) Defines a "full service restaurant" as an establishment with the primary business purpose of serving food, where food may be consumed on the premises, and, among other actions, the food and beverage orders are delivered directly to the consumer and any requested items associated with the consumer's food or beverage order are brought to the consumer. (PRC §42649.1)

This bill:

1) Includes within the definition of "full-service restaurant" establishments that are buffet style or self-service if they meet the other criteria.

2) Provides that the recycling bin or container for commercial solid waste that is provided by a business to its customers can be in the same area as, instead of requiring that it be adjacent to, the trash bin.

3) Applies, in a theme park, amusement park, water park, resort or entertainment complex, zoo, attraction or similar facility, the required commercial solid waste recycling bin and organic waste recycling bin to permanent, nonmobile food

service facilities with dedicated seating areas that are not full-service restaurants.

a) Authorizes theme parks, amusement parks, water parks, resorts or entertainment complexes, zoos, attractions, or similar facilities, instead of providing an organic waste recycling bin, to implement a process for recycling organic waste from customers that yields results comparable to or greater in volume and quality to results attained by providing an organic waste recycling bin.

**Background**

*Waste management in California.* For three decades, CalRecycle has been tasked with reducing disposal of municipal solid waste and promoting recycling in California through IWMA. Under IWMA, the state has established a statewide 75 percent source reduction, recycling, and composting goal by 2020 and over the years the Legislature has enacted various laws relating to increasing the amount of waste that is diverted from landfills.

According to CalRecycle's *State of Disposal and Recycling Report for 2019* report, published in February 2021, California's 2019 statewide recycling rate was 37%. Approximately 77.5 million tons of material was generated in 2019; with about 55% sent to landfills; 19% exported as recyclables; 12% composted, anaerobically digested or mulched; and 6% either recycled or source reduced.

The amount of material sent to landfills has been steadily increasing over the years, with an estimated 43 million tons of waste disposed of in California's landfills in 2019. Organic materials accounts for more than a third of California's waste stream and GHG emissions caused by the decomposition of organic material in landfills contribute to global climate change. According to CalRecycle's website, methane emissions resulting from the decomposition of organic waste in landfills are a significant source of GHG emissions, contributing to global climate change, with organic waste in landfills emitting 20% of the state's methane. Food continues to be the highest single item disposed at approximately 18% of materials landfilled. Leaves, grass, prunings, and trimmings represent just under 7% of the total waste stream.

Local governments have been required to divert 50% of the waste generated within the jurisdiction from landfill disposal since 2000. AB 341 (Chesbro, Chapter 476, Statutes of 2011) required commercial waste generators, including multi-family dwellings, to arrange for recycling services for the material they generate and required local governments to implement commercial solid waste recycling

programs designed to divert solid waste generated by businesses out of the landfill. AB 1826 (Chesbro, Chapter 727, Statutes of 2014) required generators of organic waste (i.e., food waste and yard waste) to arrange for recycling services for that material to keep it out of the landfill.

SB 1383 (Lara, Chapter 395, Statutes of 2016) required ARB to approve and implement a comprehensive short-lived climate pollutant strategy to achieve, from 2013 levels, a 40% reduction in methane, a 40% reduction in hydrofluorocarbon gases, and a 50% reduction in anthropogenic black carbon, by 2030. In order to accomplish these goals, the bill specified that the methane emission reduction goals include targets to reduce the landfill disposal of organic waste 50% by 2020 and 75% by 2025 from the 2014 level.

AB 827 (McCarty, Chapter 441, Statutes of 2019) required commercial waste generators and organic waste generators that provide their customers with access to the business to provide the customers with a commercial solid waste recycling bin or an organic waste recycling bin to collect materials purchased on the premises. AB 827 excluded from these requirements full-service restaurants that provide their employees with a bin to collect the material and that implement a recycling program.

**Comments**

*Purpose of Bill.* According to the author, "This bill complements our 2019 Green Restaurants bill, which will help California reach its ambitious climate goals by having restaurants and other food service facilities provide bins for recyclables and compostable waste. This bill is a simple clarification measure to ensure compliance for amusement parks' mobile food areas."

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

**SUPPORT:** (Verified 6/22/21)

California Attractions and Parks Association (source)
California Travel Association
Californians Against Waste
Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force

**OPPOSITION:** (Verified 6/22/21)

None received

ASSEMBLY FLOOR: 77-0, 4/22/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Holden, Reyes

Prepared by: Genevieve M. Wong / E.Q. / (916) 651-4108
6/23/21 15:05:38

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

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CONSENT

Bill No: AB 532
Author: Wood (D)
Amended: 5/27/21 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 10-0, 6/10/21
AYES: Pan, Eggman, Gonzalez, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/22/21 (Consent) - See last page for vote

**SUBJECT:** Health care: fair billing policies

**SOURCE:** Author

**DIGEST:** This bill creates additional disclosure requirements on hospitals related to written notices about the availability of discounted payment and charity care policies for uninsured patients and patients with high medical costs, such as, including the internet address of an organization that will help patients understand billing and payment processes, specifying the timing of disclosures, and posting of notices in observation units.

**ANALYSIS:**

Existing law:

1) Establishes the Office of Statewide Health Planning and Development (OSHPD) in the California Health and Human Services Agency. [HSC § 127000, et seq.]

2) Establishes the Payers Bill of Rights, which requires most hospitals to list charge description masters on their internet websites and file them with

OSHPD, prohibits contracts with health insurers and health plans from waiving this requirement, requires hospitals to file the average charges associated with the 25 most common inpatient and outpatient services, and permits hospitals to be subject to civil penalties for violation. [HSC §1339.50, et seq.]

3) Requires a hospital, upon request, to provide a person without health coverage a written estimate of the amount the hospital will require the person to pay for the health care services, procedures, and supplies that are reasonably expected to be provided by the hospital, based upon an average length of stay and services associated with the diagnosis, and information about the hospital's financial assistance and charity care policies. Requires, if requested, a hospital to also provide the person with an application form for financial assistance or charity care. Excludes emergency services. [HSC §1339.585]

4) Requires each hospital as part of licensure to maintain understandable written policies on discounted payments and charity care for uninsured patients or patients with high medical costs who have income up to 350% of the federal poverty level (approximately $45,000 for a single person). [HSC §127405]

5) Requires each hospital to provide patients with a written notice about the availability of the hospital's discount payment and charity care policies, including information about eligibility, contact information for a hospital employee or office, an estimate as described in 3) above, including to patients who receive emergency or outpatient care and who may be billed for that care, but who were not admitted. Requires the notice to be in English and languages other than English, and written correspondence to be in the language spoken by the patient, as specified. [HSC §127410]

6) Requires notice of the hospital's policy for financially qualified and self-pay patients to be clearly and conspicuously posted in locations that are visible to the public, including, but not limited to, all of the following:

   a) Emergency department, if any;
   b) Billing office;
   c) Admissions office; and,
   d) Other outpatient settings. [HSC §127410]

This bill:

1) Requires hospitals to provide an application for financial assistance or charity care, not only upon request.

2) Requires the discount payment and charity care policies notice to also include the internet address for the Health Consumer Alliance (HCA - https://healthconsumer.org), and explain that there are organizations that will help the patient understand the billing and payment process, as well as information regarding Covered California and Medi-Cal presumptive eligibility, if the hospital participates in the presumptive eligibility program. Requires the notice to also include the internet address for the hospital's list of shoppable services, pursuant to the federal Hospital Price Transparency Rule.

3) Requires the written notice to be provided at the time of service if the patient is conscious and able to receive the written notice at that time. Requires, if the patient is not able to receive notice at the time of service, the notice to be provided during the discharge process. Requires, if the patient is not admitted, the written notice to be provided when the patient leaves the facility. Requires, if the patient leaves the facility without receiving the written notice, the hospital to mail the notice to the patient within 72 hours of providing services.

4) Requires the notice of the hospital's policy for financially qualified and self-pay patients to be clearly and conspicuously posted in observation units.

**Comments**

*Author's statement.* According to the author, while current law requires hospitals to provide uninsured patients with cost estimates and to notify patients without health coverage regarding charity care and discount payment policies, the patient must ask for this information, and many people have no idea that charity care or discounted payments are available. The author notes that existing law also lacks specificity on when and how patients receive this information, and many do not receive it at all. The author concludes that this bill provides for more timely notice and specific information to be provided to hospital patients who are uninsured and in need of financial assistance.

*Hospital Price Transparency Rule.* In November of 2019, the Centers for Medicare and Medicaid Services (CMS), finalized Section 180 of Title 45 of the Code of Federal Regulations, also known as the Hospital Price Transparency Rule, which took effect on January 1, 2021. Under the rule, hospitals operating in the United States are required to provide clear, accessible pricing information online about the items and services they

provide as a comprehensive machine-readable file, and, display shoppable services in a consumer-friendly format. Shoppable services are services that are scheduled in advance by the patient.

According to the final rule summary these actions are necessary to promote price transparency in health care and public access to hospital standard charges. By disclosing hospital standard charges, CMS believes the public (including patients, employers, clinicians, and other third parties) will have the information necessary to make more informed decisions about their care. CMS indicates these final policies will help to increase market competition, and ultimately drive down the cost of health care services, making them more affordable for all patients.

The final rule creates: (1) A definition of "hospital"; (2) definitions for five types of "standard charges" (specifically, gross charges and payer-specific negotiated charges, as proposed, plus the discounted cash price, the de-identified minimum negotiated charge, and the de-identified maximum negotiated charge) that hospitals would be required to make public; (3) a definition of hospital "items and services" that would include all items and services (both individual and packaged) provided by the hospital to a patient in connection with an inpatient admission or an outpatient department visit; (4) a requirement that deems federally owned/operated facilities to have met all requirements; (5) requirements for making public a machine-readable file that contains a hospital's gross charges and payer-specific negotiated charges, as proposed, plus discounted cash prices, the de-identified minimum negotiated charge, and the de-identified maximum negotiated charge for all items and services provided by the hospital; (6) requirements for making public payer-specific negotiated charges, as proposed, plus discounted cash prices, the de-identified minimum negotiated charge, and the de-identified maximum negotiated charge, for 300 "shoppable" services that are displayed and packaged in a consumer-friendly manner, plus a policy to deem hospitals that offer internet-based price estimator tools as having met this requirement; (7) monitoring hospital noncompliance with requirements for publicly disclosing standard charges; (8) actions that would address hospital noncompliance, which include issuing a written warning notice, requesting a corrective action plan (CAP), and imposing civil monetary penalties (CMPs) on noncompliant hospitals and publicizing these penalties on a CMS website; and, (9) appeals of CMPs.

**Related/Prior Legislation**

AB 204 (Wood, Chapter 535, Statutes of 2019) revised not-for-profit hospital community benefit reporting requirements by: (a) adding a definition of charity care; (b) requiring small and rural hospitals to comply with the law if they are part of a hospital system; (c)

requiring hospitals to report charity care at cost (as reported to OSHPD) and provide an explanation in their community benefit report of how they calculated the cost of charity care; and, (d) requiring OSHPD to annually prepare a report on the amount each hospital spent on community benefits, including the amount attributable to charity care.

SB 1276 (Hernandez, Chapter 758, Statutes of 2014) revised hospital charity care programs by making individuals who meet the income requirements eligible, even if they have received a discounted rate from the hospital as a result of third-party coverage. Defined "reasonable payment formula," for purposes of these charity care programs, as monthly payments that do not exceed 10% of a patient's family income.

AB 774 (Chan, Chapter 755, Statutes of 2006) required hospitals to maintain an understandable written policy regarding discounted payments and charity care to financially qualified patients, defined as a self-pay patient with high medical costs who has a family income that does not exceed 350% of the federal poverty level.

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

**SUPPORT:** (Verified 6/22/21)

California Chronic Care Coalition
California Dental Association
California Pan-Ethnic Health Network
Health Access California
National Association of Social Workers, California Chapter
Service Employees International Union of California
Western Center on Law & Poverty, Inc.

**OPPOSITION:** (Verified 6/22/21)

None received

**ARGUMENTS IN SUPPORT:** Western Center on Law and Poverty writes that they are a member of the HCA and provide technical assistance and support to the local legal services programs that make up the HCA, which provides free consumer assistance to Californians who struggle to get or maintain health coverage or access health care services. According to Western Center on Law and Poverty there is an increase in hospital debt, including individuals who were not screened for Medi-Cal or the hospital's own financial assistance policy. Given the rise in unemployment due to the COVID-19 pandemic, many consumers also lost their health care coverage and are unaware of the options available to them. At the

same time some hospitals felt financial strain in the early days of the pandemic as health care services not related to COVID-19 were all but closed down. However, billing patients without notifying them of their options will not resolve the underlying financial strain for either the hospitals or their patients. The sooner patients can understand their rights and find a consumer assistance organization, the quicker these organizations can help them navigate the health care system, both to resolve the underlying hospital bill the and to get them into health care coverage for future health care needs. The California Dental Association writes that this bill is a simple and common-sense solution to help educate patients about their health care options and link them to existing resources to help navigate the health care system; and it is reasonable to undertake this education effort targeted at uninsured individuals who are already walking in the doors of the health care system in need of care. Health Access California writes that this is a common-sense approach to protecting consumer's rights.

ASSEMBLY FLOOR: 77-0, 4/22/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Holden, Reyes

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
6/23/21 15:12:15

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 569
Author: Grayson (D)
Introduced: 2/11/21
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 12-0, 6/7/21
AYES: Roth, Archuleta, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Melendez, Bates

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/22/21 (Consent) - See last page for vote

**SUBJECT:** Contractors: civil penalties: letters of admonishment

**SOURCE:** Contractors State License Board

**DIGEST:** This bill increases the maximum civil penalty amounts that can be assessed by the Contractors State License Board (CSLB) against a licensed contractor for violations of the Contractors State License Law (License law), and authorizes the CSLB to issue a Letter of Admonishment (LOA) in lieu of a citation for multiple violations at a time.

**ANALYSIS:**

Existing law:

1) Establishes the CSLB to enforce and administer the License Law. (Business and Professions Code (BPC) § 7000 *et seq*.)

2) Requires the Registrar to issue a citation to a person whom, upon inspection or investigation, either upon complaint or otherwise, the Registrar has probable cause to believe is acting in the capacity of or engaging in the business of a contractor or salesperson within this state without having a license or

registration in good standing and is not otherwise exempted from the law. (BPC § 7028.7(a))

3) Permits the Registrar, if upon investigation, has probable cause to believe that a licensee, or an applicant for a license has committed any acts or omissions, which are grounds for denial, revocation, or suspension, may issue a citation, as specified. (BPC § 7099)

4) Requires the CSLB to promulgate regulations covering the assessment of civil penalties that give due consideration to the appropriateness of the penalty, as specified. (BPC § 7099.2(a)):

5) Prohibits a civil penalty from being assessed in amount greater than either $5,000 or $8,000 depending on the violation, as specified. (BPC §7099.2(b))

6) Permits the Registrar to issue a LOA in lieu of issuing a citation, as specified, except when any one of the following factors are present (BPC § 7099.9(a)(g)):

   a) The licensee, registrant, or applicant was unlicensed at the time of the violation;

   b) Multiple violations have been established;

   c) The violation resulted in financial harm to another;

   d) The victim is an elder or dependent adult, as specified; or,

   e) The violation is related to the repair of damage caused by a natural disaster.

This bill:

1) Increases the maximum civil penalty for certain violations for the License Law from $5,000, to $8,000 and increases the maximum civil penalty from $15,000 to $30,000 for violations related to aiding and abetting an unlicensed person, entering into a contract with an unlicensed person, or filing false workers' compensation materials, as specified.

2) Authorizes the CSLB to issue a LOA to a contractor for multiple violations.

**Background**

*Contractors and the CSLB.* The CSLB is responsible for the implementation and enforcement of the license law (the laws and regulations related to the licensure, practice and discipline of the construction industry in California). The CSLB

licenses and regulates approximately 285,000 licensees in 44 licensing classifications and 2 certifications and registers approximately 18,000 Home Improvement Salespersons.

*Civil Penalties.* BPC Section 7099.2 requires the CLSB to promulgate regulations for assessing civil penalties based on the violation of the license law. The current civil penalty limits of $5,000 and $15,000 are set in statute. For the majority of violations, the civil penalties are capped at $5,000; however, more severe violations including aiding and abetting an unlicensed person, entering into a contract with an unlicensed person, or filing false workers' compensation materials, the civil penalties are capped at $15,000. Title 16, California Code of Regulations, Section 884, specifies the amount of civil penalty for each violation of the license law. Currently, there are over 50 different civil penalties and the fines for each violation range between $500 to $15,000 depending on the violation. This bill raises the statutory cap on the amount of the civil penalty that can be assessed, but maintains the current requirement for the CSLB to promulgate regulations to increase any of the penalty amount currently specified through regulations.

*Letter of Admonishment (LOA)*. The LOA, as a form of disciplinary action, is a relatively new tool for the CSLB. SB 486 (Monning, Chapter 308, Statutes of 2017) authorized the CSLB to issue an LOA to an applicant, licensee, or registrant rather than issuing a citation. That bill established parameters for when an LOA would be the appropriate means to discipline a contractor for a violation. Utilization of an LOA recognizes that violations of the license law occurred, and the recipient needs to be reprimanded, but the actions are likely not egregious enough to warrant a more substantial level of discipline. The LOA allows an individual to continue to operate, yet serves as a tool for further public protection, as well as allows employers to know if a licensee has violated the law. However, to ensure that more serious violations would not be simply addressed with the LOA, SB 486 provided certain instances to when a LOA would not be permitted including, if the individual was unlicensed at the time of a violation, multiple violations established at the same time, there was financial harm to another person, the victim was an elder or dependent adult, or the violation occurred while repairing a property from damage caused by a natural disaster.

This bill removes the exception to issuing an LOA if multiple violations have been established. The CSLB noted at a recent Board meeting that the exception to using an LOA for multiple violations has had unintended consequences for field instructors. Often times, an investigation will find that multiple, minor violations has occurred, which individually, would likely result in the issuance of a LOA, but

combined cannot be. Often times, the CSLB notes that an investigator will issue a LOA for one of the violation only, and not the others, thereby removing any notation of a violation on the licensee's file.

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

**SUPPORT:** (Verified 6/22/21)

Contractors State License Board (source)
California Legislative Conference of Plumbing, Heating & Piping Industry
California Pool & Spa Association
California State Association of Electrical Workers
California State Pipe Trade Council
Construction Employers' Association
Flasher Barricade Association
Housing Contractors of California
International Union of Elevator Constructors
National Electrical Contractors Association
National Insurance Crime Bureau
Northern California Allied Trades
Plumbing-Heating-Cooling Contractors Association of California
Pool & Hot Tub Alliance
Southern California Glass Management Association
United Contractors
Wall and Ceiling Alliance
Western Line Constructors Chapter, Inc.
Western States Council of Sheet Metal Workers
Western Wall and Ceiling Contractors Association

**OPPOSITION:** (Verified 6/22/21)

None received

**ARGUMENTS IN SUPPORT:** Supporters note that this bill will help create a deterrence for contractors and individuals who may violate the license law.

ASSEMBLY FLOOR: 77-0, 4/22/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Irwin, Jones-Sawyer, Kalra,

Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Holden, Reyes

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
6/23/21 15:04:02

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

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THIRD READING

Bill No: AB 583
Author: Davies (R) and Chiu (D), et al.
Amended: 5/20/21 in Assembly
Vote: 27 - Urgency

SENATE JUDICIARY COMMITTEE: 10-0, 6/15/21
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Jones, Laird, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Hertzberg

ASSEMBLY FLOOR: 75-0, 5/24/21 - See last page for vote

**SUBJECT:** Remote marriage license issuance and solemnization

**SOURCE:** California Association of Clerks and Election Officials

**DIGEST:** This bill authorizes, until January 1, 2024, county clerks to enable couples to receive a marriage license, and solemnize their marriage, using remote technology, as defined. This bill contains an urgency clause.

**ANALYSIS:**

Existing law:

1) Provides that marriage is a personal relation arising out of a civil contract between two consenting persons. (Fam. Code § 300(a).)[1] Requires a license to be issued and solemnized. (*Id.*) States that the document issued by the county clerk is a marriage license until it is registered with the county recorder, at which time it becomes a marriage certificate. (*Id.* at (b).)

2) Requires that a marriage be licensed, solemnized, and authenticated, and that the authenticated marriage license be returned to the county recorder of the county where the license was issued. (§ 306.)

[1] All further references are to the Family Code unless otherwise indicated.

3) Requires the parties, before entering marriage, to first obtain a marriage license from a county clerk. (§ 350.) The parties must present authentic photo identification to the county clerk, who may examine the applicants on oath and who may request additional documentary proof as to the facts stated. (§ 354(a)-(c).) The license expires 90 days after its issuance. (§ 356.)

4) Requires the applicants to first appear together in person before the county clerk to obtain a marriage license. (§ 359(a).) The issued marriage license must be presented to the person solemnizing the marriage by the parties to be married. (*Id.* at (c).) The person solemnizing the marriage must complete the solemnization sections on the marriage license, and ensure that the license is witnessed. (*Id.* at (d).) Within 10 days of the ceremony, the marriage license must be presented in person, or postmarked, by the person solemnizing the marriage to the county recorder of the county in which the license was issued. (*Id.* at (e), (f).)

5) Provides that no particular form for the ceremony of marriage is required for its solemnization, but does require that the parties declare, in the physical presence of the person solemnizing the marriage and necessary witnesses, that they take each other as spouses. (§ 420(a).) Authorizes members of the Armed Forces stationed overseas to appear for licensure and solemnization by appearance of attorney in fact. (*Id.* at (b).)

6) Provides that before solemnizing a marriage, the person solemnizing the marriage must require the presentation of the marriage license. (§ 421.)

7) Prescribes information that must be included on the certificate of registry of marriage. (§ 422; Health & Saf. Code § 103175.)

8) Provides that if no record of the solemnization of a California marriage is known to exist, the parties may purchase a License and Certificate of Declaration of Marriage from the county clerk in the parties' county of residence one year or more from the date of the marriage. (§ 425.) The license and certificate must be returned to the county record of the county in which the license was issued. (*Id.*)

This bill:

1) Authorizes, until January 1, 2024, a county clerk to issue a marriage license or solemnize or witness a marriage ceremony using remote technology, defined as audio-visual technology provided by a county clerk that allows the couple and others participating in a marriage solemnization to appear together from the same physical location and directly interact with each other and the county clerk.

2) Requires a couple seeking a remote marriage license or solemnization to present, in a manner requested by the county clerk, a copy of a valid government-issued photo identification and any additional documentary proof requested by the county clerk.

3) Requires each member of the couple to be physically located in California when obtaining a marriage license remotely, and physically located in the same location in California when solemnizing their marriage remotely.

4) Provides that the county clerk may require the couple to complete an affidavit affirming their physical presence in California, and that of others participating, in a remote solemnization.

5) Gives the clerk discretion to determine whether the marriage license may be signed electronically or with an original wet signature. A signed, legible copy of the license must be sent to the county clerk by mail or electronic means, as specified by the county clerk. However, if the marriage was solemnized by anyone other than a county clerk, the signature must be a wet signature and the original document must be submitted to the county clerk.

6) Provides that a county clerk may provide guidance relating to marriage license applications, marriage license issuance, and the witnessing or solemnizing of the marriage ceremony within their jurisdiction using remote technology.

7) Contains an urgency clause.

**Comments**

"The state has a vital interest in the institution of marriage and plenary power to fix the conditions under which the marital status may be created or terminated. [Citation.] The regulation of marriage is solely within the province of the

Legislature. [Citation.]" *Estate of DePasse* (2002) 97 Cal.App.4th 92, overruled in part on unrelated grounds by *Ceja v. Rudolph & Sletten, Inc*. (2013) 56 Cal.4th 1113, 1126.) For a marriage to be legally recognized, the parties must first appear together in person before the county clerk to obtain the marriage license. (§ 359(a).) Within 90 days of its issuance, the license must be filled out, solemnized, and witnessed. (§§ 350, 356, 359(c), (d).) Within 10 days of the ceremony, the person who solemnized the marriage must return the license to the county recorder, either in person or by mail. (§ 359(e).) Once registered with the county recorder, the license becomes a marriage certificate. (§ 300(b).)

In response to the COVID-19 pandemic, Governor Newsom issued an Executive Order (EO) that enables adults to obtain a marriage license at the discretion of the county clerk through video-conferencing, provided that both adults are located in California, are present at the same time, and presents identification during the video conference.[2] The license is then issued by email or other electronic means and can be filled out and signed electronically. The EO also provides that marriages may be solemnized through video-conferencing, provided that both parties, the person solemnizing the marriage, and at least one witness can join the live video conference. The EO also applies to confidential marriages, for which witnesses are not required and records are not public. (*See* § 500 et seq.) It does not, however, apply to marriages of minors, which require judicial approval. (§§ 302-304.) The EO will cease to be in effect 60 days after the Governor lifts the state of emergency related to the pandemic.

This bill seeks to extend these provisions statutorily until January 1, 2024. While the bill closely resembles the EO with respect to obtaining a marriage license, it is narrower than the EO when it comes to solemnization. Instead of allowing anyone to conduct a solemnization remotely, this bill only authorizes county clerks to perform remote solemnizations. If the clerk solemnizes the marriage remotely, the license may be transmitted to the clerk by mail or electronic means using an electronic signature. If the solemnization was not performed by the county clerk, the license must be signed in ink with an original wet signature and the original document must be submitted to the county clerk.

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

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[2] Executive Order N-58-20 (Apr. 30, 2020) **https://www.gov.ca.gov/wp-content/uploads/2020/04/4.30.20-EO-N-58-20.pdf** (as of May 20, 2021); *see also Governor Newsom Signs Executive Oder* (Apr. 30, 2020) Office of Governor Gavin Newsom, **https://www.gov.ca.gov/2020/04/30/governor-newsom-signs-executive-order-on-marriages/** (as of May 20, 2021). On June 30, 2020, the Governor extended the remote marriage executive order until the COVID State of Emergency is terminated, or until the order is otherwise modified or rescinded. (Governor Newsom Executive Order N-71-20.)

**SUPPORT:** (Verified 6/17/21)

California Association of Clerks and Election Officials (source)
Family Law Section of the Los Angeles County Bar Association

**OPPOSITION:** (Verified 6/17/21)

None received

**ARGUMENTS IN SUPPORT:** The author writes:

> AB 583 codifies the Governor's Executive Order and memorializes the best practices for electronic issuance of marriage licenses and solemnization ceremonies through live, interactive video technology that California's counties have employed over the last year. In order to ensure we provide as many options as possible for Californians to obtain marriage licenses, no matter in times of emergency or not, the Legislature should codify the Governor's Executive Order and allow this practice to continue as a standard mode of operation for those who want it.

The sponsor writes:

> AB 583 explores, collates and memorializes in Code the best practices that have been employed by California's counties during the past year with regard to remote and electronic issuance of marriage licenses and solemnization ceremonies through live, interactive video technology. The framework proposed by AB 583 is the product of months of discussion, troubleshooting and problem-solving over the course of this challenging year; as counties and the State evolved to meet the immediate needs of our constituents.

ASSEMBLY FLOOR: 75-0, 5/24/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio,

Salas, Santiago, Seyarto, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Flora, Smith

Prepared by: Josh Tosney / JUD. / (916) 651-4113
6/18/21 10:50:36

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

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CONSENT

Bill No: AB 591
Author: Villapudua (D)
Introduced: 2/11/21
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 17-0, 6/15/21
AYES: Gonzalez, Bates, Allen, Archuleta, Becker, Cortese, Dahle, Dodd, McGuire, Melendez, Min, Newman, Rubio, Skinner, Umberg, Wieckowski, Wilk

ASSEMBLY FLOOR: 77-0, 4/22/21 (Consent) - See last page for vote

**SUBJECT:** Vessels: arrests

**SOURCE:** California State Sheriffs' Association

**DIGEST:** This bill authorizes an officer to issue a fix-it ticket in cases involving certain existing violations pertaining to vessels.

**ANALYSIS:**

Existing law:

1) Requires an officer, unless certain specified conditions exist, to permit a person arrested for the following offenses to execute a notice containing a violator's promise to correct the alleged violation:

   a) A vehicle registration infraction.

   b) A violation relating to possession of a driver's license.

   c) A violation related to bicycle equipment.

   d) A violation relating to the requirement for minor bicyclists to wear a helmet.

   e) Other specified violations of vehicle equipment requirements.

2) Defines "vessel" to include every watercraft used or capable of being used as a means of transportation on water, with certain exceptions.

3) Requires undocumented vessels using waters in the state to be currently numbered.

4) Requires an operator card to operate a vessel, as specified.

5) Requires, through regulation, that vessels be equipped with lifejackets and fire extinguishers, as specified.

This bill requires an officer, unless certain specified conditions exists, to permit a person arrested for the following vessel-related offenses to execute a notice containing a violator's promise to correct the alleged violation:

1) Expired registration.

2) Failure to paint the vessel identification number on the forward half of the boat.

3) Operating a vessel propelled by an engine without possessing an operating license.

4) Failure to display registration stickers.

5) Using a recreational boat without a proper floatation device, as specified.

6) Operating a vessel without a properly serviced fire extinguisher.

7) Having a fire extinguisher without the proper metallic name plate, as specified.

**Comments**

*Author's Statement.* California has enacted laws to guide the safe operation and appropriate registration of vessels. While there are consequences for failing to abide by these requirements, the main desire should be compliance and remediation when rules are not followed. AB 591 allows certain vessel operation and registration violations to be corrected to not only gain compliance but increase boater and public safety.

*Fix It Tickets: Vehicles*. California provides drivers the opportunity to fix relatively minor violations of state law relating to vehicles, such as failing to have valid vehicle registration and failure of a minor to wear a helmet while riding a bicycle, without incurring fines. This bill extends that principle to similar violations relating to vessels.

*Making the Punishment Fit the Crime.* Fines for various violations regarding vessel registration and equipment are relatively expensive once all additional fines and surcharges are accounted for. The fines for the provisions covered by this bill are below:

| **Violation** | **Ticket Amount** |
|---|---|
| VC 9850 (expired vessel registration) | $197 |
| VC 9853.2 (display vessel identification) | $197 |
| HNC 678.11 (vessel operator card) | $233 |
| 13 CCR 190.01 (vessel registration stickers) | $192 |
| 14 CCR 6565.8 (floatation devices on vessel) | $233 |
| 14 CCR 6569 (serviceable fire extinguishers) | $233 |
| 14 CCR 6572 (markings on fire extinguishers) | $233 |

Rather than imposing these fines this bill provides a chance to correct the violation and pay a much smaller $25 fee. Supporters believe this will encourage compliance making boaters safer. The specific violations covered by this bill aren't addressing behavior that is dangerous to others, and therefore deserving of harsher punishment. Rather, these violations are more about boater safety and identification.

*Crime Not Running Rampant.* The violations covered by this bill do not result in large numbers of tickets. The most often cited violations are registration related, of which there were 816 in 2018-19 and 669 in 2019-20. The next most cited violation is the lack of a lifejacket, of which there were 234 in 2018-19 and 203 in 2019-20.

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

**SUPPORT:** (Verified 6/16/21)

California State Sheriffs' Association (source)
Boat Owner's Association of The United States
Marina Recreation Association
National Marine Manufacturers Association
Recreational Boaters of California

**OPPOSITION:** (Verified 6/16/21)

None received

ASSEMBLY FLOOR: 77-0, 4/22/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Holden, Reyes

Prepared by: Randy Chinn / TRANS. / (916) 651-4121
6/16/21 14:52:07

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

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

CONSENT

Bill No: AB 627
Author: Waldron (R)
Introduced: 2/12/21
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 6/8/21
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/22/21 (Consent) - See last page for vote

**SUBJECT:** Recognition of tribal court orders: rights in retirement plans or deferred compensation

**SOURCE:** Judicial Council of California

**DIGEST:** This bill establishes procedures for California courts to recognize tribal court family law orders involving the division of retirement and other deferred compensation benefits.

**ANALYSIS:**

Existing law:

1) Establishes, under the federal Employee Retirement Income Security Act of 1974 (ERISA), minimum standards for private retirements and health plans. (Public Law 93-406; 88 Stat. 829, 29 U.S.C. § 1001 et seq.)

2) Establishes the Tribal Court Civil Money Judgment Act (Act), which governs the procedures by which the superior courts of California recognize and enter tribal court money judgments of any federally recognized Indian tribe. (Code Civ. Proc. § 1730 et seq.; § 1730(a).)[1]

[1] All further section references are to the Code of Civil Procedure unless otherwise indicated.

3) Provides that the Act does not apply to tribal court money judgments for which federal law requires that states grant full faith and credit recognition, or for which state law provides for recognition, including child support orders recognized under other specified laws. (§ 1730(b).)

This bill:

1) Provides that where the parties to the underlying tribal court proceeding agree, the parties may file a joint application for the recognition of a tribal court order that establishes a right to child support, spousal support payments, or marital property rights to the spouse, former spouse, child, or other dependent of a participant in a retirement plan or other plan of deferred compensation, provided the order assigns all or a portion of the benefits payable with respect to the participant to an alternate payee.

2) Establishes procedures for submitting the application under penalty of perjury and requires the Judicial Council to adopt a form for the application.

3) Provides that if one of the parties to the order does not agree to join in the application, the other party may proceed by having the tribal court execute a certificate in lieu of the signature of the other party.

4) Provides that a final order of a tribal court that creates or recognizes the existence of the right of a spouse, former spouse, child, or other dependent of a participant in a retirement plan or other plan of deferred compensation to receive all or a portion of the benefits payable with respect to the plan participant, and that relates to the provision of child support, spousal support payment or marital property rights to the spouse, former spouse, child, or other dependent, filed in accordance with the procedure described above, must be recognized as an order made pursuant to the domestic relations laws of the state.

5) Provides that these changes do not confer jurisdiction on a court of this state to modify or enforce a tribal court order.

6) Makes other conforming changes.

**Background**

Native American tribes are “nations that exercise inherent sovereign authority over their members and territories.” (Cal. Jur. 3d. Indians Sec. 2.) For a tribal court to hear a case, it must have both subject matter jurisdiction (the power to hear the specific kind of claim that is brought to that court), and personal jurisdiction (the

requirement that a defendant have certain minimum contacts with the forum in which the court sits) over the defendant.

At times, just as a party may seek to enforce another state's judgment against a resident of California by bringing their judgment to a California court, a party who has obtained a tribal court judgment may turn to California courts to seek recognition and enforcement of the party's tribal court judgment against a California resident. In contrast to the full faith and credit that is constitutionally required to be given to the judgments rendered by sister states' courts, under existing law, California state courts generally recognize tribal court judgments under the principles of comity, as they do the judgments of foreign country tribunals.[2]

Claims to recognize money judgments of foreign country tribunals, including of tribal courts, were traditionally governed by the Uniform Foreign Country Money Judgment Act (California's Uniform Act), Code of Civil Procedure Section 1713 et seq. That process, however, was considered costly and time-consuming. In 2012, the Judicial Council, upon recommendation of several of its committees, including the California Tribal Court/State Court Forum and the Civil and Small Claims Advisory Committee, adopted a proposal that would provide "a discrete procedure for recognizing and enforcing tribal court civil judgments, providing for swifter recognition of such judgments while continuing to apply the principles of comity appropriate to judgments of sovereign tribes."[3]

Based on that proposal, Senator Evans, then the Chair of the Judiciary Committee, authored a bill, SB 406 (Evans, Chapter 243, Statutes of 2014), sponsored by Judicial Council and Blue Lake Rancheria, that established a new legal framework known as the Tribal Court Civil Money Judgment Act (Tribal Court Judgment

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[2] Comity, as described by the Ninth Circuit in *Wilson v. Marchington* (9th Cir. 1997) 127 F.3d 805, 809-810, "'is neither a matter of absolute obligation, on the one hand, nor of mere courtesy and good will, upon the other.'" The court reasoned:

> As a general policy, comity should be withheld only when its acceptance would be contrary or prejudicial to the interest of the nation called upon to give it effect." At its core, comity involves a balancing of interests. "It is the recognition which one nation allows within its territory to the legislative, executive, or judicial acts of another nation, having due regard both to international duty and convenience, and to the rights of its own citizens, or of other persons who are under the protection of its laws." Although the status of Indian tribes as "dependent domestic nations" presents some unique circumstances, comity still affords the best general analytical framework for recognizing tribal judgments.

(*Id.* (citations omitted).) The court made clear that "[c]omity does not require that a tribe utilize judicial procedures identical to those used in the United States Courts." (*Id.* at 811).

[3] *Report to the Judicial Council: Judicial Council-sponsored Legislation: Tribal Court Civil Judgment Act* (October 26, 2012).

Act). The Tribal Court Judgment Act provides the rules and procedures for seeking recognition of a tribal court money judgment in California state courts. Among other things, the Act: (1) provides timelines for both submitting an application for recognition and timely objecting to recognition; (2) provides rules for proper venue; (3) specifies notice requirements; (4) lists the requisite contents of an application and supporting documentation; (5) mandates grounds for declining recognition and provides discretionary grounds for declining recognition; and (6) specifies grounds for staying enforcement of a judgment.

*Simplified Process for State Recognition of Tribal Court Orders that Divide Pension Benefits*

Tribal courts hear and decide a variety of cases, including family law cases, which may involve dissolution of marriages. Dissolution cases may, in turn, involve asset division and distribution, including the division of retirement and other deferred compensation benefits. These are governed, under federal law, by ERISA, which requires that there be a "judgment, decree or order . . . made pursuant to *State domestic relations law*." (29 U.S.C. 1056 (d)(3)(B)(ii) [emphasis added].)

The U.S. Department of Labor has issued guidance, in an advisory opinion, on whether tribal dissolution orders are "made pursuant to State domestic relations law." The opinion concludes:

> In the Department's view, a tribal court order may constitute a "judgment, decree or order . . . made pursuant to State domestic relations law" for purposes of ERISA section 206(d)(3)(B)(ii), if it is treated or recognized as such by the law of a State that could issue a valid domestic relations order with respect to the participant and alternate payee.[4]

The Advisory Letter notes that Oregon has effectively complied with the guidance by providing a process to recognize tribal court dissolution judgements that divide retirement benefits.[5]

California currently provides a procedure to register foreign judgments with the state courts that would satisfy the ERISA requirements. The parties must both pay initial filing fees of $435 each and complete necessary paperwork. According to the author, the "process is not simple, requires a specific filing in the trial court, and typically takes many months to complete. It is an unnecessary burden on tribal families who already have received a decree from their tribal court. And, once

[4] U.S. Department of Labor, *Employee Benefits Security Administration*, Advisory Opinion 2011-03A (Feb 2, 2011).
[5] *Id*., citing Oregon Revised Statutes 24.115(4).

registration is complete, the California court, not the tribe, is responsible for the order, representing yet a further deterioration of tribal sovereignty."

This bill seeks to provide a simplified and less expensive process to allow California courts to recognize tribal orders dividing retirement and other deferred compensation benefits, as required by ERISA, but still recognizing tribal sovereignty over the orders. Under the procedure set forth in this bill, the parties to an underlying tribal court proceeding may file a joint application, executed under penalty of perjury for the recognition of the tribal court order. If one of the parties does not agree to join in the application, the other party may proceed by having the tribal court execute a certificate in lieu of the signature of the other party. The application may be filed in the county in which either of the parties resides, and the filing fee is a comparatively small ($100). The tribal court retains jurisdiction over its order. This bill also requires the Judicial Council, this bill's sponsor, to adopt forms to effectuate the process.

The Judicial Council argues this bill "ensures that divorce or dissolution orders and judgments issued by tribal courts that include division of pension or other deferred or other deferred compensation assets are effective and can be recognized as meeting the requirements of the Employee Retirement Income Security Act of 1974 (ERISA) (Public Law 93-406; 88 Stat. 829) and other similar statutes that restrict the transfer or division of such assets." According to Judicial Council, the process that would result from this bill will:

- Provide an easier and less expensive alternative to "registration" of a tribal divorce or dissolution order in state court. This reduces barriers for tribal members who have a divorce or dissolution order from the tribal court.

- Reduce burdens on state trial courts. California's trial courts manage significant caseloads. Reducing, even by a small number, the complex procedural filings that flow from the registration process enables courts to be more efficient.

- Support the capacity of and respect for tribal courts in California. Given the complex relationships that exist between the State of California and the tribal nations within the state's boundaries, enactment of AB 627 is a small but valuable step in validating the role of tribal courts in resolving issues important to the tribe's members.

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

**SUPPORT:** (Verified 6/23/21)

Judicial Council of California (source)
California Judges Association
California Tribal Business Alliance,
Child Support Directors Association of California
Executive Committee of the Family Law Section of the California Lawyers Association

**OPPOSITION:** (Verified 6/23/21)

None received

**ARGUMENTS IN SUPPORT:** The author writes:

> Tribal courts (and tribes and tribal justice institutions in general) in California are rebuilding. Supporting this rebuilding and expansion of effective tribal court capacity serves a number of complementary goals. On June 18, 2019, Governor Newsom signed Executive Order N-15-19 acknowledging and apologizing for the historic injustices done to California's tribal peoples and committing to addressing those historic wrongs and supporting tribal sovereignty. Likewise, the Judicial Branch is committed to equity and access to justice for minority and underserved communities. Tribal communities are remote and underserved. Allowing tribal members to effectively resolve their justice needs in tribal court within their own communities promotes equity and access to justice. Promoting tribal court capacity also promotes justice capacity overall. Cases that are resolved in tribal court relieve a burden on state courts.
>
> In California's quest to continue to honor the thousands of tribal families who live here, we have an opportunity with this bill to expand the reality of tribal sovereignty by ensuring that divorce or dissolution orders and judgments issued by tribal courts that include division of pension or other deferred compensation assets are effective and, in particular, can be recognized as meeting the requirements of the Employee Retirement Income Security Act of 1974 (ERISA) (Public Law 93-406; 88 Stat. 829) and other similar statutes that restrict the transfer or division of such assets.

ASSEMBLY FLOOR: 77-0, 4/22/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies,

Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Holden, Reyes

Prepared by: Josh Tosney / JUD. / (916) 651-4113
6/23/21 15:14:21

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

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THIRD READING

Bill No: AB 634
Author: Carrillo (D)
Amended: 4/20/21 in Assembly
Vote: 21

SENATE HOUSING COMMITTEE: 6-2, 6/17/21
AYES: Wiener, Caballero, Cortese, McGuire, Umberg, Wieckowski
NOES: Bates, Ochoa Bogh
NO VOTE RECORDED: Skinner

ASSEMBLY FLOOR: 55-15, 5/24/21 - See last page for vote

**SUBJECT:** Density Bonus Law

**SOURCE:** County of Los Angeles

**DIGEST:** This bill allows a local government to require an affordability period longer than 55 years for units that qualify a developer for a density bonus, if the local government has an inclusionary housing ordinance that requires a percentage of residential units affordable to lower-income households for longer than 55 years.

**ANALYSIS:**

Existing law:

1) Requires all cities and counties to adopt an ordinance that specifies how they will implement state density bonus law (DBL). Requires cities and counties to grant a density bonus when an applicant for a housing development of five or more units seeks and agrees to construct a project that will contain at least one of the following:

   a) 10% of the total units of a housing development for lower income households;

b) 5% of the total units of a housing development for very low-income households;

c) A senior citizen housing development or mobile home park;

d) 10% of the units in a common interest development for moderate-income households;

e) 10% of the total units for transitional foster youth, disabled veterans, or homeless persons;

f) 20% of the total units for lower-income students in a student housing development.

2) Requires the city or county to allow an increase in density on a sliding scale from 20% to 50%, depending on the percentage of units affordable to low- and very low-income households, over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan. Requires the increase in density on a sliding scale for moderate-income for-sale developments from 5% to 50% over the otherwise allowable residential density.

3) Provides that the applicant shall receive a specified number of incentives or concessions depending on the percentage of units affordable to very low-, low-, and moderate income households.

4) Requires an applicant for a density bonus to agree to the continued affordability of all very low- and low-income units for 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage issuance program, or rental subsidy program. Rents shall be set at an affordable rent.

5) Provides that, if permitted by a local ordinance, nothing shall be construed to prohibit a city, county or city and county from granting a density bonus greater than what is described in DBL for a development that meets the existing statutory requirements.

This bill:

1) Provides that, if permitted by a local ordinance, nothing shall be construed to prohibit a city or county from requiring an affordability period longer than 55

years for any units that qualify the applicant for a density bonus developed in compliance with a local inclusionary ordinance that requires that the development include a certain percentage of units for lower income households, as specified, and that will be financed without low-income housing tax credits.

**Background**

*Density Bonus Law (DBL).* Given California's high land and construction costs for housing, it is extremely difficult for the private market to provide housing units that are affordable to low- and even moderate-income households. Public subsidy is often required to fill the financial gap on affordable units. DBL allows public entities to reduce or even 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 permits the developer to spread the cost of the affordable units more broadly over the market-rate units. The idea of DBL is to cover at least some of the financing gap of affordable housing with regulatory incentives, rather than additional subsidy.

Under existing law, if a developer proposes to construct a housing development with a specified percentage of affordable units, the city or county must provide all of the following benefits: a density bonus; incentives or concessions (hereafter referred to as incentives); waiver of any development standards that prevent the developer from utilizing the density bonus or incentives; and reduced parking standards.

To qualify for benefits under DBL, a proposed housing development must contain a minimum percentage of affordable housing. If one of these six options is met, a developer is entitled to a base increase in density for the project as a whole (referred to as a density bonus) and one regulatory incentive. Under DBL, a market rate developer gets density increases on a sliding scale based on the percentage of affordable housing included in the project. At the low end, a developer receives 20% additional density for 5% very low-income units, 20% density for 10% low-income units, and 5% additional density for moderate-income units. The maximum additional density permitted is 50% (in exchange for 15% very low-income units, 24% low-income units, and 44% moderate-income units). The developer also negotiates additional incentives and concessions, reduced parking, and design standard waivers with the local government. This helps developers reduce costs while enabling a local government to determine what changes make the most sense for that site and community.

**Comments**

1) *Inclusionary ordinances*. Local governments adopt inclusionary housing ordinances that require a developer to include a percentage of affordable housing on site, pay an in lieu fee to fund affordable housing elsewhere in the community, or dedicate land for affordable housing construction. DBL requires a developer to record 55-year covenants on the affordable housing units that qualify it for the density bonus. In some cases, local governments' inclusionary housing ordinances require affordability covenants that exceed 55 years.

   This bill would allow a local government to require the units that qualify a developer for the award of the density bonus to be affordable for a period longer than 55 years if the local government has adopted an inclusionary ordinance requiring affordability covenants that exceed 55 years. This bill only allows these ordinances to apply to units that are not financed with LIHTC.

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

**SUPPORT:** (Verified 6/21/21)

County of Los Angeles (source)

**OPPOSITION:** (Verified 6/21/21)

Community Catalysts Preserving Local Control

**ARGUMENTS IN SUPPORT:** According to the author, "In order to ensure longer-term affordability on new housing developments, AB 634 will allow local governments to extend the affordability term for future units created under both local and state housing programs beyond 55 years. This bill will harmonize provisions between the State programs and local inclusionary housing ordinances and add a critical tool to help local governments address the shortage of affordable housing in California."

**ARGUMENTS IN OPPOSITION:** According to the Community Catalysts Preserving Local Control, this bill presents "another example of state over-reach into what local elected officials could do themselves" and that it "is a deep dive into the weeds of micro-management and bureaucracy."

ASSEMBLY FLOOR: 55-15, 5/24/21
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez,

Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, 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, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NOES: Chen, Choi, Cunningham, Megan Dahle, Davies, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Voepel

NO VOTE RECORDED: Arambula, Bigelow, Daly, Flora, Gray, Grayson, Mayes, Valladares

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
6/23/21 15:12:12

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 638
Author: Quirk-Silva (D)
Amended: 3/26/21 in Assembly
Vote: 27

SENATE HEALTH COMMITTEE: 10-0, 6/10/21
AYES: Pan, Eggman, Gonzalez, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/22/21 (Consent) - See last page for vote

**SUBJECT:** Mental Health Services Act: early intervention and prevention programs

**SOURCE:** Author

**DIGEST:** This bill permits Mental Health Services Act Prevention and Early Intervention funds to be used for strategies that address mental health needs, substance misuse or substance use disorders, or needs relating to co-occurring mental health and substance use services.

**ANALYSIS:**

Existing law:

1) Establishes the Mental Health Services Oversight and Accountability Commission (MHSOAC) to oversee the implementation of the Mental Health Services Act (MHSA), enacted by voters in 2004 as Proposition 63, to provide funds to county mental health programs (CMHPs) to expand services, develop innovative programs, and integrate service plans for mentally ill children, adults, and seniors through a one percent income tax on personal income above $1 million. [WIC §5845]

2) Permits specified MHSA funds, including prevention and early intervention (PEI) program funds, to be used to assess and treat children, adults, and older adults with co-occurring mental health and substance use disorders (SUD) who are eligible to receive mental health services, as specified. [WIC §5891.5]

3) Permits PEI funds to be used to broaden the provision of community-based mental health services by adding PEI services or activities to those services. [WIC §5840]

This bill permits PEI funds to be used for strategies that address mental health needs, substance misuse or SUDs, or needs relating to co-occurring mental health and substance use services.

**Comments**

1) *Author's statement.* According to the author, some people living with serious mental illness simultaneously experience SUD, complicating diagnosis and treatment. A third of adults who receive county mental health services for serious mental illnesses have a co-occurring SUD. The stakes for these individuals is especially high. People with SUDs are almost six times more likely to attempt suicide than those without. Removing programmatic barriers in serving these individuals with mental health and co-occurring SUDs was an important first step, however, the COVID-19 pandemic has amplified the need to do more. Unfortunately, this pandemic has affected children and adults in unprecedented ways. Anxiety, depression, isolation, and feelings of despair, as well as suicide attempts, have increased dramatically among adults, school-aged children, and young adults. Many who had underlining or diagnosed mental health and SUDs are now dealing with an increased need for services and treatment.

2) *MHSA.* The MHSA requires each CMHP to prepare and submit a three-year plan to DHCS that must be updated each year and approved by DHCS after review and comment by the MHSOAC. DHCS is required to provide guidelines to counties related to each component of the MHSA. In the three-year plans, CMHPs are required to include a list of all programs for which MHSA funding is being requested and that identifies how the funds will be spent and which populations will be served. The MHSA makes explicit reference to those with co-occurring conditions and permits use of funds to treat those with a co-occurring SUDs, as long as an individual has a primary mental health condition. Counties also must submit their plans for approval to the MHSOAC before they can spend innovation program funds. The MHSA provides funding for programs generally within these five components:

a) *Community Services and Supports (CSS)*: Provides direct mental health services to the severely and seriously mentally ill, such as mental health treatment, cost of health care treatment, and housing supports. Regulations require counties to direct the majority of its CSS funds to Full-Service Partnerships (FSPs). FSPs are county coordinated plans, in collaboration with the client and the family, to provide the full spectrum of community services. These services consist of mental health services and supports, such as peer support and crisis intervention services; and non-mental health services and supports, such as food, clothing, housing, and the cost of medical treatment;

b) *PEI*: Provides services to mental health clients in order to help prevent mental illness from becoming severe and disabling;

c) *Innovation*: Provides services and approaches that are creative in an effort to address mental health clients' persistent issues, such as improving services for underserved or unserved populations within the community;

d) *Capital Facilities and Technological Needs*: Creates additional county infrastructure, such as additional clinics and facilities and/or development of a technological infrastructure for the mental health system, such as electronic health records for mental health services; and,

e) *Workforce Education and Training*: Provides training for existing county mental health employees, outreach and recruitment to increase employment in the mental health system, and financial incentives to recruit or retain employees within the public mental health system.

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

**SUPPORT:** (Verified 6/22/21)

California Alliance of Child and Family Services
California Catholic Conference
California Consortium of Addiction Programs and Professionals
California Council of Community Behavioral Health Agencies
California Family Resource Association
Child Abuse Prevention Center
County Behavioral Health Directors Association
Govern for California
Mental Health Services Oversight and Accountability Commission
National Alliance on Mental Illness - California

Racial and Ethnic Mental Health Disparities Coalition
Santa Barbara County Sheriff Bill Brown

**OPPOSITION:** (Verified 6/22/21)

California Right to Life Committee, Inc.
Depression and Bipolar Support Alliance

**ARGUMENTS IN SUPPORT:** Supporters, largely behavioral health advocates, argue that mental health disorders are among the most common health conditions faced by Californians. Even before the COVID-19 pandemic, nearly one in 13 children were identified as having an emotional disturbance that limited participation in daily activities. Many who had underlining or diagnosed mental health and SUDs are now dealing with an increased need for services and treatment. Drug-related overdose fatalities have risen 50% since 2017 and is one of the top ten leading causes of death in the state. Overdose related deaths are rising higher in California than in the United States. In the 12-months between June 2019 and June 2020, there were at least 7,254 overdose deaths, which equals approximately 17 overdose fatalities per 100,000 state residents.

The County Behavioral Health Directors Association (CBHDA) states that the first stated purpose of the MHSA is to define serious mental illness among children, adults, and seniors as a condition deserving priority attention, including PEI services and medical and supportive care. CBHDA argues that the National Institute of Mental Health, the National Institute on Drug Abuse, and the Diagnostic and Statistical Manual of Mental Disorders all recognize SUDs as a mental illness. Supporters argue that last year's AB 2265 (Quirk-Silva, Chapter 144, Statutes of 2020) was an important first step to remove programmatic barriers in serving individuals with co-occurring conditions, but the reality of the COVID-19 pandemic has amplified the need to do more.

The MHSOAC argues that this bill will strengthen the work of its PEI Project and provide clarity in existing law. The MHSOAC states that it is difficult to determine if someone in crisis has a mental health or SUD, and treatment should be focused on helping the individual's wellness and not determining what came first—the mental health need or the SUD.

**ARGUMENTS IN OPPOSITION:** The California Right to Life Committee, Inc. opposes this bill because of concerns about the apparent lack of any significant improvement in the quality of life for those suffering from mental illness and states

that California taxpayers should be angry that those funds they paid from 2004 to the present have not transformed the mental health system as was promised.

The Depression and Bipolar Support Alliance (DBSA) states that many, even perhaps a majority of those with mental health and mood disorder challenges have co-occurring SUD issues, but there are many other programs for SUDs alone, and there's no compelling argument to utilize MHSA funds for this. DBSA cannot support the amendment of the MHSA without restricting it to co-occurring conditions. Without this amendment, DBSA states this bill does not further the intent of the MHSA, but rather dilutes it.

ASSEMBLY FLOOR: 77-0, 4/22/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Holden, Reyes

Prepared by: Reyes Diaz / HEALTH / (916) 651-4111
6/23/21 15:12:15

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

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

CONSENT

Bill No: AB 644
Author: Waldron (R)
Introduced: 2/12/21
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 6/8/21
AYES: Bradford, Kamlager, Skinner, Wiener
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/29/21 (Consent) - See last page for vote

**SUBJECT:** California MAT Re-Entry Incentive Program

**SOURCE:** Author

**DIGEST:** This bill changes the existing requirement for the California Medication-Assisted Treatment (MAT) Re-Entry Incentive Program that a person participate in an institutional substance abuse program in order to be eligible for a reduction to the period of parole to a requirement that the person has been enrolled or participated in a post-release substance abuse program.

**ANALYSIS:**

Existing law:

1) Establishes the California MAT Re-Entry Incentive Program, which makes a person eligible for a 30-day reduction to the period of parole for every six months of treatment that is not ordered by the court, up to a maximum 90-day reduction, if the person meets all of the following requirements:

    a) The person has been released from state prison and is subject to the jurisdiction of, and parole supervision by, the department, as specified;

b) The person has been enrolled in, or successfully participated in, an institutional substance abuse program; and,
c) The person successfully participates in a substance abuse treatment program that employs a multifaceted approach to treatment, including the use of United States Food and Drug Administration approved medically assisted therapy (MAT), and, whenever possible, is provided through a program licensed or certified by the State Department of Health Care Services, including federally qualified health centers (FQHS), community clinics, and Native American Health Centers. (Pen. Code, § 3000.02, subds. (a) & (b).)

2) Exempts persons convicted of specified sex offenses from the MAT Re-Entry Incentive Program. (Pen. Code, § 3000.02, subd. (d).)

3) Authorizes the California Department of Corrections and Rehabilitation (CDCR) to award an inmate program credit reductions from his or her term of confinement for participation in approved rehabilitation programming, including substance abuse treatment. (Pen. Code, § 2933.05.)

This bill changes the existing requirement for program eligibility that a person participate in an institutional substance abuse program to a post-release substance abuse program.

**Background**

MAT is a "whole-patient" approach to treating substance use disorders that uses medication in combination with counseling and behavioral therapies. MAT is clinically effective in treating substance use disorders, including opioid and alcohol use disorders. Medications used in MAT are approved by the Food and Drug Administration (FDA), and MAT programs are clinically driven and tailored to meet each patient's needs. The Substance Abuse and Mental Health Services Administration (SAMHSA) within the U.S. Department of Health and Human Services describes the mechanics of MAT:

> MAT is primarily used for the treatment of addiction to opioids such as heroin and prescription pain relievers that contain opiates. The prescribed medication operates to normalize brain chemistry, block the euphoric effects of alcohol and opioids, relieve physiological cravings, and normalize body functions without the negative effects of the abused drug. (https://www.samhsa.gov/medication-assisted-treatment)

MAT has been shown to improve patient survival, increase retention in treatment, decrease illicit opiate use and other criminal activity among people with substance use disorders, increase patients' ability to gain and maintain employment, and improve birth outcomes among women who have substance use disorders and are pregnant. (*Id*.)

The 2019-2020 budget allocated a significant amount of funding through the 2021-2022 fiscal year to implement an integrated substance use disorder treatment program throughout the state's prisons. The program includes the use of MAT to treat inmates with opioid and alcohol use disorders, a redesign of the current cognitive behavioral treatment curriculum, the development and management of inmate treatment plans, as well as substance use disorder-specific pre-release transition planning. The statewide MAT program is an expansion of a MAT pilot program previously operated by the Receiver at three state prisons.

AB 1304 (Waldron, Chapter 325, Statutes of 2020) established the California MAT Re-Entry Incentive Program which created a reduction in parole time for a person who had been enrolled in or successfully participated in a substance abuse program while incarcerated and participation in the program was not court-ordered. This bill changes the existing requirement for program eligibility that a person has participated in an institutional substance abuse program to a requirement that a person has been enrolled in or successfully participated in a post-release substance abuse program in order to be eligible for a reduction in parole time.

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

**SUPPORT:** (Verified 6/21/21)

Alcohol Justice
Anti-Recidivism Coalition
California Access Coalition
California Association of Alcohol/Drug Educators
California Public Defenders Association
County Behavioral Health Directors Association of California
Drug Policy Alliance
Voices of Recovery

**OPPOSITION:** (Verified 6/21/21)

None received

ASSEMBLY FLOOR: 77-0, 4/29/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Luz Rivas

Prepared by: Stephanie Jordan / PUB. S. /
6/23/21 15:15:55

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

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CONSENT

Bill No: AB 689
Author: Petrie-Norris (D), et al.
Amended: 3/18/21 in Assembly
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 6/8/21
AYES: Bradford, Kamlager, Skinner, Wiener
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 75-0, 5/13/21 (Consent) - See last page for vote

**SUBJECT:** Comprehensive Statewide Domestic Violence Program

**SOURCE:** Author

**DIGEST:** This bill requires the California Governor's Office of Emergency Services (Cal OES) to provide financial and technical assistance to local domestic violence centers in implementing 24-hour crisis communication systems that include 24-hour phone services and may also include other communication methods offered on a 24-hour or intermittent basis, such as text messaging or computer chat.

**ANALYSIS:**

Existing law:

1) Establishes the Comprehensive Statewide Domestic Violence Program (CSDVP) within Cal OES. (Pen. Code § 13823.15, subd. (a).)

2) States that the goals of the CSDVP are to provide local assistance to existing providers, to maintain and expand services based on the needs of the population, and to establish a directed program for the development of domestic violence services in underserved areas. Requires Cal OES to provide financial

and technical assistance to local domestic violence centers implementing all of the following services: 24 hour crisis hotlines, counseling, business centers, emergency safe homes/shelters for victims and families, emergency food and clothing, emergency response to calls from law enforcement, hospital emergency room protocol, emergency transportation, supportive peer counseling, counseling for children, court and social service advocacy, legal assistance with restraining orders, devices, and custody disputes, community resource and referral, and household establishment assistance. Requires that priority for financial and technical assistance be given to emergency shelter programs and safe homes for victims of domestic violence and their children. (Pen. Code § 13823.15, subd. (b).)

3) Establishes Cal OES and the specified advisory committee to collaboratively administer the Comprehensive Statewide Domestic Violence Program, and requires Cal OES to allocate funds to local centers meeting the criteria for funding. Requires all funded organizations utilize volunteers to the greatest extent possible. States that the centers may seek, receive, and make use of any funds which may be available from all public and private sources to augment state funds received. (Pen. Code § 13823.15, subd. (c).)

4) Defines "domestic violence shelter service provider" or "DVSSP" to mean "a victim services provider that operates an established system of services providing safe and confidential emergency housing on a 24-hour basis for victims of domestic violence and their children, including, but not limited to, hotel or motel arrangements, haven, and safe houses." (Pen. Code § 13823.15, subd. (f)(15)(B).)

This bill requires Cal OES to provide financial and technical assistance to local domestic violence centers in implementing 24-hour crisis communication systems that must include 24-hour phone services and may also include other communication methods offered on a 24-hour or intermittent basis, such as text messaging, computer chat, or any other technology approved by Cal OES.

**Background**

*Modernization of Crisis Communication*

In recent year, several domestic violence service providers across the country have launched texting and web chat programs to supplement the phone hotlines which are utilized by victims of domestic violence. <https://www.domesticshelters.org/articles/escaping-violence/survivors-can-now-text-for-help ; <https://www.news-journalonline.com/story/news/2021/01/25/volusia-beacon-center-abused-women-

crisis-offers-text-line-daytona-domestic-violence/6602907002/ ; <https://opdv.ny.gov/ ) Texting and chat programs offer a safe and private way for victims to contact service providers, and some programs are able to translate text.

The proponents of this bill assert that the statute requiring Cal OES to provide technical and financial assistance to local domestic violence centers needs to be updated. Specifically, they contend that the language in the statute referring to "twenty-four-hour crisis hotlines" should be amended to include other communication methods in addition to 24-hour phone hotlines, including text messaging, computer chat, or other technologies approved by Cal OES in order for service providers to receive the financial and technical assistance they currently receive for operating their 24-hour phone hotlines for those other services.

*Effect of This Bill*

This bill modernizes California code to ensure that funding for and reporting about vital crisis communication services offered by Domestic Violence service provider include new text-based technology like computer chat lines and phone texting. By modernizing the requirements to include text-based optional services, Domestic Violence service providers will be better equipped to respond victims of domestic violence who may not feel safe or be able to call a traditional phone-based hotline. Additionally, the state will be better able to track and collect more accurate data about domestic abuse.

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

**SUPPORT:** (Verified 6/21/21)

Alameda County District Attorney
California Partnership to End Domestic Violence
Human Options
Laura's House
WEAVE

**OPPOSITION:** (Verified 6/21/21)

None received

**ARGUMENTS IN SUPPORT:** According to Human Options:

> Sheltering in place is not always the safest option. With families quarantined and practicing social distancing, victims can become isolated and tensions can rise. We know that in stressful times like this violence in an already unhealthy

home is often exacerbated. Victims may not be able to safely reach out to us for help, and so we have to be proactive in providing education and outreach via as many channels as possible. During the first phase of stay-at home orders being lifted, the Crisis Hotline received an influx of calls and our emergency shelter reached capacity within a week.

1 in 3 women and 1 in 4 men in the United States have experienced some form of physical violence by an intimate partner. In a single day in 2019, 81% of California domestic violence shelters served 5,644 adults and children. The Covid-19 Pandemic has caused a dramatic increase in these already alarming rates. The stay-at-home order has forced individuals to stay indoors, meaning in many cases victims are trapped at home with their abusers. Additionally, the stay-at-home order has been associated with alcohol abuse, depression and post-traumatic stress symptoms, all which have been linked to increased likelihood of a domestic violence in the home. The Sacramento prosecutor's office has seen a 39% increase in police activity related to domestic violence.

On a typical day before the pandemic, domestic violence hotlines received approximately 13 calls a minute. As a result of the pandemic, the National Domestic Violence Hotline saw a 9% increase of calls, texts and chats—indicating a clear uptick in demand.

By modernizing the requirements to include text-based optional services, Domestic Violence centers will be better equipped to respond reports and help more victims of domestic violence. Additionally, the state will be better able to track and collect more accurate data about domestic abuse.

ASSEMBLY FLOOR: 75-0, 5/13/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Cervantes, Gallagher, Medina

Prepared by: Kapri Walker / PUB. S. /
6/23/21 15:15:56

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

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CONSENT

Bill No: AB 698
Author: Committee on Environmental Safety and Toxic Materials
Introduced: 2/16/21
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 7-0, 6/14/21
AYES: Allen, Bates, Dahle, Gonzalez, Skinner, Stern, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/22/21 (Consent) - See last page for vote

**SUBJECT:** Hazardous waste: small quantity generator

**SOURCE:** Author

**DIGEST:** This bill updates terms within the state Hazardous Waste Control Law (HWCL) to conform to recent changes in federal hazardous waste regulation promulgated by the United States Environmental Protection Agency (US EPA) under their Generator Improvement Rule (GIR).

**ANALYSIS:**

Existing law:

1) Establishes the national hazardous waste management program under Subtitle C of the Resources Conservation and Recovery Act (RCRA). (42 United States Code § 6901 et seq.)

2) Creates the HWCL, which authorizes the Department of Toxic Substances Control (DTSC) to regulate the management of hazardous wastes in California. (Health and Safety Code § 25100 et. seq.)

3) Designates certain generators of hazardous waste in specified amounts as a "conditionally exempt small quantity generator (CESQG)," for certain regulations. The term CESQG is defined with reference to a specified federal regulation that provides that a generator is a conditionally exempt small quantity generator in a calendar month if it generates no more than 100 kilograms of hazardous waste in that month and that specifies which hazardous wastes are included in, or excluded from, that calculation. That federal regulation also exempts specified amounts of acute hazardous wastes and residues from cleanup of acute hazardous waste, as specified.

4) Defines the term "storage facility" for purposes of the hazardous waste control laws as including an onsite facility where the hazardous waste is held for more than 90 days and excludes certain generators of less than 1,000 kilograms of hazardous waste in a calendar month from this definition of storage facility subject to specified conditions, including compliance with specified federal waste accumulation regulations. A violation of the hazardous waste control laws is a crime.

This bill:

1) Replaces the term CESQG with "very small quantity generator" with reference to a different federal regulation that recasts those provisions regarding the amount of hazardous waste and which hazardous wastes are included in, or excluded from, that calculation.

2) Changes the provision referencing compliance with certain federal waste accumulation regulations as a condition for certain generators of less than 1,000 kilograms of hazardous waste in a calendar month to be excluded from the definition of storage facility to conform to updated federal waste accumulation regulations.

**Background**

1) *Federal hazardous waste regulation.* RCRA established three programs: hazardous waste management (RCRA Subtitle C), solid waste management (RCRA Subtitle D), and the underground storage tank program (RCRA Subtitle I). RCRA provides "cradle-to-grave" control of solid and hazardous waste by establishing management requirements for generators and transporters of hazardous waste treatment, storage, and disposal facilities. Most states have been authorized to implement some or all of the RCRA Subtitle C program.

State RCRA programs must be at least as stringent as the federal program, but states also can adopt more stringent requirements.

2) *California Hazardous Waste Control Law.* The HWCL is the state's program that implements and enforces federal hazardous waste law in California. The HWCL covers the entire management of hazardous waste, from the point that the hazardous waste is generated, to management, transportation, and ultimately disposal into a state or federal authorized facility. Statute directs DTSC to oversee and implement the state's HWCL. Any person who stores, treats, or disposes of hazardous waste must obtain a permit from DTSC. DTSC's hazardous waste regulatory program is supported by fees on those that generate and manage hazardous waste in California.

3) *Federal hazardous waste generator rule.* The federal hazardous waste generator regulatory program was originally promulgated in 1980. Over the course of the last several decades, the US EPA, through experience with implementing the program, and in various meetings, correspondence, and discussions with the states and the regulated community, has become aware of the need for more clarity, consistency, and flexibility. Many of these issues were identified in a 2004 program evaluation of the hazardous waste generator program conducted by the US EPA. In 2013, a separate US EPA program evaluation addressing hazardous waste determinations also identified a number of concerns related to generators being able to make a proper hazardous waste determination.

   After consolidating the feedback from the regulated community, states, and other stakeholders, the US EPA developed a proposal to improve the entire hazardous waste generator program to strengthen environmental protection while ensuring businesses have the flexibility and certainty they need to successfully operate. The proposed rule was published in the Federal Register (FR) on September 25, 2015 (80 FR 57918).

   The US EPA Administrator signed the final Hazardous Waste Generator Improvements Rule (GIR) on October 28, 2016, and it was published in the FR on November 28, 2016. The GIR finalizes a much-needed update to the hazardous waste generator regulations to make the rules easier to understand, facilitate better compliance, provide greater flexibility in how hazardous waste is managed, and close important gaps in the regulations. In addition to finalizing key flexibilities, the GIR enhances the safety of facilities, employees,

and the general public by improving hazardous waste risk communication and ensuring that emergency management requirements meet today's needs.

4) *Implementing the GIR in California*. On May 30, 2017, the US EPA's Hazardous Waste GIR went into effect. However, because California is an authorized state, the GIR does not take effect in California until DTSC adopts the rule, or parts thereof, via the rulemaking process.

   DTSC will adopt some portions of the GIR. To accomplish this, DTSC will conduct a non-substantive (Under the California Code of Regulations, Title 1, section 100(a)(1) or Section 100) rulemaking that will: adopt regulations from the GIR that are more stringent than California's hazardous waste generator regulations (these regulations are considered mandatory provisions) and re-organize California's hazardous waste generator regulations to align with the federal re-organization. DTSC is required to adopt provisions of the rule that are identified as more stringent than US EPA's previous regulations and are also more stringent than California's current hazardous waste laws and implementing regulations. These provisions are considered mandatory because DTSC must adopt them to maintain authorization to administer California's hazardous waste program in lieu of the federal program pursuant to RCRA.

   In addition to the changes in state regulation, state law needs to be updated to conform to the changes made by the GIR. AB 698 updates state law to conform to the US EPA's GIR and will conform to the changes to state regulations being adopted by DTSC that conform to the GIR.

**Comments**

1) *Need for the bill*. In May 2017, the US EPA's GIR went into effect nationwide; however, it is not yet in effect in California. This is because, while California is authorized to implement RCRA, it must first adopt the GIR. DTSC is finalizing the regulatory changes needed to conform to the GIR and AB 698 makes the statutory changes necessary to conform to the federal changes. This bill is necessary to ensure that those generators of hazardous waste, especially those that operate in multiple states, have clear and consistent rules and regulations to follow.

**Related/Prior Legislation**

AB 3261 (Committee on Environmental Safety and Toxic Materials, 2020) would have updated terms within the state HWCL to conform to recent changes in federal

hazardous waste regulation promulgated by the US EPA under their GIR. This bill was held in the Senate Environmental Quality Committee.

AB 1597 (Committee on Environmental Safety and Toxic Materials, Chapter 133, Statutes of 2019) authorized the state's hazardous waste management manifest requirements to be satisfied through the use of the US EPA electronic manifest system.

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

**SUPPORT:** (Verified 6/22/21)

None received

**OPPOSITION:** (Verified 6/22/21)

None received

ASSEMBLY FLOOR: 77-0, 4/22/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Holden, Reyes

Prepared by: Gabrielle Meindl / E.Q. / (916) 651-4108
6/23/21 15:05:39

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

**SENATE RULES COMMITTEE** AB 706
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 706
Author: Cooley (D)
Introduced: 2/16/21
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 13-1, 6/22/21
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Borgeas, Bradford, Glazer, Hueso, Jones, Kamlager, Portantino, Rubio
NOES: Wilk
NO VOTE RECORDED: Melendez

ASSEMBLY FLOOR: 69-2, 6/1/21 - See last page for vote

**SUBJECT:** Legislature: facilities

**SOURCE:** Author

**DIGEST:** This bill clarifies that the amount appropriated for the costs of the design and construction of components of the project that will modify portions of the West Wing of the State Capitol are determined by an agreement required under the State Capitol Building Annex Act of 2016, as specified.

**ANALYSIS:**

Existing law:

1) Authorizes, pursuant to the State Capitol Building Annex Act of 2016, the Joint Rules Committee (JRC) to pursue the construction of a state capitol building annex or the restoration, rehabilitation, renovation, or reconstruction of the existing State Capitol Building Annex, as specified.

2) Appropriates, without regard to fiscal years, from the State Project Infrastructure Fund to the Operating Funds of the Assembly and Senate an amount up to $20 million, as determined by the agreement entered into pursuant to existing law, to cover the costs of the design and construction of components

of the project or projects specifically authorized that will modify portions of the West Wing of the State Capitol, as specified.

3) Requires that all space in the legislative office facilities and all annexes and additions be allocated from time to time by the Senate Committee on Rules and the Assembly Committee on Rules in accordance with their determination of the needs of the Legislature and the two houses thereof.

4) Requires the Rules committees to allocate the space as they determine to be necessary for facilities and agencies in dealing with the Legislature as a whole, including, but not limited to, press quarters, billrooms, telephone rooms, and offices for the Legislative Counsel, Legislative Analyst, Auditor General, and for committees created by the two houses jointly.

This bill:

1) Clarifies the amount appropriated for the costs of the design and construction of components of the project that will modify portions of the West Wing of the State Capitol are by an agreement required under existing law, including any amendments to the agreement.

2) Makes other technical, nonsubstantive changes.

**Background**

*California's State Capitol Complex*. The Capitol Complex is comprised of two sections, the original West Wing completed between 1860-1874, and the attached Annex constructed in 1952 which adjoins the historic West Wing on its east side. The Annex is home to the Governor's offices, 115 of California's 120 lawmakers, and key legislative professional support offices. In 2016, the complex had nearly two million visitors, including tens of thousands of grade school children.

The Annex was built before the invention of a number of modern technologies or adoption of accessibility standards, and is faced with failing systems and infrastructure. In 2016, the Legislature approved and the Governor signed the State Capitol Building Annex Act, which provides funding for a project to address deficiencies in the existing Annex. In 2017, the Joint Rules Committee contracted with an independent architectural and engineering firm to assess the current uses and further needs of the Annex, titled "The California State Capitol Annex Project Planning Study."

This bill simply clarifies that previously appropriated funding for necessary modifications to the West Wing of the State Capitol can continue to be utilized if changes to the agreement that governments implementation of the Capitol Annex Project occur.

**Related/Prior Legislation**

AB 1826 (Committee on Budget, Chapter 40, Statutes of 2018) appropriated funding for both the Capitol Annex Project and modifications of the historic West Wing.

AB 2667 (Cooley, Chapter 283, Statutes of 2018) required that any work on the annex incorporate elements complementary to the historic State Capitol.

SB 836 (Chapter 31, Statutes of 2016), the State Capitol Building Annex Act of 2016, authorized the JRC to pursue the construction of a state capitol building annex, as specified.

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

**SUPPORT:** (Verified 6/21/21)

None received

**OPPOSITION:** (Verified 6/21/21)

Public Accountability for Our Capitol

**ARGUMENTS IN SUPPORT:** According to the author's office, "in 2018, the Governor signed AB 1826 (Committee on Budget) into law which appropriated funding for modifications critical to ensuring functionality of the West Wing for its near and long term usage in a constitutionally compliant way. In Fall 2021, legislative offices and the offices of the Governor and Lieutenant Governor will temporarily relocate to the 10th and O St. Building to accommodate construction of a new Capitol Annex building. During construction, the West Wing will be open and continue to function. It must be able to accommodate various functions essential to the work of state government including public access to enable it to continue to fulfill its purpose as a venue and symbol of California democracy in the long term. This bill removes possible ambiguity in state law by clarifying that previously appropriated funds for necessary modifications to the West Wing can continue to be utilized if changes to the agreement that governs implementation of the Capitol Annex Project occur."

**ARGUMENTS IN OPPOSITION:** In opposition to this bill, Public Accountability for our Capitol (PAC) writes that, "[w]e oppose the governance structure established for the Capitol Annex Project, as authorized by AB 1826 (Chapter 40, statutes of 2018). That governance structure is expressed in a Memorandum of Understanding (MOU), adopted 11/9/2018, between the Joint Rules Committee, the Department of Finance, and the Department of General Services. The MOU authorizes a three-person Executive Committee of Joint Rules Committee Chair Cooley, Senate representative Hertzberg, and Erin Suhr, Director of Operations of the Governor's Office, to make all major decisions about scope and expenditures of the entire Capitol Annex Project. The only vote the Joint Rules Committee has taken on the massive Capitol Annex Project was in September 2019, when JRC voted to approve the 'Project Overview and Sequencing Report' (POS) outlining the Project, in draft form. The POS has been kept from the public, despite several Legislative Open Record Act (LORA) requests."

Further, PAC states that, "[t]he nearly $1 billion Capitol Annex Project is being decided in private by only three voting members: two legislators and one Governor's representative. This governance structure prevents the public from knowing what decisions are being made and how they are made. Most legislators are also left out of the process. The Executive Committee meetings are held without public notice and there are no records of the meetings available to the public. Would this Committee vote to support this governance structure in any other agency? We believe that the Project that has resulted from these secret sessions would shock most Californians if they were aware of it: 1- At least 60 historic trees removed or otherwise endangered to build an underground parking garage for Members and executive staff. 2- Excavation of the West Steps Plaza to build a massive visitor center, whose structure will block forever the use of the west plaza for public events and demonstrations. 3- A huge structure to replace the current historic Capitol Annex without any adequate study of the preservation option."

ASSEMBLY FLOOR: 69-2, 6/1/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert

Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Stone, Ting, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Gray, Kiley
NO VOTE RECORDED: Bigelow, Chen, Choi, Fong, Lackey, Nguyen, Smith, Valladares

Prepared by: Brian Duke / G.O. / (916) 651-1530
6/23/21 15:10:14

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

Office of Senate Floor Analyses
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CONSENT

Bill No: AB 712
Author: Calderon (D)
Amended: 6/10/21 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/17/21
AYES: McGuire, Nielsen, Durazo, Hertzberg, Wiener

ASSEMBLY FLOOR: 76-0, 5/24/21 - See last page for vote

**SUBJECT:** Local Agency Public Construction Act: change orders: County of Los Angeles

**SOURCE:** County of Los Angeles

**DIGEST:** This bill allows, until January 1, 2027, the County of Los Angeles to increase the change order limits that do not require 4/5 board approval for certain construction contracts.

**ANALYSIS:**

Existing law:

1) Requires local officials to invite bids for construction projects and then award contracts to the lowest responsible bidder.

2) Allows a county board of supervisors or a local governing board to approve change orders in construction contracts by a 4/5 vote. This applies to construction contracts generally and to construction contracts for specific projects such as county highways, county bridges and subways, county waterworks districts, and county flood control districts, among others.

3) Allows a board of supervisors to delegate authority to a county engineer or other officer to order and approve change orders, thereby avoiding the necessity of board approval up to certain limits:

a) For contracts up to $50,000, a change order may not exceed $5,000;

b) For contracts between $50,000 and $250,000, a change order may not exceed 10% of the contract; and,

c) For contracts over $250,000, a change order cannot exceed $25,000, plus 5% of the amount of the original contract cost above $250,000, with a total cap of $210,000.

This bill:

1) Allows, until January 1, 2027, the County of Los Angeles to increase the change order limits that do not require 4/5 board approval for construction contracts on county highways, bridges, subways, and those the county's waterworks district and flood control district, as follows:

   a) For contracts $25-$50 million, the extra cost must not exceed $400,000, adjusted annually to reflect the percentage change in the California Consumer Price Index (CPI).

   b) For contracts over $50 million, the extra cost must not exceed $750,000, adjusted annually to reflect the percentage change in the CPI.

2) Provides that, if the board of supervisors delegates authority to increase these limits, the authority is binding, and existing protest and grievance procedures remain valid. When the board delegates this authority, it must ensure that measures are taken to prevent fraud and ensure accountability.

3) Limits the authority to increase these amounts to a total of seven contracts.

4) Requires the county to provide a report to the Assembly Local Government and Senate Governance and Finance Committees no later than July 1, 2026, if it elects to use the measures' authority.

5) Contains findings and declarations explaining the need for legislation that applies to the unique need for flexibility given the contract costs of public contracts within the County of Los Angeles.

**Background**

*Local agency contracting.* This design-bid-build method is the traditional, and most widely-used, approach to public works construction. This approach splits construction projects into two distinct phases: design and construction. During the design phase, the local agency prepares detailed project plans and specifications

using its own employees or by hiring outside architects and engineers. Once project designs are complete, local officials invite bids from the construction industry and award the contract to the lowest responsible bidder. Change orders are amendments to a construction contract that changes the contractor's scope of work, such as moving the location of a wall to accommodate some other design element.

**Comments**

1) *Purpose of the bill.* According to the author's office, "Existing law places limits on the maximum amount a delegated officer or engineer can approve without requiring a vote by the Board of Supervisors. These limits have not been updated since 2011 and do not reflect inflation, changes in construction market pricing, and changes in the scale of projects. The result is that the maximum threshold requiring a Board of Supervisors vote is frequently reached, often leading to costly delays as the number of necessary change orders increase. This is especially true for LA County, as current County projects are frequently being delayed due to change orders exceeding existing limits for delegated authority approval. The County also has several County projects in the pipeline, with initial contract costs ranging from $25 million to $1.2 billion. AB 712 will help expedite LA County construction projects, such as medical centers, bridges, highways and more, by updating change order limits to reflect changes in inflation, and in the size and scale of construction projects."

2) *Special treatment*. While Los Angeles is the state's largest county, it is not the only county that constructs large-scale public works. Rather than increase change order limits statewide, AB 712 applies only to the County of Los Angeles. Why should this one county receive special treatment? According to the County of Los Angeles, on six of its recent large projects, the County had 59 change orders over $210,000, a total of nearly $100 million, which required board approval. When a change order requires board approval, the county has seen construction delays of two months or more to obtain board approval, estimated processing cost per board letter of $7,500, and up to $20,000 to $90,000 per day delay costs on very large projects. The County also cites public health and safety concerns that result from delays caused by pursuing board approval for these change orders. While the measure does increase limits unique to Los Angeles County, it includes three key limits on the County's ability to use this authority, including: (1) applying the limit only to seven projects, (2) a January 1, 2027 sunset for these increases, and (3) required

reporting to the Legislature. Should the Legislature give the County of Los Angeles this authority that other counties cannot enjoy?

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

**SUPPORT:** (Verified 6/19/21)

County of Los Angeles (source)
American Subcontractors Association-California
Associated General Contractors – California Chapters
Association of California Water Agencies
California Legislative Conference of Plumbing, Heating & Piping Industry
Construction Employers' Association
Engineering & Utility Contractors Association Dba United Contractors
National Electrical Contractors Association
Northern California Allied Trades
Southern California Glass Management Association
Wall and Ceiling Alliance
Western Wall and Ceiling Contractors Association

**OPPOSITION:** (Verified 6/19/21)

None received

ASSEMBLY FLOOR: 76-0, 5/24/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Flora

Prepared by: Jonathan Peterson / GOV. & F. / (916) 651-4119
6/23/21 15:07:56

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

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(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 726
Author: Eduardo Garcia (D)
Amended: 6/21/21 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/17/21
AYES: McGuire, Nielsen, Durazo, Hertzberg, Wiener

ASSEMBLY FLOOR: 74-0, 4/8/21 - See last page for vote

**SUBJECT:** Capital investment incentive program: qualified manufacturing facility

**SOURCE:** Author

**DIGEST:** This bill allows cities and counties to offer Capital Investment Incentive Program incentives to businesses engaged in the manufacturing of fuels, electrical parts, or components used in clean transportation or the production of alternative fuel or electric vehicles.

**ANALYSIS:**

Existing law:

1) Creates the Capital Investment Incentive Program (CIIP), which allows counties and cities to pay a capital investment incentive amount for 15 years to a proponent of a qualified manufacturing facility making an initial investment that exceeds $150 million.

2) Requires manufacturing facility proponents to file a request to the city or county, which must be approved by majority vote of the city or county governing body to receive CIIP payments.

3) Provides that, if the city or county approves the request, the proponent receives a payment equal to the amount of property taxes paid and received by that city

or county that exceeds $150 million of the facility's value - other agencies' shares of tax revenues from that property are not affected.

4) Requires a proponent receiving CIIP payments to pay a community service fee equal to 25% of the capital incentive amount, up to $2 million a year. The proponent must also sign a community services agreement that spells out the fee, payment conditions, a job creation plan that requires employer-sponsored health care and payment of an average wage not less than the state average, and provisions to recapture the incentive payments if the proponent fails to run the facility as agreed.

5) Allows a city or special district to pay the county or city an amount equal to the amount of property tax revenue that the local government receives from the facility's property taxes paid on the facility's value over $150 million.

6) Requires that the city or county submit annual reports on the incentives it approves to the Governor's Office of Business and Economic Development (GO-Biz), which GO-Biz compiles into a report it submits to the Legislature.

7) Limits CIIP to manufacturing facilities engaged in commercial production, the perfection of the manufacturing process, or the perfection of a product intended to be manufactured, that also meets the following criteria:

   a) Have an initial investment in real and personal property over $150 million, certified GO-Biz;

   b) Be located within the county or city offering the capital incentive program; and

   c) Be operated by a business within specified North American Industrial Classification System (NAICS) codes, which includes firms engaged in various types of manufacturing, research and development, recovery of minerals from geothermal resources, and components related to electricity production.

This bill:

1) Allows cities and counties to offer CIIP incentives to businesses engaged in the manufacturing of fuels, electrical parts, or components used in the field of clean transportation or the production of alternative fuel vehicles or electric vehicles.

2) Clarifies that special districts do not include school districts for the purposes of CIIP.

**Background**

The Legislature originally approved the program to help Placer County officials attract an Intel plant, but they never used the law (SB 566, Thompson, 1997). Legislators expanded the definition of a qualified manufacturing facility to include CalEnergy Company's plan to extract minerals from geothermal brine, which did not launch (SB 133, Kelley, Chapter 24, Statutes of 1999). In 2009, the Legislature further expanded the program to include other manufacturers that produce of electricity using solar, wind, biomass, hydropower, or geothermal resources; shifted the responsibility to certify the investment to the Business, Transportation and Housing Agency; and sunset the program on January 1, 2017 (AB 904, V.M Perez, Chapter 486, Statutes of 2009). In 2012, the Legislature expanded the program (SB 1006, Committee on Budget and Fiscal Review, Chapter 32) to entice Samsung Semiconductor to expand its manufacturing facility in San Jose; however, the facility was constructed without the incentive agreement being executed, with the company instead applying for and receiving California Competes tax credits. SB 1006 repealed all of its changes on June 30, 2013.

In 2014, the Legislature again reauthorized the program, expanded the NAICS codes to include additional manufacturers, and lowered the threshold to trigger incentive payments from $150 million in value to $25 million. The bill was part of a package of incentives to attract production of the United States Air Force's new long-range bomber to California (AB 2389 Fox, Chapter 116, Statutes of 2014) and SB 718 (Roth, Chapter 189, Statutes of 2014). The specific programmatic changes sunset on January 1, 2016, thereby defaulting to the threshold investment amounts and minimum value thresholds to those originally set by the Legislature in 1997. Both bills set the program to sunset entirely on January 1, 2018. However, in 2017, the Legislature extended the program from January 1, 2018, to January 1, 2019, at the request of Imperial County and EnergySource Minerals, a firm seeking to extract lithium from a location near the Salton Sea (AB 755, E. Garcia, Chapter 709, Statutes of 2017). A couple years ago, the Legislature extended the program once again from January 1, 2019, to January 1, 2024 (AB 1900, Brough, Chapter 382, Statutes of 2018).

The County of Los Angeles and the City of Long Beach entered into an agreement with Weber Metals, Inc., where the county entered into a 15-year agreement to make a payment of $1.04 million and the city makes one of $709,000, in exchange for annual community service fees of $348,607 and $265,000, respectively. GO-Biz indicated that the facility is currently under construction, so no payments have yet been made. If GO-Biz certifies the investment, it would become the first time the program has been used in its 24-year life. GO-Biz has not received

notifications of new CIIP agreements from local governments since 2015, despite receiving several inquiries from local governments and interested manufacturer proponents.

**Comments**

1) *Purpose of the bill.* According to the author, "The Imperial County, recently coined as The Lithium Valley due to its significant amount of underground lithium deposits, has a unique opportunity to attract battery manufacturers as a result of this natural resource as well as an opportunity to develop other renewable and clean transportation projects. In the past, the County has additionally looked to the CIIP program to attract a significant number of jobs to the region in a county with the highest unemployment rate in the nation. However, currently the CIIP does not incentivize the investment of these clean transportation projects. In order to expand on possible investments into local regions of California and to help meet our clean transportation and air quality goals, the CIIP program needs to include incentives for the manufacturing of fuels, electrical parts, or components in the field of clean transportation or the production of alternative fuel vehicles or electric vehicles."

2) *Right way*? AB 726 expands CIIP to additional manufacturers, which allows cities and counties to refund property taxes received solely by that jurisdiction to specified firms, under the assumption that the net economic benefits to that city or county exceed the amounts refunded. The state foregoes almost $75 billion annually in tax expenditures, some for economic development purposes. The CIIP program gives local agencies the option to do so as well. Without the revenue diverted for these incentive payments, local agencies have less funding to pay for important public services such as public health safety. AB 726 expands the program in the hopes that the economic benefits outweigh the foregone revenue. However, these incentives may reward some manufacturers that planned to locate their facility in a particular jurisdiction regardless of the incentive. In these instances, the local agency receives no marginal benefit, and provides a windfall benefit to the manufacturer. No state tax expenditure has yet conclusively demonstrated that its benefits outweigh its costs. Is there any reason to believe that when local agencies offer the incentives, the benefits will prove more conclusive?

3) *How does this work?* If a city council or county board of supervisors approves the proponent's request, he or she pays their property tax as they would normally under current law. The local agency approving the request then sends a payment equal to the amount of the share of the property tax they received on

the value of the facility that exceeds $150 million less the community service fee. A firm that constructs a facility valued at $200 million pays $2 million in tax at a 1% rate. If the local agency approving the request receives a 15% share of the allocated property tax for that property in that specific tax rate area, the payment is $75,000 ($200 million - $150 million = $50 million x 1% rate x the 15% share), less the $18,750 (25%) community service fee, for a net payment of $56,250 annually for up to 15 years. Will AB 726 sufficiently influence manufacturers' decisions regarding where to locate their facilities?

4) *Sure, but will it work?* Since CIIP's creation in 1997, various local agencies have sought to use the program, but none have done so successfully. According to GO-Biz, while some local agencies and companies have expressed interest, the office has not received notifications of new CIIP agreements from local governments since 2015. Despite the program's challenges, AB 726 expands the program to cover additional manufacturers. This bill's supporters note that Imperial Valley has come close to executing a successful CIIP program in the past, and that companies have already expressed interest in locating lithium facilities in the Imperial Valley if these incentives materialize. Will expanding CIIP to additional manufacturers make the program more effective?

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

**SUPPORT:** (Verified 6/19/21)

EnergySource Minerals
Imperial Valley Economic Development Corporation

**OPPOSITION:** (Verified 6/19/21)

None received

ASSEMBLY FLOOR: 74-0, 4/8/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Wicks, Rendon

NO VOTE RECORDED: Holden, Mullin, Quirk, Wood

Prepared by: Jonathan Peterson / GOV. & F. / (916) 651-4119
6/23/21 15:07:56

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

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CONSENT

Bill No: AB 742
Author: Calderon (D), et al.
Amended: 5/26/21 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/10/21
AYES: McGuire, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/29/21 (Consent) - See last page for vote

**SUBJECT:** Personal income taxes: voluntary contributions: School Supplies for Homeless Children Voluntary Tax Contribution Fund

**SOURCE:** Author

**DIGEST:** This bill extends the sunset date for the School Supplies for Homeless Children Voluntary Tax Contribution Fund on the personal income tax return.

**ANALYSIS:**

Existing law:

1) Allows a taxpayer to contribute money to voluntary contribution funds (VCFs), by checking a box on their state Personal Income Tax return.

2) Requires taxpayers to make VCF contributions from their own resources. In other words, the contributions cannot come from the taxpayer's tax liability.

3) Allows taxpayers to claim the contributions as charitable deductions on their tax return in the subsequent year.

4) Allows the VCFs listed below to not be subject to the minimum contribution requirement:

a) California Firefighters' Memorial Foundation Fund;

b) California Peace Officer Memorial Foundation Fund; and

c) California Senior Citizen Advocacy Voluntary Tax Contribution Fund.

5) Requires that VCFs include the following:

a) A sunset provision of no more than seven years.

b) A requirement for the administering agency to post online the process and the administrative costs of awarding the money.

c) A requirement that funds shall be continuously appropriated to the administering agency.

d) That the term "voluntary tax contribution" to be in the name of the fund.

This bill:

1) Changes the existing VCF name from the "School Supplies for Homeless Children Fund" to the "School Supplies for Homeless Children Voluntary Tax Contribution Fund."

2) Extends the Fund's sunset date from January 1, 2022, to January 1, 2029.

3) Requires the State Department of Social Services (DSS) to report annually on its website information on the process for the distribution of funds, the amount of money distributed to the designated nonprofit, the matching funds or in-kind materials provided by the designated nonprofit organization, and the amount of money spent on administration.

**Background**

VCFs must be added individually through legislation. With a few exceptions, VCFs remain on the return until the Franchise Tax Board (FTB) removes the VCF due to a sunset provision, or the VCF fails to meet the minimum contribution amount. In general, the minimum contribution amount is $250,000 beginning in the fund's second year, annually adjusted for inflation.

The 2021 tax return contains 19 VCFs.

*California's Homelessness Crisis and COVID-19.* California has one of the worst homelessness rates in the nation and with the COVID-19 pandemic, the amount of

people experiencing homelessness is expected to rise. According to an article from Cal Matters, "It's not surprising that California, the largest state, has the biggest homeless population in the country. But while about 1 in 9 Americans live in California, roughly 1 in 4 homeless Americans live here. New York and Hawaii have slightly higher per capita rates of homelessness, but California has the largest proportion of people living without shelter."

*School Supplies for Homeless Children VCF*. In 2012, the Legislature enacted the School Supplies for Homeless Children Fund (SB 1571, DeSaulnier, Chapter 459, Statutes of 2012). Funds raised from the VCF fund are allocated to the California Department of Education (CDE) for distribution to K to College, a California nonprofit public benefit corporation, to provide school supplies to homeless children. After K to College reported delays receiving funds, the Legislature shifted administration from CDE to the DSS, among other changes (SB 761, DeSaulnier, Chapter 365, Statutes of 2014). After receiving $337,949 in valid contributions in 2014, and $398,900 in 2015, the Legislature extended the VCF until January 1, 2022 (AB 1789, Santiago, Chapter 447, Statutes of 2015).

The fund continues to collect more than its minimum required amount, with the FTB reporting in 2020 the fund collected $746,605 in valid contributions – significantly higher than the Fund's $283,074 required minimum. While DSS continues to distribute funds to K to College, which provides grants of school supplies and health-related products to partnering school districts. However, current law lacks a requirement for the DSS to report on the distributions and performance of the fund, as required by SB 1476.

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

**SUPPORT:** (Verified 6/22/21)

A Community for Peace
Alameda County Office of Education
Berkeley Unified School District
California Alliance of Child and Family Services
California Federation of Teachers AFL-CIO
California State PTA
Contra Costa County Office of Education
Folsom Cordova Unified School District
Los Angeles County Office of Education
Oakland Unified School District
Pajaro Valley Unified School District
Supplybank.org

Ventura County Office of Education

**OPPOSITION:** (Verified 6/22/21)

None received

**ARGUMENTS IN SUPPORT:** According to the author, "California has been facing a monumental housing crisis, consequently generating one of the most vulnerable populations in the state: homeless students and youth. There are approximately 277,736 homeless public school students in California, with Los Angeles County having the highest percentage of unhoused students. Since 2012, California's taxpayers have been able to check a box on the personal income tax form to designate the Homeless Children Voluntary Tax Fund as a recipient of their voluntary contribution. This fund continues to be one of the only resources in the state to serve homeless children by providing access to school supplies and health related products. It is set to expire by 2022, at a time when our state will need to support unhoused students the most. AB 742 extends the Homeless Children Voluntary Tax Fund to 2029 and requires DSS to publically report on the distribution of the funds."

ASSEMBLY FLOOR: 77-0, 4/29/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Luz Rivas

Prepared by: Jessica Deitchman / GOV. & F. / (916) 651-4119
6/23/21 15:07:55

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

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(916) 651-1520 Fax: (916) 327-4478

CONSENT

Bill No: AB 819
Author: Levine (D) and Mathis (R)
Amended: 5/28/21 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 7-0, 6/14/21
AYES: Allen, Bates, Dahle, Gonzalez, Skinner, Stern, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/22/21 (Consent) - See last page for vote

**SUBJECT:** California Environmental Quality Act: notices and documents: electronic filing and posting

**SOURCE:** Author

**DIGEST:** This bill requires various California Environmental Quality Act (CEQA) notices and documents posted online and filed electronically.

**ANALYSIS:**

Existing law, under CEQA (Public Resources Code (PRC) 21000 et seq.):

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 (PRC) §§21000 et seq.)

2) Requires the lead agency to submit to the State Clearinghouse, for review and comment by state agencies, a sufficient number of copies, in either hard-copy or electronic form, the draft EIR, proposed ND, or proposed MND in the following instances:

a) When a state agency is the lead agency, a responsible agency, or a trustee agency.
b) A state agency otherwise has jurisdiction with respect to the project.
c) The project is of sufficient statewide, regional, or areawide environmental significance. (PRC §21082.1)

3) Requires a state agency, when a project is approved or carried out by a state agency that is subject to CEQA, to file a Notice of Determination (NOD) with OPR. If the state agency determines that a project is not subject to CEQA, the state agency may, but is not required to, file a notice of exemption (NOE) with OPR. (PRC §21108)

4) Requires a local agency, when a project is approved or carried out by a local agency that is subject to CEQA, to file a NOD within five working days after the determination becomes final, with the county clerk of each county in which the project will be located. If the local agency determines that a project is not subject to CEQA, the local agency may, but is not required to, file an NOE with the county clerk of a county in which the project will be located. (PRC §21152)

   a) Requires an NOD to include specified information.

   b) Requires the notice to be: (i) available for public inspection; (ii) physically posted at the office of the county clerk within 24 hours of receipt; and (iii) remain posted for 30 days.

5) Specifies public review periods for draft EIRs, proposed NDs, and proposed MNDs. If the environmental review document is submitted to the State Clearinghouse for review by state agencies, the lead agency is required to provide a sufficient number of copies of the document in either a hard copy or electronic form (PRC §21091).

6) Requires the following notices to be mailed to every person who files a request with the clerk of the governing body or director of the agency:

   a) Notice to each responsibility agency, OPR, and public agencies with jurisdiction over the natural resources affected by a project if an EIR is required for the project (PRC §21080.4).
   b) Notice of specified scoping meetings to various public entities if a project is of statewide, regional, or areawide significance (PRC §21083.0).

c) Public notice of the preparation of an EIR or ND, or determination that a subsequent proposed project identified in a master EIR will not have additional significant effect on the environment (PRC §21092).
d) NODs filed by a state agency with OPR (PRC §21108).
e) NODs filed by a local agency with the county clerk (PRC §21152).
f) Notice of Completion filed with OPR whenever a public agency has completed an environmental review document (PRC §21161).

This bill:

1) Eliminates the option for a lead agency to submit hard copies of the draft EIR, ND, or MND when the lead agency is submitting the environmental review documents to the State Clearinghouse, and instead requires only electronic copies of the environmental review documents be submitted.

2) Requires environmental review documents be submitted for all projects, instead of requiring that environmental review documents be submitted to the State Clearinghouse under certain circumstances, and requires the lead agency to post the environmental review documents on its internet website.

3) Requires NODs filed by a state agency also be filed electronically with OPR and for the notice to be available for public inspection on OPR's internet website for not less than 12 months. Removes the requirement that OPR maintain a list of these notices in their physical office.

4) Requires a local agency, when an NOD or NOE is filed with the county clerk of each county in which the project will be located, to file that notice electronically, if available.

5) Requires, when notice is given for the preparation of an EIR or ND or when making a determination that a subsequent proposed project identified in a master EIR will not have additional significant effect on the environment, that the notice also be posted on the lead agency's internet website.

6) Requires, additionally, when mailing the specific notices to requesting parties, the lead agency to post the notices on their website.

7) Requires, for specified EIR notices that are posted in the county clerk's physical office, that the notices also be posted on the county clerk's internet

website.

8) Requires a public agency, when it has completed an environmental document, to file a notice of completion with OPR using OPR's online process and would specifically state that the public agency is not required to mail a printed copy to OPR.

9) Makes various technical and conforming changes.

**Background**

1) *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 negative declaration. 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.

2) *Notice of Determination (NOD).* The goal of informing the public of environmental impacts of a project is one of the pillars of CEQA and a NOD helps serve this purpose. A NOD is a brief notice filed by a public agency after it approves or determines to carry out a project. The NOD must include the project name, description, location, lead agency's name, and the date of project approval. For an EIR, it also must summarize the project's significant impacts and state whether mitigation measures were made as conditions of approval, findings were prepared, a mitigation monitoring or reporting program as adopted, and a statement of overriding considerations was adopted.

3) *Notice of Exemption (NOE).* NOEs are a type of NOD. Lead agencies may, but are not required to, file an NOE when it has determined that a project is not subject to CEQA. CEQA Guidelines encourage public agencies to make NOEs available in electronic format on the internet.

**Comments**

1) *Purpose of Bill.* According to the author, "AB 819 would require certain posting, filing and notice requirements under the California Environmental Quality Act (CEQA) to be satisfied through electronic means to increase public access and involvement.

   *"*This bill would increase transparency in the environmental review process; modernizing the filing of CEQA-related reports. Communicating documents has become quick and painless through the means of email or the posting of documents on a company's website. CEQA was enacted 50 years ago, long before this facilitating technology could be utilized. AB 819 updates the CEQA process to reflect this new technology to improve the accessibility and ease of the process."

2) *Executive Order N-54-20*. On March 4, 2020, Governor Newsome proclaimed a State of Emergency in California as a result of the COVID-19 pandemic and issued Executive Order N-54-20. In that executive order, among other things, specified CEQA filing, posting, notice, and public access requirements were suspended and instead the order permitted certain posting and filing requirements to be carried out electronically. Specifically, the lead agency was required to do all of the following:

   - Post materials on the relevant agency's or applicant's website for the same period that physical posting would have otherwise been required;
   - Submit all materials electronically to the State Clearinghouse CEQAnet Web Portal; and
   - Engage in outreach to any individuals and entities known by the lead agency, responsible agency, or project applicable to be parties interested in the project.

   AB 819 codifies these electronic public access requirements, supplementing the current notice requirements.

3) *Adding to CEQA's robust notice requirements through modernization*. Public participation and transparency in a local government's decision to certify or

approve a project is a cornerstone of CEQA; helping to support informed decision making. To that end, CEQA notice requirements are robust, ensuring that impacted communities and citizens have the opportunity to engage. AB 819 adds to the notice requirements by requiring environmental review documents and notices be posted on the lead agency's website. This modernization will help increase public awareness of projects and their ability to participate. The electronic posting and filing of notices will also help the CEQA process run more efficiently.

**Related/Prior Legislation**

AB 609 (Levine, 2020) had provisions similar to this bill. The bill was held in Senate Environmental Quality Committee.

SB 80 (Wieckowski, 2017) would have provided specified notice requirements regarding posting on websites and sending notices via email pursuant to CEQA. The bill also would have made filing a Notice of Determination mandatory for a project subject to a categorical exemption. SB 80 was vetoed by Governor Brown.

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

**SUPPORT:** (Verified 6/21/21)

American Planning Association, California Chapter
Association of California Water Agencies
California Apartment Association
California Chamber of Commerce

**OPPOSITION:** (Verified 6/21/21)

California Association of Clerks & Election Officials

ASSEMBLY FLOOR: 77-0, 4/22/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Luz Rivas, Robert Rivas, Rodriguez, Blanca

Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Holden, Reyes

Prepared by: Genevieve M. Wong / E.Q. / (916) 651-4108
6/23/21 15:05:40

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

**SENATE RULES COMMITTEE** AB 831
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

CONSENT

Bill No: AB 831
Author: Committee on Health
Introduced: 2/17/21
Vote: 21

SENATE HEALTH COMMITTEE: 10-0, 6/10/21
AYES: Pan, Eggman, Gonzalez, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/22/21 (Consent) - See last page for vote

**SUBJECT:** California Retail Food Code

**SOURCE:** Author

**DIGEST:** This bill makes a variety of clarifying and technical changes to the provisions of law governing retail food facilities.

**ANALYSIS:**

Existing law:

1) Establishes the California Retail Food Code (CalCode) to provide for the regulation of retail food facilities. Health and sanitation standards are established at the state level through the CalCode, while enforcement is charged to local agencies, carried out by the 58 county environmental health departments, and four city environmental health departments (Berkeley, Long Beach, Pasadena, and Vernon). [HSC §113700, et seq.]

2) Defines a "food facility" as an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level. Excludes various entities from the definition of a "food facility," including a

cottage food operation, and a church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs no more than three days in any 90 day period. [HSC §113789]

3) Defines a "cottage food operation" as an enterprise that prepares or packages nonpotentially hazardous foods, and that has no more than $50,000 in gross annual sales, and includes both "Class A" cottage food operations, which is restricted to direct sales of food products, and "Class B" cottage food operations, which may engage in both direct sales and indirect sales through third-party retail food facilities. [HSC §113758]

4) Defines "limited service charitable feeding operation" as an operation for food service to a consumer solely for providing charity, that is conducted by a nonprofit charitable organization, and whose food service is limited to the following to specified low-risk activities.

5) Defines a Hazard Analysis Critical Control Point (HACCP) plan as a document that delineates the formal procedures for maintaining control of potentially hazardous food at the critical control points of food preparation or processing. [HSC §113801]

This bill:

1) Revises the definition of "limited food preparation" to clarify that it includes, among other things, the holding, portioning, and dispensing of any foods that are prepared by any catering operation, and not just a catering operation for a host facility.

2) Revises the definition of "limited service charitable feeding operation," for purposes of the CalCode, to clarify and further limit the type of food service that can be conducted by this type of operation, by doing the following:

    a) Specifying that heating, portioning, or assembling a small volume of commercially prepared foods means food preparation that is restricted to one or more of the following:

        i) Assembly of ready-to-eat foods that require no further preparation aside from assembly;
        ii) Heating, including boiling of pasta and grains, and serving; and,
        iii) Dispensing, portioning, or repackaging of bulk foods.

b) Prohibiting the inclusion of the following from what is considered heating, portioning, or assembling a small volume of commercially prepared food:

i) Chopping or dicing;
ii) Cooking raw animal products;
iii) Blending; or,
iv) Other food processing as defined by the local enforcement agency.

3) Expands the definition of "outdoor wood-burning oven," which currently requires it to be operated on the same premises as, or in conjunction with, a permanent food facility or a catering operation, so that it may also be operated by a temporary food facility, a mobile food facility that remains fixed during hours of operation at a community event, or a satellite food service.

4) Revises the definition of "satellite food service," which current law prohibits from including remote food service operations located within a fully enclosed permanent food facility, to instead require satellite food services that are located within a fully enclosed permanent food facility to be "temporary by nature."

5) Permits food facilities, as an alternative to the requirement for employees to wash their hands if exposed to direct food contact, to incorporate an alternate glove use procedure in which double gloves are worn to handle raw animal proteins. Requires the loose-fitting outer glove to be removed in a manner to prevent cross-contamination of the tight-fitting inner glove before the inner glove is used as a barrier to bare hand contact with ready-to-eat food.

6) Revises the required provisions of an HACCP plan, for when a food facility packages food using a reduced-oxygen packaging method and Clostridium botulinum is identified as a microbiological hazard in the final prepackaged form, to require food to labeled with instructions that it be discarded within 30 days of its packaging, rather than 14 days, and permits the refrigerated shelf life to be up to 30 calendar days or the manufacturer's "use by" date, whichever occurs first, rather than 14 days.

7) Requires food facilities that package potentially hazardous foods using a cook-chill or sous vide process to meet reduced oxygen packaging requirements published by the federal Food and Drug Administration (FDA), as specified.

8) Permits a local enforcement agency to exempt a mobile food facility, other than a special purpose commercial modular and coach, as defined, that conducts only limited food preparation, from requirements related to mechanical exhaust ventilation.

9) Requires a cottage food operation that advertises to the public, including through an internet website, social media platform, newspaper, newsletter, or other public announcement, to indicate the following on the advertisement: the county of approval; the permit or registration number; and, a statement that the food prepared is "Made in a Home Kitchen" or "Repackaged in a Home Kitchen," as applicable.

10) Permits fish sold in a fishermen's market, in addition to being displayed whole or eviscerated, to also be displayed packaged by an onsite permitted food facility.

11) Requires limited service charitable feeding operation facilities to be deemed to be in compliance with specified structural requirements, pending replacement or renovation, unless a determination is made by the enforcement agency that the nonconforming structural conditions pose a public health hazard.

**Comments**

1) *Author's statement.* According to the author, because there are no regulations adopted to implement the CalCode, a bill is necessary to codify clean-up or technical changes to the CalCode. This bill is sponsored by the California Retail Food Safety Coalition and is a consensus among retail food stakeholders, including federal, state and local regulators, other state agencies, the restaurant and grocery industry and other stakeholders in the retail food arena.

2) *Background on the changes proposed by this bill*

   a) *Limited food preparation.* A limited food preparation service is food preparation that is limited to specific activities, including heating and dispensing of nonprepackaged foods, nonpotentially hazardous foods, or food prepared by a catering operation for a host facility. According to the sponsor, the current definition is only permissible for a satellite operation or a catering operation that works in conjunction with a permitted host facility. Existing law defines a host facility as facility located in a brewery, winery, commercial building, or another location that supports a catering operation that provides food for a limited period of time, up to four hours, as specified.

The changes to this section would clarify that limited food preparation would be allowed at all catered events, including traditional caterers.

b) *Limited service charitable feeding operation.* In 2018, AB 2178 (Limon, Chapter 489, Statutes of 2018), expanded the definition of a food facility to include a limited service charitable feeding operation whose purpose is to feed food-insecure individuals and requires limited service charitable feeding operations to register with the local enforcement agency. AB 2178 allowed these organizations to obtain a registration instead of a health permit and did not require compliance with plan review or the need to meet full commercial kitchen requirements. This bill would clarify what type of food processing would be allowed at a limited service charitable feeding operation to decrease ambiguity. Food banks and other operations have requested this clarification to allow them to serve specific food items.

c) *Outdoor wood burning ovens*. Existing law defines an outdoor wood burning oven as an oven located out of doors that utilizes wood as the primary fuel for cooking (such as pizza ovens). These outdoor wood ovens are widely used in food preparation and are currently only allowed to operate on the same premises as, and in conjunction with, a permanent food facility or a catering operation. This bill allows mobile food facilities or temporary food facilities to use wood burning ovens when operating as part of a community event. According to the sponsor, the CalCode is not sufficiently clear on what local enforcement agencies can allow and these provisions will attempt to provide more consistency among jurisdictions.

d) *Satellite food service*. Existing law defines satellite food service as a remotely located food service operation that is conducted on the same property with a fully enclosed permanent food facility. This definition excludes remote food service operations within a fully enclosed permanent food facility. This bill allows satellite operations that are temporary in nature (such as guacamole stations that are common practice throughout the state) to have a food service operation inside food facilities, like grocery stores. According to the sponsor, the existing definition of satellite food service would require these temporary operations (such as seasonal, weekends only, special menu item features) to be permanently plumbed and built into the food facilities and this interpretation did not align with industry's need to have these temporary operations constructed to be easily broken down and moved.

e) *Glove use requirements*. Existing law establishes requirements for handwashing and glove use requirements but does not allow the use of more than one pair of gloves or double glove. Generally, to use double glove, a variance must be obtained and approved by the California Department of Public Health (CDPH). According to the sponsor, the practice of double glove use has become widely used within California and the procedures followed are almost always approved and variance granted. The variance process is time consuming and expensive for both industry and local regulators. This bill authorizes the use of double glove and eliminates the need for industry to obtain a variance for this widely used practice by adding it into the description of approved hand washing and glove use procedures in the CalCode.

f) *HACCP for reduced oxygen packaging*. Existing law establishes requirements for HACCP plans, which is a systematic approach for the identification, evaluation, and control of food safety hazards. When a food facility packages food using reduced oxygen packaging, among other requirements, the HACCP plan describes label requirements and includes instructions on maintaining food temperature and to discard food within 14 calendar days if food is not served or consumed and limits refrigeration shelf life to no more than 14 calendar days. This bill proposes to replace the 14 calendar days with 30 calendar days to be consistent with the federal FDA Food Code standards. Additionally, this bill requires a food facility that packages potentially hazardous foods using a cook-chill or sous vide process to meet the requirements of the FDA Food Code. To control for Clostridium botulinum (bacteria that produces foodborne botulism), the FDA Food Code requires reduced oxygen packaging, which includes cook-chill packaging or sous vide packaging. Cook-chill is when cooked food is hot filled into impermeable bags which have the air expelled and are then sealed or crimped closed. The bagged food is rapidly chilled and refrigerated at temperatures that inhibit the growth of pathogens. Sous vide packaging is when raw or partially cooked food is vacuum packaged in an impermeable bag, cooked in the bag, rapidly chilled, and refrigerated at temperatures that inhibit the growth of pathogens.

g) *Mobile food facilities*. Mobile food facilities are vehicles used to sell or distribute food at retail. Existing law requires mobile food facilities to be licensed as food facilities, and are exempt from certain requirements including toilet facilities, dressing room and lockers and curbed cleaning facilities (janitorial sink). This bill allows local enforcement agencies to

exempt push carts from the ventilation requirements of the CalCode, since push carts are primarily outdoors and venting is the same as the ambient air.

h) *Cottage food operations*. Current law establishes requirements for cottage food operations, which are limited home-based food operations, including requiring these operations to obtain a registration or permit. This bill proposes that for purposes of advertising to the public, a cottage food operator must include the following on the advertisement: the county of approval, permit or registration number and a statements that the food prepared is "Made in a Home Kitchen" or "Repackaged in a Home Kitchen." These changes are necessary to verify that the operation has been permitted and to trace-back any unsafe product.

i) *Fish sold in a fisherman's market*. Existing law requires fish sold in a fisherman's market to be raw and to be displayed whole or eviscerated. This bill clarifies that fishermen can process and sell packaged fish from their booth, subject to prescribed safe handling requirements.

j) *Structural requirements for charitable feeding organizations*. Existing law establishes structural requirements for the building or remodeling (including submission of plans) of retail food facilities, except for schools and churches. This bill proposes to give local enforcement agencies flexibility for plan check requirements for limited service charitable feeding organizations. This flexibility is necessary since most of these charitable organizations are run out of facilities like schools or churches that are not necessarily designed primarily to be food facilities. Since these charitable organizations are only permitted to prepare limited food preparation, local enforcement agencies would be able to allow some structural requirements necessary in a full-service food facility to be waived without compromising food safety of charitable operations that do not engage in full food preparation. This exemption is necessary to keep these charitable feeding organizations open and continue feeding those in need.

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

**SUPPORT:** (Verified 6/22/21)

California Retail Food Safety Coalition (source)
California Association of Environmental Health Administrators
Nutrition and Fitness Collaborative of the Central Coast
Roots of Change

San Diego County

**OPPOSITION:** (Verified 6/22/21)

None received

**ARGUMENTS IN SUPPORT:** This bill is sponsored by the California Retail Food Safety Coalition (Coalition) to make a series of updates and improvements to CalCode that seek to clarify the interpretation of the existing law or to make CalCode more consistent with the federal Model Food Code. The Coalition states that all of the provisions in this bill have been approved by the Coalition, which is composed of 60 participants representing a wide cross section of the retail food industry.

The California Association of Environmental Health Administrators states in support that these proposed amendments to CalCode are non-controversial and largely technical, and will enhance food safety and improve compliance with the law.

The Nutrition and Fitness Collaborative of the Central Coast and Roots of Change both write in support of the provision permitting fish sold in a fishermen's market to be displayed packaged by an onsite permitted food facility. This clarification will enhance the ability of the public to purchase seafood in a more convenient format.

ASSEMBLY FLOOR: 77-0, 4/22/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Holden, Reyes

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
6/23/21 15:12:16

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

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

THIRD READING

Bill No: AB 845
Author: Rodriguez (D)
Amended: 3/30/21 in Assembly
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 6/7/21
AYES: Cortese, Ochoa Bogh, Durazo, Laird, Newman

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 74-0, 5/6/21 - See last page for vote

**SUBJECT:** Disability retirement: COVID-19: presumption

**SOURCE:** Service Employees International Union, California State Council

**DIGEST:** This bill establishes a rebuttable presumption, until January 1, 2023, that a COVID-19 related disability is employment-related for purposes of determining a disability retirement for public retirement system members.

**ANALYSIS:**

Existing law:

1) Provides a non-service connected (i.e., non-industrial) disability retirement for members of the California Public Employees' Retirement System (CalPERS) who meet service requirements and are incapacitated for the performance of duty, as specified. (Government Code (GC) § 21150 et seq.).

2) Authorizes a service-connected (i.e., industrial) disability retirement benefit for specified CalPERS members (usually safety members but also certain miscellaneous members) greater than the non-service disability benefit that also carries certain potential federal tax advantages. (GC §21151 et seq.)

3) Allows '37 Act county retirement systems to offer a non-service connected disability retirement to their members who are permanently incapacitated for

the performance of their duties but not because of injury or disease arising out of their employment. (GC § 31725.8 et seq.)

4) Authorizes ’37Act county retirement systems to provide a service-connected disability retirement to their members who are permanently incapacitated for the performance of duty resulting from employment and upon meeting service requirements. (GC § 31720 et seq.)

5) Provides members of the California State Teachers’ Retirement System (CalSTRS) who meet service requirements one of two forms of non-industrial disability retirement depending on when they became members. (Education Code §24001 et seq.; ED §24100 et seq.)

6) Requires members (or employers on behalf of the member) generally to apply for a disability retirement and show that their injury, whether industrial or not, prevents them from performing their job duties. (see e.g., ED § 24102 et seq.)

7) Creates various rebuttable presumptions whereby the pension system must presume that the member’s specified condition or injury arose out of and in the course of employment. Such a presumption is significant in those systems that offer an industrial disability retirement benefit because it may qualify the member for the industrial retirement benefit (which may eliminate service requirements, provide a higher monthly pension benefit, and result in federal tax exemption treatment). However, the pension system can rebut the presumption with evidence that the injury did not arise from an employment-related event. (see e.g., GC § 31720.5 et seq.)

This bill:

1) Requires a public retirement system to presume that the disability of a member who retires for disability on the basis, in whole or in part, of a COVID-19-related illness arose out of, or in the course of, the member’s employment.

2) Allows evidence to the contrary to rebut the presumption described above but unless controverted, the presumption shall bind the applicable retirement system governing board.

3) Defines “COVID-19” to mean “the 2019 novel coronavirus disease”.

4) Defines “Member” to mean a member of a public retirement system who meets either of the following:

- The member's job classification is either described in Labor Code (LC) § 3212.87 (a) or is the functional equivalent of a job classification described in that subdivision.[1]

- The member's job classification is neither described in LC § 3212.87(a) nor is the functional equivalent of a job classification described in LC § 3212.87(a), but the member tests positive during an outbreak at the member's specific place of employment pursuant to definitions set forth in LC § 3212.88 (m).[2]

5) Restricts the definition of "member" for purposes of this bill to a member of a public retirement system subject to the Public Employees' Pension Reform Act of 2013.

6) Provides that this bill's provisions shall remain in effect until January 1, 2023, and as of that date are repealed.

## Background

*Workers Compensation COVID-19 Presumption*

This bill is modeled after SB 1159 (Hill, Chapter 85, Statutes of 2020). That bill created a rebuttable presumption, until 2023, that illness or death related to COVID-19 is an occupational injury and therefore, such an injury qualifies the employee for workers' compensation benefits. The SB 1159 presumption is applicable to specified public safety, firefighter and medical occupations, and certain statutorily specified miscellaneous classifications.

*Distinction Between Workers Compensation and Disability Retirement Benefits*

Workers compensation benefits arise out of *employment-related* injuries and provide qualified employees with medical, temporary compensation, permanent compensation, supplemental job displacement, and death benefits. Because receipt of workers compensation benefits hinges on the condition or injury arising from

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[1] LC § 3212.87 lists a wide array of positions frequently described as "first responders" that qualify for Workers' Compensation benefits from injury caused, as specified, by COVID-19, including many employees that are not eligible for industrial disability retirement benefits from a California public retirement system, although some may qualify for non-industrial disability retirement benefits.

[2] LC § 3212.88 establishes the specified COVID-19 Workers Compensation presumption for general employees who are not "first responders". LC § 3212.88(m) defines the terms "COVID-19", "test" or "testing", "specific place of employment", and "outbreak", as specified.

employment, a presumption that the condition or injury is job-related is very significant.

Although public pension systems generally have some form of *non-industrial* disability retirement benefit, not all public pension systems have *industrial disability* retirement benefits (i.e., for employment-related injury). For those that do, not all members are eligible for the industrial retirement benefits. Generally, industrial disability benefits are restricted to firefighters, peace officers, and other safety members although some related miscellaneous members are also statutorily eligible. For those members who *are* eligible, the presumption makes their application and eventual approval process easier. For those who are only eligible for *non-industrial* disability, a presumption that their condition or injury is employment-related is relatively irrelevant.

Disability benefits offered by public pension funds are generally not dependent on the injury being job-related. A member will receive a disability retirement benefit if the member meets specified service requirements (i.e., time in membership) and the injury prevents the member from performing the duties of the member's position. Thus, a presumption that the injury is employment-related is not determinative for receiving the disability benefit. *Some* members may be eligible for a better benefit or may not have to meet the service requirements if the injury is employment-related (i.e., an industrial disability). Statute specifies which member classifications are eligible for this industrial disability retirement benefit.

For members who are eligible, this bill's COVID-19 presumption would be beneficial because they would not have to prove their injury was job-related (unless the employer offered evidence that the injury was not COVID-19 related). For other members who are not eligible for industrial disability retirement benefits, the presumption cannot make them eligible.

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

**SUPPORT:** (Verified 6/22/21)

Service Employees International Union, California State Council (source)
California Professional Firefighters
California Teachers Association
Los Angeles County Sheriff's Department
Professional Engineers in California Government

**OPPOSITION:** (Verified 6/22/21)

None received

**ARGUMENTS IN SUPPORT:** According to this bill's sponsor, Service Employees International Union, California State Council, "[This bill] does not change eligibility for disability nor expand benefits under current law. This bill merely treats workers exactly the same as they are treated under workers compensation law. The presumption is rebuttable by the employer if there is evidence that the worker may have more likely contracted the virus outside the workplace."

According to the California Professional Firefighters, "While [the Workers Compensation COVID-19] presumption is critical to provide immediate care to those who contract COVID-19, it does not address the ongoing symptoms and lingering health issues created by "long-haul" COVID, which affects a certain percentage of those infected long past the typical time frame and which has presented baffling and devastating symptoms. Many of those suffering from longer-term COVID may be forced to retire early due to their illness."

ASSEMBLY FLOOR: 74-0, 5/6/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Fong, Gallagher, Kiley, Mullin

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
6/23/21 15:14:24

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

**SENATE RULES COMMITTEE** AB 855
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 855
Author: Ramos (D), et al.
Introduced: 2/17/21
Vote: 21

SENATE JUDICIARY COMMITTEE: 10-0, 6/8/21
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Jones

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 75-0, 4/26/21 - See last page for vote

**SUBJECT:** Judicial holidays

**SOURCE:** Judicial Council of California

**DIGEST:** This bill removes Columbus Day as a judicial holiday and replaces it with Native American Day.

**ANALYSIS:**

Existing law:

1) Establishes state holidays, including:

   a) Native American Day, on the fourth Friday in September.
   b) Columbus Day, on the second Monday in October. (Gov. Code, § 6700.)

2) Designates all state holidays as judicial holidays, except for Admission Day and Native American Day. (Code Civ. Proc., § 135.)

3) Provides that the courts shall be closed for the transaction of judicial business on judicial holidays, subject to certain exceptions. (Code Civ. Proc., § 134.)

This bill adds Columbus Day to, and removes Native American Day, from the list of state holidays that are not judicial holidays, making Native American Day a judicial holiday in lieu of Columbus Day.

**Comments**

Native American Day and Columbus Day are both existing state holidays.[1] State employees do not, for the most part, receive either date off from work.[2]

Judicial holidays are dates when no court business may be conducted, with certain exceptions.[3] Judicial holidays are set by statute, and currently include all state holidays except for Admission Day and Native American Day.[4] This bill would replace Columbus Day with Native American Day as a judicial holiday. This bill does not remove Columbus Day as a holiday all together; it simply brings the state courts in line with the Legislative and Executive branches by not making Columbus Day a paid day off in the form of a judicial holiday. Supporters of the bill hope that, by eliminating a judicial holiday that is hurtful to many Californians of Native American ancestry and adding a holiday that recognizes the contributions of Native Americans, the state's court system will be more accessible to those Californians.

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

**SUPPORT:** (Verified 6/21/21)

Judicial Council of California (source)
California Tribal Business Alliance
Morongo Band of Mission Indians
Nashville-Enterprise Miwok-Maidu-Nishinam Tribal Council
San Manuel Band of Mission Indians
Yocha Dehe Wintun Nation

**OPPOSITION:** (Verified 6/21/21)

None received

[1] Gov. Code, § 6700(a)(11) & (12).
[2] *See* California Department of Human Resources, *State Holidays: 2021 Holiday Dates*, **https://www.calhr.ca.gov/employees/pages/state-holidays.aspx** (last visited Jun. 21, 2021).
[3] Code Civ. Proc., §§ 133-134.
[4] *Id.*, § 135.

**ARGUMENTS IN SUPPORT:** According to the author, "Leading up to the 2020 observance of the Columbus Day holiday by the judicial branch, the question arose as to why the judicial branch continues to observe Columbus Day as a paid holiday when so many other states and government agencies no longer do. AB 855 will focus on removing Columbus Day as a judicial holiday and replacing it with Native American Day, keeping the same number of paid judicial holidays."

According to bill sponsor Judicial Council of California, "Sponsoring legislation to recognize Native American Day as a judicial holiday furthers the Judicial Council's mission, as embodied in the council's strategic plan, 'to remove all barriers to access and fairness by being responsive to the state's cultural, ethnic, socioeconomic, linguistic, physical, gender, and age diversities, and to all people.' In also supports the Chief Justice's direction to address bias and racism. Finally, it bolsters the Judicial Council's ongoing efforts to evaluate branch practices, policies, and procedures to identify opportunities to remove barriers to access and fairness while also addressing conscious and unconscious bias, including racism."

ASSEMBLY FLOOR: 75-0, 4/26/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Cervantes, Kiley, Seyarto

Prepared by: Allison Meredith / JUD. / (916) 651-4113
6/23/21 15:14:21

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

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



THIRD READING

Bill No: AB 856
Author: Maienschein (D)
Amended: 5/18/21 in Senate
Vote: 27 - Urgency

SENATE EDUCATION COMMITTEE: 7-0, 6/9/21
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, McGuire, Pan

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/22/21 (Consent) - See last page for vote

**SUBJECT:** Pupil health: COVID-19 Youth Health Information Act

**SOURCE:** Author

**DIGEST:** This bill establishes the COVID-19 Youth Health Information Act and requires the California Department of Education (CDE) to: (1) post on its internet website information related to the safe return of pupils to exercise and physical activity after exhibiting signs or symptoms of, or testing positive for, COVID-19; (2) monitor the best practices and evolving guidelines on the safe return of pupils; and (3) encourage schools and school districts to give pupils and their parents and guardians ready access to this information.

**ANALYSIS:**

Existing law:

1) Requires the governing board of a school district to give diligent care to the health and physical development of pupils, and authorizes the district to employ properly certified persons for the work. (Education Code § 49400)

2) Requires CDE to post on its internet website guidelines, videos, and an information sheet on sudden cardiac arrest symptoms and warning signs and

encourages schools to post this information on the school's internet website. (EC § 33479.2)

This bill, an urgency measure, establishes the COVID-19 Youth Health Information Act and requires the California Department of Education (CDE) to: (1) post on its internet website information related to the safe return of pupils to exercise and physical activity after exhibiting signs or symptoms of, or testing positive for, COVID-19; (2) monitor the best practices and evolving guidelines on the safe return of pupils; and (3) encourages schools and school districts to give pupils and their parents and guardians ready access to this information. Specifically, this bill:

1) Requires the CDE to post on its internet website information related to the safe return of pupils to exercise and physical activity after exhibiting signs or symptoms of, or testing positive for, COVID-19, including current American Academy of Pediatrics guidelines for (1) a preparticipation screening evaluation, with a special emphasis on cardiac symptoms, with a licensed health care provider to evaluate health and heart risks associated with COVID-19, and (2) "gradual return to play" protocols, according to whether the pupil's COVID-19 was mild, moderate, or severe.

2) Requires the CDE to include the American Academy of Pediatrics guidelines for pupils to obtain medical clearance before returning to exercise and physical activity after exhibiting signs or symptoms of, or testing positive for, COVID-19, and the gradual return to play protocols, relative to the severity of symptoms.

3) Authorizes the CDE to include other materials, including those developed by the Eric Paredes Save a Life Foundation, the California Interscholastic Federation, the American Academy of Pediatrics, the American Medical Society for Sports Medicine, and the California Athletic Trainers' Association.

4) Requires the CDE to monitor best practices and evolving guidelines on the safe return of pupils to physical activity after exhibiting signs or symptoms of, or testing positive for, COVID-19, and to update its internet website in response to new information.

5) Requires the CDE to encourage schools and school districts to give pupils and their parents and guardians ready access to the information obtained pursuant to this bill by posting it on their internet websites, and actively distributing this

information via postal mail, email, newsletter, meetings, in registration and sports clearance packets, or in person.

6) Provides the following definitions:

   a) "Exercise and physical activity" includes all of the following:

      i) Interscholastic athletics.
      ii) An athletic contest, event, or competition, other than interscholastic athletics, sponsored by a school, including cheerleading and club-sponsored sports activities.
      iii) Noncompetitive cheerleading sponsored by a school.
      iv) Practices, conditioning, drills, and scrimmages for all of these activities above.
      v) Physical education classes.

   b) "Licensed healthcare provider" means a licensed medical practitioner skilled in the evaluation and screening of youth heart conditions related to viral exposure.

   c) "School" means a public elementary or secondary school, including a charter school, or a private school that conducts athletic and physical activities.

7) Makes these provisions inoperative on July 1, 2024, and repeals them as of January 1, 2025.

8) Specifies that the bill is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect, and that the facts constituting the necessity are: "In order to expedite the safe return of the pupils of this state to exercise and physical activities, it is necessary that this act take effect immediately."

**Comments**

1) *Need for the bill.* According to the author's office, "COVID-19 put a halt to and completely upended our way of life. One of the less talked about effects of this deadly disease are the short and long-term adverse health impacts on youth who may have contracted COVID-19. Youth and otherwise healthy students may not know of the potential health risks associated with engaging in physical

activity if they have been possibly infected with COVID-19. Exposure to COVID-19 can result in sudden cardiac arrest, which is one of the leading causes of death among young students around the United States.

"The issue with COVID-19 is that it may lead to adverse health impacts that are generally unknown until the worst happens. The impact of COVID-19 on youth is currently not fully understood, and this bill may be vital in helping to inform and protect school age youths."

2) *American Academy of Pediatrics (AAP) guidance.* The AAP has developed guidance for children who have tested positive to COVID-19 that advises that they undergo a health screening by their physician, particularly for cardiac symptoms, prior to returning to physical activity. The specific guidance varies based on the severity of the child's case of COVID-19, based on these three categories: (1) asymptomatic or mild cases, (2) moderate cases, and (3) severe cases. The guidance, in part, varies from "children or adolescents that have tested positive for SARS-CoV-2 within the prior 6 months should visit their pediatricians for a post-illness visit prior to return to physical activity," for asymptomatic cases, to "restriction from exercise for a minimum of 3 to 6 months and obtain cardiology clearance prior to resuming training or competition," for serve cases. The full guidance is fairly detailed. Even for mild and moderate cases, the AAP guidance recommends that the child's primary care physician conduct "the American Heart Association's 14-element screening evaluation with special emphasis on cardiac symptoms including chest pain, shortness of breath out of proportion for upper respiratory tract infection, new-onset palpitations, or syncope and perform a complete physical examination."

**Related/Prior Legislation**

AB 1933 (Maienschein, 2020) would have authorized a pupil or the pupil's parent or guardian to request the administration of an electrocardiogram as part of the pupil's evaluation for purposes of being permitted to return to participate in an athletic activity. AB 1933 was not scheduled for a hearing in the Assembly Education Committee.

AB 379 (Maienschein, Chapter 174, Statutes of 2019) added "an athlete who has passed out or fainted" to existing law that prohibits an athlete from returning to athletic activity until being evaluated and cleared by a health care provider. AB 379 required the athlete, if the health care provider suspects that the athlete has a

cardiac condition that puts the athlete at risk for sudden cardiac arrest or other heart-related issues, to remain under the care of the healthcare provider to pursue follow-up testing until the athlete is cleared to play.

AB 1639 (Maienschein, Chapter 792, Statutes of 2016) established the Eric Paredes Sudden Cardiac Arrest Prevention Act; required the CDE to make available specified guidelines and materials on sudden cardiac arrest; required pupils and parents to sign informational materials before athletic participation; required training of coaches; and set requirements for action in the event a pupil experiences specified symptoms.

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

**SUPPORT:** (Verified 6/22/21)

California Association for Health, Physical Education, Recreation & Dance
California Athletic Trainers Association
California Interscholastic Federation
California State PTA
Children Now
Eric Paredes Save A Life Foundation
Heartshield Project
Institute for Public Health
Kyle J. Taylor Foundation
Parent Heart Watch
Revive Solutions, Inc.
San Diego State University

**OPPOSITION:** (Verified 6/22/21)

None received

ASSEMBLY FLOOR: 77-0, 4/22/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Luz Rivas, Robert Rivas, Rodriguez, Blanca

Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Holden, Reyes

Prepared by: Brandon Darnell / ED. / (916) 651-4105
6/23/21 15:04:04

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

**SENATE RULES COMMITTEE** AB 861
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 861
Author: Bennett (D)
Amended: 6/17/21 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 8-1, 6/15/21
AYES: Umberg, Caballero, Durazo, Gonzalez, Laird, Stern, Wieckowski, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas, Hertzberg

ASSEMBLY FLOOR: 41-20, 5/10/21 - See last page for vote

**SUBJECT:** Mobilehome parks: rental restrictions: management

**SOURCE:** Author

**DIGEST:** This bill confirms and codifies existing law which provides that if a mobilehome park prohibits park residents from renting or subleasing their mobilehomes, then the park itself is bound by the same rule as to mobilehomes that the park owns.

**ANALYSIS:**

Existing law:

1) Establishes the Mobilehome Residency Law (MRL), which regulates the rights, responsibilities, obligations, and relationships between mobilehome park management and park residents. (Civ. Code § 798, *et seq*.)

2) Specifies that the owner of the park, and any person employed by the park, shall be subject to, and must comply with, all park rules and regulations, to the same extent as residents and their guests, except as follows:

   a) Any rule or regulation that governs the age of any resident or guest.

b) Acts of a park owner or park employee which are undertaken to fulfill a park owner's maintenance, management, and business operation responsibilities. (Civ. Code § 798.23.)

3) Requires mobilehome rental agreements to be in writing and include certain information including the term of the tenancy and rent as well as the rules and regulations of the park. (Civ. Code § 798.15 *et seq*.)

4) Prohibits a mobilehome owner from charging a renter or sublessee more than an amount necessary to cover the cost of space rent, utilities, and scheduled loan payments on the mobilehome, if any. (Civ. Code § 798.23.5(c).)

5) 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.)

This bill:

1) Specifies that park management shall be subject to, and must comply with, all rules and regulations that prohibit a homeowner from renting or subleasing a homeowner's mobilehome or mobilehome space.

2) Establishes that, if a rule or regulation has been enacted that prohibits either renting or subleasing by a homeowner, park management shall not directly rent a mobilehome that the park owns.

3) Creates an exception to 2) above, allowing park management to sublease or rent out mobilehomes that the park owns as follows:

   a) A maximum of two mobilehomes, plus one additional mobilehome for every 200 mobilehomes in the park, for use as on-site employee housing, as defined.

   b) Any mobilehome where there is an existing tenancy as of January 1, 2022 for as long as any tenant listed on the lease continues to occupy the mobilehome.

**Comments**

1) *Existing law generally requires mobilehome parks to abide by their own rules*

   Since 1993, the MRL has contained a provision requiring the owner of a mobilehome park, and any person employed by the park, to abide by all park rules and regulations to the same extent as the park's residents and their guests.

(Civ. Code § 798.23(a).) The provision only allows for two exceptions: (a) rules governing the age of residents or guests; and (b) things done by park owners or employees to fulfill maintenance, management, and business operation responsibilities. (Civ. Code § 798.23(b).)

2) *Attorney General Opinion applying existing law to renting and subleasing*

There has been a longstanding dispute over how exactly Civil Code Section 798.23 applies in the context of subleasing and rental of mobilehomes. While the plain language appears to suggest otherwise, some parks apparently insist that Section 798.23 does not prevent them from renting out the mobilehomes that they own, even as they deny that same possibility to the park residents who own their own homes.

In an attempt to put the controversy to rest, in 2013, then-Assemblymember Das Williams requested a legal opinion on the subject from the California Attorney General. (96 Ops. Cal. Atty. Gen. 29 (2013).) The Attorney General's response was clear:

> If the management of a mobilehome park has enacted rules and regulations generally prohibiting mobilehome owners from renting their mobilehomes, is park management bound by these same rules and regulations?
>
> CONCLUSION
>
> With the possible exception of rentals to park employees under appropriate circumstances that satisfy certain statutory requirements, if the management of a mobilehome park has enacted rules and regulations generally prohibiting mobilehome owners from renting their mobilehomes, then park management is also bound by these same rules and regulations. (*Ibid* at 1.)

This bill is a straightforward codification of the Attorney General's conclusion. The author and sponsor state that such a codification is needed even though it is declaratory of existing law because, even in the wake of the Attorney General Opinion, some parks continue to prohibit their residents from renting out their units even as the park rents out its own units.

3) *Background policy issues regarding subleasing in the mobilehome context*

Despite the strong argument that this bill does no more than codify existing law, this bill is contentious. This reflects longstanding policy debate between parkowners and residents regarding the merits of allowing renting and

subleasing in the context of mobilehomes. That policy debate is well summarized at the outset of the Attorney General's Opinion as follows:

> Park owners who favor [prohibitions on renting and subleasing] have observed that, whereas a "rental agreement" under the MRL is a contract between park management and a homeowner, a homeowner's subsequent rental of his or her mobilehome, and subletting of the space on which the mobilehome is situated, creates a contract only between the homeowner/tenant and the tenant's renter/sublessee. Some park owners maintain that the absence of any contract privity between park management and a park tenant's renter/sublessee makes enforcement of park rules and regulations difficult, to the potential detriment of other park residents, because under such circumstances, management can enforce the rental agreement (and its associated rules and regulations) only against the homeowner/sublessor, who in some or many cases may no longer reside in the park. No-renting/no-subletting rules are also warranted, some park owners say, because permitting homeowners to rent their mobilehomes and sublet their spaces could result in a park composed of multiple absentee landlords or a few landlords who purchase mobilehomes in order to engage in rental as a business enterprise. Such a circumstance, we are told, can lead to degradation of the park's overall physical and social environment.
>
> Some mobilehome owners, on the other hand, complain that no-renting/no-subletting rules often unreasonably hamstring homeowners, whose homes have been recognized as difficult and expensive to relocate. When the option of renting a mobilehome is not available because park rules prohibit such rentals and/or subletting the mobilehome space, a mobilehome owner who wants or needs to leave his or her mobilehome-residence at a park where such rules are imposed must either sell or abandon the mobilehome. (96 Ops. Cal. Atty. Gen. 29 (2013) at 4-5.)

On top of these concerns, the author adds his belief that parks commonly purchase and rent out mobilehomes as a way to get around local rent control laws, thus reducing the amount of affordable housing in the park.

4) *How to handle on-site employee housing?*

This bill in print codifies an exception, recognized in the Attorney General's Opinion, that parks may rent out park-owned mobilehomes to park employees even where the park generally prohibits resident homeowners from renting out their units to others. This is consistent with existing law that says parks need not abide by the same rules as they impose on their residents and their residents'

guests when undertaking maintenance, management, and business operation responsibilities. (Civ. Code § 798.23(b)(2).)

In correspondence with the Senate Judiciary Committee, park owners have pointed out that a strict rule against renting to non-employees would creates a practical problem. Generally, parks will maintain ownership of at least one or two mobilehomes in order to be able to rent them out to employees who will live on-site. At times, however, the on-site employees will own their own mobilehome in the park and have no need to rent a mobilehome from the park. If the parks were subject to a rule prohibiting them from ever renting out a park-owned mobilehome to anyone except a park employee, park-owned mobilehomes would have to sit vacant during periods in which the on-site employees happen to own their own mobilehome. Such vacancies would be an inefficient use of available housing.

To try to avoid that outcome while still restricting parks' ability to rent park-owned mobilehomes when they do not permit residents to do the same, this bill uses a simple formula. In parks that do not allow their residents to rent or sublease their mobilehomes, the park itself would be limited to owning and renting out two mobilehomes, plus one more for every 200 mobilehomes in the park. Thus, a park with 30 mobilehomes could own and rent out two of them; a park with 205 mobilehomes could own and rent out three of them; a park with 460 mobilehomes could own and rent out four of them; and so on, even if the park prohibits residents from renting out their mobilehomes. This formula should provide parks with a sufficient supply of housing to rent out to on-site employees, without forcing parks to leave one of those mobilehomes vacant during times when the mobilehome is not needed for employee housing.

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

**SUPPORT:** (Verified 6/17/21)

Disability Rights California
Golden State Manufactured Homeowners League
Four individuals

**OPPOSITION:** (Verified 6/17/21)

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

**ARGUMENTS IN SUPPORT:** According to the author:

> The MRL states that park management, employees, and residents are subject to the rules and regulations of the park, but this has often gone unenforced. Clarifying this section of the MRL will prevent an unfair double standard from arising, one where park management are able to rent and sublease their spaces while residents are not. It is important to me that park residents are protected and treated fairly because for a low-income park resident, losing housing is much more devastating than it is for traditional renters. For park residents, losing housing means paying high fees to relocate their home or potentially losing lifelong investments.

In support of this bill, the Golden State Manufactured Homeowners League writes:

> The [MRL] allows park management to prevent homeowners from renting out their manufactured homes or subletting the space where their mobilehome is located. Although the law states that all park rules apply equally to owners and residents, some park owners felt that rules regarding renting and subleasing did not apply to owners. […] AB 861 would avoid an unfair double-standard by clarifying current MRL and codifying the Attorney General Opinion requiring park management to comply with all park rules relating to renting and subleasing manufactured homes and units without limiting their ability to rent or sublease to a park employee.

In support, Disability Rights California writes:

> DRC is aware of the injustices and challenges that are associated with renting and subleasing as a park resident. AB 861 would avoid an unfair double-standard by clarifying current MRL and codifying the Attorney General opinion requiring park management to comply with all park rules relating to renting and subleasing manufactured homes and units without limiting their ability to rent or sublease to a park employee.

**ARGUMENTS IN OPPOSITION:** In opposition to this bill, Western Manufactured Housing Communities Association (WMA) writes:

> Most residents (especially senior citizens) want to be ensured a certain quality of life and comfort that their neighbors know the rules and regulations and abide by them. Having residents adhere to rules and regulations helps ensure peace of mind and helps with home sales. If a resident sublets a home, where is there stability for the park, and how can the parkowner ensure a promised quality of life for other residents in the park? […] WMA believes AB 861 is

> bad housing policy because allowing subletting does not put one more roof over anyone's [sic] and eliminates housing which could be available to an incoming resident. We further believe this legislation diminishes the quality of life for all current residents.

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

> Subleasing of a home by a resident who owns only their home and not the property it is installed on is fundamentally different than a parkowner who owns the property and the home and who has an obligation to maintain their community to the benefit of all park residents. We believe it is inappropriate to curtail a parkowner's management of their own property in this way. The bill also has the potential to reduce the supply of affordable housing in the market by creating a disincentive for parkowners to lease park-owned homes.

ASSEMBLY FLOOR: 41-20, 5/10/21
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Calderon, Carrillo, Cervantes, Chau, Chiu, Friedman, Gabriel, Cristina Garcia, Gipson, Lorena Gonzalez, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Rendon
NOES: Bigelow, Choi, Cunningham, Megan Dahle, Davies, Flora, Frazier, Gallagher, Kiley, Lackey, Levine, Mathis, Nguyen, Petrie-Norris, Salas, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Arambula, Burke, Chen, Cooley, Cooper, Daly, Fong, Eduardo Garcia, Gray, Grayson, Mayes, Patterson, Ramos, Rodriguez, Blanca Rubio, Villapudua, Wood

Prepared by: Timothy Griffiths / JUD. / (916) 651-4113
6/18/21 10:50:37

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

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(916) 651-1520 Fax: (916) 327-4478

CONSENT

Bill No: AB 869
Author: Bloom (D)
Amended: 4/7/21 in Assembly
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 14-0, 6/8/21
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Borgeas, Bradford, Glazer, Hueso, Jones, Kamlager, Portantino, Rubio, Wilk
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 5/6/21 (Consent) - See last page for vote

**SUBJECT:** State funds: investments

**SOURCE:** California State Treasurer Fiona Ma

**DIGEST:** This bill authorizes the California State Treasurer (Treasurer) to invest up to one percent of Pooled Money Investment Account (PMIA) funds in sovereign debt instruments, as specified.

**ANALYSIS:**

Existing law:

1) Requires the Treasurer to invest, or deposit in banks and savings and loan associations, specified state surplus funds.

2) Lists the eligible securities for the investment of surplus funds. Eligible securities include: U.S. Government securities; securities of federally sponsored agencies; domestic corporate bonds; interest-bearing time deposits in California banks, savings and loan associations and credit unions; and, prime-rated commercial paper.

3) Creates the Pooled Money Investment Board (PMI Board), consisting of the State Controller, Treasurer, and Director of Finance, to designate at least once a month the amount of money available to invest in securities or in deposits, as specified.

4) Authorizes the Treasurer to invest and reinvest any securities described above or in loans to General Fund. The Treasurer may hire or engage the services of an investment analyst to assist in these decisions.

This bill:

1) Adds bonds, notes, warrants, and other securities not in default that are the direct obligations of the government of a foreign country that the International Monetary Fund (IMF) lists as an advanced economy, as specified, to the list of eligible securities for the investment of surplus funds, as specified.

2) Requires securities eligible for investment pursuant to this bill to satisfy all of the following:

   a) Be United States dollar denominated with a maximum maturity of five years or less, and eligible for purchase and sale within the United States.

   b) The combined par value of all the investments authorized by this bill do not exceed one percent of the total par value of PMIA assets at the time of purchase.

   c) The government of the foreign country issuing the securities shall submit to the federal jurisdiction of the courts of the United States and to the state jurisdiction of the California courts when disputes arise related to the investments.

**Comments**

*Purpose of the bill*. According to the author's office, "for too long, the State of California has received only nominal returns on the $90 million investment policy, leaving too much money on the table. The pool of money has gotten too large to only allow the ultra-conservative investment of the past. This law will allow for significantly better returns, without significantly jeopardizing safety or liquidity."

*The Pooled Money Investment Account*. The PMIA is the account through which the Treasurer invests cash surpluses to manage the state's cash flow. The PMIA is governed by the PMI Board, and the PMIA includes General Fund dollars, other

state agency funds (the Surplus Money Investment Fund), and the cash from some participating cities (the Local Agency Investment Fund).

By law, PMIA monies can only be invested in certain categories of investments, including: U.S. Government securities; securities of federally sponsored agencies; domestic corporate bonds; interest-bearing time deposits in California banks, savings and loan associations, and credit unions; and, prime-rated commercial paper. Typically, the investment strategy is to choose safe investment instruments with short-term maturity schedules. Over time, the average yields on these investments have varied significantly. For example, average yields exceeded 10 percent in the 1980s, but fell to nearly zero following the 2008 crisis.

While PMIA investments typically see small returns, the PMIA's balance has significantly increased as California's cash flow has improved. For example, the average quarterly balance of the PMIA in 2015-16 was $68.43 billion. By 2019-20, that average grew to $97.90 billion, without any concurrent increase in the types of eligible securities available for investment. As a result, there are insufficient short-term investment options available to the Treasurer to meet investment needs and maintain diversity within the PMIA.

*Balancing risk and reward with sovereign debt*. Sovereign debt is not a risk-free investment. In addition to a higher risk of default, political instability can cause sovereign bonds to lose value, and sovereign debt is subject to currency risks if the currency in which the bond was issued depreciates relative to the dollar. Moreover, sovereign debt purchases may involve state policymakers in geopolitical debates, which may cause disruption to the management of PMIA. In some cases, that disruption may be calls to divest from a certain country over foreign affairs or other practices, such as recent initiatives to divest from Turkish debt in response to their role in the Armenian genocide. In other cases, the Treasurer may be asked to invest in certain countries as a show of support, like the ongoing "Invest in Israel" program.

*Providing the Treasurer with flexibility*. While the Treasurer is currently prohibited from investing surplus cash in sovereign debt, the law allows for a narrow use of sovereign debt as collateral for certain state deposits. Specifically, for bonds from the nation of Israel only to be used as collateral in certain scenarios. Thus, this bill's provisions are not completely unprecedented, but they are broader than what is currently allowed for collateralization.

The Treasurer argues this bill will give staff additional flexibility to choose the appropriate investment strategy for the PMIA. While the PMIA has performed

well in recent years, conditions may change in future years and this bill will allow for additional investment options.

**Related/Prior Legislation**

SB 239 (Committee on Banking and Financial Institutions, 2021) reduces, from 110% of the amount deposited, to 100% of the amount deposited, the required value of a Federal Home Loan Bank (FHLB) letter of credit that a credit union or a savings and loan association may use as security for a deposit of state funds by the Treasurer into that credit union or savings and loan association and authorizes the Treasurer to invest surplus state funds in money market mutual funds, as specified. (Pending in the Assembly Banking and Finance Committee)

SB 363 (Committee on Insurance, Banking and Financial Institutions, Chapter 516, Statutes of 2017) reduced, from 110% of the amount deposited, to 100% of the amount deposited, the required value of a FHLB letter of credit that a bank may use as security for demand and time deposits made by the Treasurer.

SB 84 (Committee on Budget and Fiscal Review, Chapter 25, Statutes of 2015) authorized eligible banks that are selected by the Treasurer for the safekeeping of funds, which have their headquarters outside of California, to submit letters of credit drawn on their regional FHLBs as security for deposits in demand accounts.

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

**SUPPORT:** (Verified 6/21/21)

California State Treasurer Fiona Ma (source)

**OPPOSITION:** (Verified 6/21/21)

None received

**ARGUMENTS IN SUPPORT:** In support of this bill, California State Treasurer Fiona Ma writes that, "California's PMIA, which combines temporarily idle state funds from the state's General Fund, Surplus Money Investment Fund and the Local Agency Investment Fund, is constrained by statute and policy to a limited array of investment choices. My office invests these funds pursuant to statute and an investment policy that favors safety and liquidity over yield or return. A broader array of safe investment alternatives would enhance competition and enable the Treasury to run more effectively. In recent years Ohio, Illinois, Indiana, Louisiana, Oklahoma, Georgia, Colorado, and Arizona (among others) have introduced similar legislation to AB 869 and all these states have had success with

their new policies, gaining diversification without sacrificing safety. In addition, the bill would accomplish the mission of bringing statutes governing investments into better alignment with statutes governing state collateral. Authorizing additional state investment options is a logical step to add flexibility with little or no incremental risk to the prudent investment of public funds as only safe, liquid investment would be considered."

ASSEMBLY FLOOR: 77-0, 5/6/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Mullin

Prepared by: Brian Duke / G.O. / (916) 651-1530
6/23/21 15:10:11

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

**SENATE RULES COMMITTEE** AB 900
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 900
Author: Reyes (D)
Introduced: 2/17/21
Vote: 21

SENATE JUDICIARY COMMITTEE: 8-2, 6/15/21
AYES: Umberg, Caballero, Durazo, Hertzberg, Laird, Stern, Wieckowski, Wiener
NOES: Borgeas, Jones
NO VOTE RECORDED: Gonzalez

ASSEMBLY FLOOR: 54-15, 4/5/21 - See last page for vote

**SUBJECT:** Charitable trusts

**SOURCE:** Author

**DIGEST:** This bill requires a trustee holding assets subject to a charitable trust to give written notice to the Attorney General at least 20 days before the trustee sells, leases, conveys, exchanges, transfers, or otherwise disposes of all or substantially all of the charitable assets.

**ANALYSIS:**

Existing law:

1) Provides that the Attorney General is the chief law officer of the state with broad duties to see that the laws of the State are uniformly and adequately enforced. (Cal. Const., art. V, § 13; Gov. Code § 12510.)

2) Establishes the Supervision of Trustees and Fundraisers for Charitable Purposes Act under the supervision of the Attorney General. (Gov. Code §§ 12580-12599.8.)
   a) Provides for regulation of charitable corporations, unincorporated associations, trustees, and other legal entities holding property for charitable purposes, commercial fundraisers for charitable purposes, fundraising

counsel for charitable purposes, and commercial covertures. (Gov. Code §§ 12581.)

b) Vests the primary responsibility for supervising charitable trusts in California, for ensuring compliance with trusts and articles of incorporation, and for protection of assets held by charitable trusts and public benefit corporations, in the Attorney General, and provides that the Attorney General has broad powers under common law and California statutory law to carry out these charitable trust enforcement responsibilities. (Gov. Code § 12598(a).)

3) Requires the Attorney General to maintain a registry of charitable corporations, unincorporated associations, and trustees subject to the Act and of the particular trust or other relationship under which they hold property for charitable purposes. (Gov. Code §§ 12584.)

4) Requires, generally, every charitable corporation, unincorporated association, and trustee subject to the Act to file with the Attorney General periodic written reports, under oath, setting forth information as to the nature of the assets held for charitable purposes and the administration thereof by the corporation, unincorporated association, or trustee, in accordance with rules and regulations of the Attorney General. Requires the Attorney General to make rules and regulations as to the time for filing reports, the contents thereof, and the manner of executing and filing the reports. (Gov. Code § 12586(a), (b).) Exempts corporate trustees subject to the jurisdiction of the Commissioner of Financial Institutions of California or to the Comptroller of the Currency of the United States. (*Id.* at (a).)

5) Defines a "charitable trust" as an organization described under the federal Internal Revenue Code provision governing charitable trusts. (Prob. Code § 16100(a); 26 U.S.C. § 4947(a)(1).)

6) Provides that during any period when a trust is deemed to be a charitable trust, the trustee must distribute its income for each taxable year, and principal if necessary, at a time and in a manner that will not subject the property of the trust to tax under the Internal Revenue Code. (§ 16101.)

7) Prohibits the trustee, during any period when a trust is deemed to be a charitable trust, from any of the following activities, as defined in the Internal Revenue Code:

a) engaging in self-dealing;

b) retaining any excess business holdings;

c) making any investments in such manner as to subject the property of the trust to tax; or

d) making any taxable expenditure. (§ 16102.)

This bill requires a trustee holding assets subject to a charitable trust to give written notice to the Attorney General at least 20 days before the trustee sells, leases, conveys, exchanges, transfers, or otherwise disposes of all or substantially all of the charitable assets.

**Comments**

The Supervision of Trustees and Fundraisers for Charitable Purposes Act (Gov. Code 12580 et seq.; Chapter 1258, Statutes of 1959) requires the Attorney General to oversee charitable trusts in California (Gov. Code § 12598). As the California Supreme Court noted: "Beneficiaries of a charitable trust, unlike beneficiaries of a private trust, are ordinarily indefinite and therefore unable to enforce the trust in their own behalf. Since there is usually no one willing to assume the burdens of a legal action, or who could properly represent the interests of the trust or the public, the Attorney General has been empowered to oversee charities as the representative of the public, a practice having its origin in the early common law." (*Holt v. College of Osteopathic Physicians & Surgeons* (1964) 61 Cal.2d 750, 754 [citations omitted].) The Attorney General has broad powers under common law and California statutory law to carry out these charitable trust enforcement responsibilities. (Gov. Code § 12598.)

As a general matter, charitable trusts operating in California must register with the Attorney General and file annual financial reports listing revenues and expenditures. (Gov. Code §§ 12584, 12586.) These reports are used by the Attorney General to investigate and litigate cases of charity fraud and mismanagement by trustees and directors of charities. Additionally, the Probate Code sets forth specific duties applicable to trustees of charitable trusts, including the provision of certain notices (§ 1209 [any notice required to be given to the State of California]; § 16061.7 [key events related to revocable trusts]) and requirements relating to the management of trust assets to ensure compliance with federal tax laws, including a prohibition on self-dealing (§§ 16101 & 16102). These provisions collectively establish a statutory scheme for the regulation of charitable trusts.

This bill requires a trustee holding assets subject to a charitable trust to give written notice to the Attorney General at least 20 days before the trustee sells, leases, conveys, exchanges, transfers, or otherwise disposes of all or substantially all of the charitable assets. This mirrors provisions applicable to nonprofit public benefit corporations and nonprofit religious corporations. (Corp. Code §§ 5913, 9633.) There, as here, the information provided in the notice enables proactive enforcement action, including legal action to halt malfeasant disposal of charitable assets.[1] This bill harmonizes these modest, longstanding transparency requirements among similarly situated entities subject to the Attorney General's oversight.

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

**SUPPORT:** (Verified 6/17/21)

California Association of Nonprofits
California Judges Association

**OPPOSITION:** (Verified 6/17/21)

California Bankers Association

**ARGUMENTS IN SUPPORT:** The author argues:

> This legislation is long overdue, and essential to ensuring that bad actors are unable to engage in self-dealing transactions. California charities should not be allowed to bypass the simple act of giving notice when making large transfers. Current California law is inconsistent, as it requires public benefit corporations to give advance notice to the Attorney General, but not charitable trusts. AB 900 will make the law consistent and equitable.

The California Association of Nonprofits writes:

> Under existing California law, charitable trusts and nonprofit public benefit corporations must register with and report information to the AG. Nonprofit public benefit corporations are also required to give notice to the AG when the corporation plans to sell, lease, convey, or transfer substantially all of its assets. Existing law does not currently create a comparable notification requirement for charitable trusts.

[1] According to the author, the Attorney General's Office has investigated several matters involving self-dealing trustees in recent years. (*See, e.g. People of the State of California v. Bishop* (Super. Ct. Napa. County, 2014) No. 26-65141 [action to remove the trustees of the Jean Schroeder Education Trust and to recover real property that was improperly sold to the trustee].)

> This notification requirement allows the AG to monitor transactions for possible self-dealing. But without a comparable notification requirement for charitable trusts, donors to charitable trusts remain vulnerable to possible self-dealing by unscrupulous trustees. Donor giving is vital to the wellbeing of the nonprofit sector, and if donors lose confidence in the mechanisms of giving, nonprofits, and the communities they serve, will suffer.

The California Judges Association writes:

> Far too often the Attorney General, who is charged with supervision of charitable trusts, and other interested parties find out about disposition of all or substantially all of the charitable assets of a trust well after that disposition. This lack of knowledge poses severe logistical and statute-of-limitations problems for the Attorney General.
>
> AB 900 adds a new requirement that a trustee holding assets of a charitable trust give written notice to the Attorney General at least 20 days before the trustee sells, leases, coveys, exchanges, transfers or otherwise disposes of all or substantially all of the charitable assets. We believe this bill will help the Attorney General in their oversight of charitable trusts and will help the court in determining the statute of limitations period as well.

**ARGUMENTS IN OPPOSITION:** The California Bankers Association writes:

> We are not opposed to the underlying objective of the measure. Rather, our requested amendments are intended to help trustees comply with the law. Our primary concern is the lack of definition for "substantially all." While we understand that "substantially all" may be used elsewhere in the California code, its undefined usage elsewhere fails to provide guidance for trustees who are struggling to understand what "substantially all" means in this context and who need to know when their legal obligation to provide notice arises.
>
> Further, we believe that the lack of a definition for "substantially all" elsewhere shouldn't discourage the Legislature from defining it in this instance. In fact, AB 900 provides an opportunity to improve upon previous law by more clearly stating statutory obligations. We also understand that the Attorney General's office informally advises non-profit public benefit corporations relative to their compliance with Corporations Code Section 5913 that 75 percent or more should be considered substantially all. Accordingly, our requested amendment aligns with the informal guidance provided to those that may have a notice obligation under Section 5913.

ASSEMBLY FLOOR: 54-15, 4/5/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Daly, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Medina, Muratsuchi, Nazarian, O'Donnell, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Wood, Rendon
NOES: Bigelow, Chen, Choi, Megan Dahle, Davies, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Seyarto, Smith, Voepel, Waldron
NO VOTE RECORDED: Cunningham, Flora, Mayes, McCarty, Mullin, Patterson, Petrie-Norris, Valladares, Wicks

Prepared by: Josh Tosney / JUD. / (916) 651-4113
6/18/21 10:50:38

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

Office of Senate Floor Analyses
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CONSENT

Bill No: AB 957
Author: Salas (D)
Amended: 3/11/21 in Assembly
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 14-0, 6/8/21
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Borgeas, Bradford, Glazer, Hueso, Jones, Kamlager, Portantino, Rubio, Wilk
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/29/21 (Consent) - See last page for vote

**SUBJECT:** Gaming Policy Advisory Committee

**SOURCE:** Author

**DIGEST:** This bill increases the composition of the Gaming Policy Advisory Committee (GPAC) from 10 to 12 members and requires the GPAC to meet at least twice a year.

**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 California Gambling Control Commission (Commission) and the investigation and enforcement of those activities and establishments by the Bureau of Gambling Control (Bureau), under the Department of Justice (DOJ).

2) Establishes a 10-member Gaming Policy Advisory Committee (GPAC), composed of representatives of controlled gambling licensees and members of the general public in equal numbers.

3) Requires the executive director of the Commission to convene the GPAC, from time to time, for the purpose of discussing matters of controlled gambling regulatory policy and any other relevant gambling-related issue.

4) Prohibits the GPAC from advising the Commission on Indian gaming.

This bill:

1) Increases the membership of the GPAC from 10 to 12 members.

2) Requires the executive director to convene the GPAC at least twice every calendar year.

3) Requires one member to be a representative of academia who possesses knowledge on matters related to gaming, and one representative from the Bureau.

4) Provides that the objective of the GPAC shall be to solicit input from various constituencies, including the public, on gaming policy issues for future consideration to the Commission.

**Comments**

*Purpose of the bill.* According to the author's office, "GPAC plays an important role in California's gaming industry, providing advisory recommendations to the Commission concerning matters of controlled gaming regulatory policy, helping to ensure the integrity of gambling operations, and dealing effectively with problem gambling. This bill would codify and heighten their role by requiring that GPAC meet at least twice every year, increasing the number of members on the committee, and providing academic expertise in gaming."

*Gaming Policy Advisory Committee.* The stated mission statement of the GPAC is to provide advisory recommendations to the Commission concerning matters of controlled gaming regulatory policy and other relevant gambling related issues, with special consideration to guaranteeing the integrity of gambling operations and

to deal effectively with problem gambling. Current law prohibits GPAC from advising the commission on Indian gaming.

The current make-up of the GPAC includes one member who is a representative of DOJ, one member is a representative of the problem gambling field, one member is a representative of a licensed or registered third party provider two members are a representative of larger, 25 tables or more, licensed gambling establishments, two members are a representative of small, less than 25 tables, licensed gambling establishments, one member is a law enforcement officer/investigator from local government where an approved ordinance allows controlled gaming, one member is a professional with an accounting background and one member is a member of the general public at large.

**Related/Prior Legislation**

SB 935 (Dahle, 2020) would have increased the membership of the GPAC from 10 to 12 members. (Never heard in the Senate Governmental Organization committee)

AB 2098 (Gallagher, 2020) would have increased the membership of the GPAC from 10 to 12 members. (Never heard in the Assembly Governmental Organization Committee)

AB 3170 (Gipson, 2020) would have required the GPAC to meet at least twice a year. (Never heard in the Assembly Appropriations Committee)

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

**SUPPORT:** (Verified 6/21/21)

None received

**OPPOSITION:** (Verified 6/21/21)

None received

ASSEMBLY FLOOR: 77-0, 4/29/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra,

Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Luz Rivas

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
6/23/21 15:10:12

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

**SENATE RULES COMMITTEE**
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THIRD READING

Bill No: AB 1004
Author: Calderon (D)
Amended: 3/30/21 in Assembly
Vote: 27 - Urgency

SENATE HUMAN SERVICES COMMITTEE: 4-0, 6/8/21
AYES: Hurtado, Cortese, Kamlager, Pan
NO VOTE RECORDED: Jones

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/29/21 (Consent) - See last page for vote

**SUBJECT:** CalWORKs eligibility: income exemption: census

**SOURCE:** Author

**DIGEST:** This bill deletes requirements that, in order to be exempt from being considered income under the CalWORKs program, income or stipends related to the decennial census must be earned on the year of or year prior to a census, so that all such income or stipends may be exempted, regardless of when it is earned, and makes those changes effective immediately.

**ANALYSIS:**

Existing law:

1) Establishes the federal Temporary Assistance for Needy Families (TANF) program, which provides block grants to states to develop and implement their own state welfare-to-work programs designed to provide cash assistance and other supports and services to low-income families *(42 USC 601 et seq.)*

2) Establishes, in state law, the CalWORKs program to provide cash assistance and other social services for low-income families through TANF. Under

CalWORKs, each county provides assistance through a combination of state, county and federal TANF funds. *(WIC 11120 et seq.)*

3) Establishes income, asset, and real property limits used to determine eligibility for the CalWORKs program, and CalWORKs grant amounts, based on family size and county of residence. *(WIC 11150 to 11160, 11450 et seq.)*

4) Defines "earned income" as gross income received as wages, salary, employer-provided sick leave benefits, commissions, or profits from activities such as a business enterprise or farming in which the recipient is engaged as a self-employed individual or as an employee. *(WIC 11451.5(b)(1))*

5) Exempts the following from consideration as income for purposes of public social services, including CalWORKs, programs, as specified:

   a) Income that is received too infrequently to be reasonably anticipated, as exempted in federal Supplemental Nutrition Assistance Program regulations;

   b) Income from college work-study programs;

   c) An award or scholarship provided by a public or private entity to or on behalf of a dependent child;

   d) Income or stipend paid by the United States (US) Census Bureau, a governmental entity, or a nonprofit organization for temporary work related to improving participation in the decennial census that is earned in the year preceding a decennial census and during the year of the decennial census; and,

   e) Any federal pandemic unemployment compensation, so long as the federal pandemic unemployment compensation is exempt as income for purposes of establishing eligibility for the CalFresh program. *(WIC 11157(b-d))*

6) Requires a family's income, once calculated per various CalWORKs rules stipulated in statute including deduction of the earned income disregard, to be deducted from the maximum aid payment for that family size as adjusted for any applicable cost-of-living increase in order to arrive at that family's monthly CalWORKs grant level, as specified. *(WIC 11450)*

This bill:

1) Deletes provisions that any income or stipend paid by the US Census Bureau, a governmental entity, or a nonprofit organization for temporary work related

to improving participation in the decennial census earned during the year preceding a decennial census and during the year of the decennial census is not income and is exempt from consideration as income for purposes of determining CalWORKs eligibility and aid amount.

2) Provides that any income or stipend paid for temporary work related to the decennial census shall not be considered income for purposes of determining eligibility and aid amount, regardless of when the income was earned.

3) Requires that this new exemption shall be retroactive and apply to any income or stipend paid by the US Census Bureau, a governmental entity, or a nonprofit organization for temporary work related to the most recent decennial census.

4) Permits the California Department of Social Services to implement, interpret, or make specific this subdivision by means of all-county letters or similar instructions from the department until regulations are adopted.

5) Provides that this is an urgency statute necessary for the immediate preservation of the public peace, health, or safety and shall go into immediate effect.

**Comments**

According to the author, "last year, our country and our state undertook the immense responsibility of counting our communities for the decennial census. These efforts relied on a temporary workforce, many of whom were tasked with the challenge of connecting with hard to reach communities during an unprecedented pandemic. Unfortunately, existing law is unclear on whether temporary workers who rely on CalWORKs would have the income from census related work conducted in 2021 counted toward eligibility for the program. AB 1004 would ensure that CalWORKs recipients who are finishing census work can continue to have their census income disregarded, consistent with federal rules."

*CalWORKs*

As the state's largest anti-poverty program, CalWORKs provides temporary cash assistance aimed at moving children out of poverty and helping qualified low income families meet their basic needs, such as rent, clothing, utility bills, food and other items needed to ensure children are cared for at home and safely remain with their families. In addition to cash assistance, adult CalWORKs recipients are provided education, employment and training services designed to help remove

barriers to work and promote self-sufficiency. These services are typically outlined in a Welfare-To-Work plan.

In order to be eligible for CalWORKs, families must meet income and asset tests *that are based on family size and county of residence*. For example, a family of three living in a higher cost-of-living region could qualify to receive CalWORKs benefits if their monthly adjusted income is no more than $1,453. The same family living in a lower cost-of-living region would qualify if their monthly adjusted income is no more than $1,379. As of October 2020, the maximum monthly grant amount for a non-exempt family of three, if the family has no other income and lives in a high-cost county, is $878. The same family living in a lower cost-of-living county would be eligible for up to $834 per month. However, the average monthly CalWORKs benefit is $583. More than 482,400 families are projected to receive CalWORKs benefits in Fiscal Year 2021-22.

Under current law, certain types of income are considered exempt in the CalWORKs program, which means they are not counted when calculating program eligibility and benefit amount. Exempt income includes:

- income that is received too infrequently to be reasonably anticipated, as specified;
- income from college work-study programs;
- an award or scholarship provided by a public or private entity to or on behalf of a dependent child;
- federal pandemic unemployment compensation, as specified; and,
- income or stipend paid by the US Census Bureau, a governmental entity, or a nonprofit organization for temporary work related to improving participation in the decennial census that is earned in the year preceding a decennial census and during the year of the decennial census.

*2020 Census*

The US Census Bureau conducts a count of the people living in the United States every 10 years. Data obtained from each decennial census is used to determine representation at the federal and state level and spending of public dollars. Therefore, obtaining a complete and accurate count of California's population is essential to obtaining the state's fair share of representation and resources.

Undercounting certain populations is a persistent challenge for census administrators. That challenge is amplified in California, where more residents are

considered traditionally hard to count. Those include foreign-born residents, renters, individuals living in homes without a broadband subscription, people living close to or below the poverty line, and children younger than five years old.

The Census Bureau hires hundreds of thousands of paid, part-time, temporary employees, including census takers, recruiting assistants, office staff, and supervisory staff. In addition, the California Complete Count - Census 2020 and many local entities hired temporary help for the purpose of encouraging people to complete and submit their census forms for the 2020 census.

The Census Bureau reports historical difficulties recruiting and hiring individuals who receive public assistance from federal or state government due to concerns that temporary income earned could reduce or terminate existing benefits. Thus, the Office of Management and Budget encouraged agencies administering public assistance programs to exclude temporary income from census employment from eligibility determinations for the 2020 Census. Additionally, according to a February 11, 2019 letter from the Administration for Children and Families, "in the past, the Census Bureau has successfully recruited TANF participants to help fill these vacancies, and wishes to do so again for the upcoming census. The Office of Family Assistance encourages states and tribes to disregard income that TANF recipients receive as census employees in TANF benefit calculations. Doing so would mean TANF recipients continue to receive TANF without reduction while helping the Census Bureau and gaining work experience. States and tribes may choose to implement the exemption period in one of several ways. For example, the exemptions could begin on specific dates, anytime within given periods, or the first day of temporary census employment in each year."

Existing California law allows certain income associated with the decennial census to be exempt from CalWORKs eligibility and benefit calculations, but only such income earned the year prior to or the year of the census. However, the Census Bureau was unable to complete the count in 2020 due to COVID-19 restrictions. Thus, the Bureau's post-enumeration survey is on-going and expected to be complete in November 2021. Some of the census workers conducting the fieldwork necessary to complete the survey are also CalWORKs recipients. This bill proposes to exempt any income paid by the Census Bureau, a governmental entity, or a nonprofit organization for temporary work related to improving participation in the decennial census in order to protect and preserve the CalWORKs benefits of those workers. The bill would ensure that CalWORKs recipients who are finishing census work can continue to have their census income disregarded.

**Related/Prior Legislation**

AB 81 (Ting, Chapter 5, Statutes of 2021) implemented statutory provisions related to the budget to allow the State to align state programs requirements to align with COVID-19 federal relief provisions, including the exemption of federal pandemic unemployment compensation from eligibility and grant determination for the CalWORKs program.

AB 807 (Bauer-Kahan, Chapter 440, Statutes of 2019) exempted certain income, including certain scholarships and income for work on the decennial census, from being counted as income for purposes of determining CalWORKs eligibility and benefit amounts.

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

**SUPPORT:** (Verified 6/22/21)

California Catholic Conference
Coalition of California Welfare Rights Organizations

**OPPOSITION:** (Verified 6/22/21)

None received

ASSEMBLY FLOOR: 77-0, 4/29/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Luz Rivas

Prepared by: Taryn Smith / HUMAN S. / (916) 651-1524
6/23/21 15:14:18

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

**SENATE RULES COMMITTEE** AB 1010
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1010
Author: Berman (D)
Amended: 6/8/21 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 10-1, 6/7/21
AYES: Roth, Archuleta, Becker, Dodd, Eggman, Hurtado, Leyva, Min, Newman, Ochoa Bogh
NOES: Jones
NO VOTE RECORDED: Melendez, Bates, Pan

SENATE APPROPRIATIONS COMMITTEE: 5-1, 6/21/21
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Jones
NO VOTE RECORDED: Bates

ASSEMBLY FLOOR: 72-2, 4/19/21 - See last page for vote

**SUBJECT:** Architects: continuing education

**SOURCE:** American Institute of Architects California

**DIGEST:** This bill requires a person licensed to practice architecture to complete, as a condition of license renewal every two years, five hours of continuing education (CE) coursework regarding zero net carbon design. This bill also requires the California Architects Board (CAB) to adopt regulations to establish qualifications for those courses and course providers by July 1, 2024.

**ANALYSIS:**

Existing law:

1) Establishes the Architects Practice Act and establishes the CAB to regulate the practice of architects. (Business and Professions Code (BPC) § 5500 *et seq.*)

2) Requires an architect to complete five hours of CE coursework on disability access requirements as a condition of license renewal. Coursework shall include information and practical guidance concerning requirements imposed by the Americans with Disabilities Act of 1990 (Public Law 101-336; 42 U.S.C. Sec. 12101 et seq.), state laws that govern access to public facilities, and federal and state regulations adopted pursuant to those laws. The required coursework must be presented by trainers or educators with knowledge and expertise in these requirements. (BPC § 5600.05)

3) Requires CAB to promulgate regulations to establish qualifications for courses and course providers by January 1, 2023. (BPC § 5600.05)

This bill requires a person licensed to practice architecture to complete, as a condition of license renewal, five hours of CE coursework regarding zero net carbon design. This bill also requires CAB to adopt regulations to establish qualifications for those courses and course providers by July 1, 2024.

**Background**

*CAB.* CAB oversees more than 21,000 licensed architects. The mission of the CAB is to protect the public health, safety, and welfare through the regulation of the practice of architecture and landscape architecture in California.

*Climate Change and Zero Net Carbon.* Climate Change is one of the most pressing issues of our day. Experts agree that Climate Change cannot be reversed at this point, but that the worst effects might still mitigated or avoided if humanity is able to change its current habits and adapt to future circumstances.

Generally speaking, "zero net carbon" is achieved when an entity—a country, a business, a person—does not put as much human-made carbon into the atmosphere as it is able to remove from the atmosphere. This is technically not the same as carbon neutrality, which is when one balances the amount of carbon put into and taken out of the atmosphere, but for the purposes of this bill these two terms can be understood to mean essentially the same thing.

*Zero Net Carbon Architecture and How It Can Help.* According to a proposal presentation the sponsor of this bill presented to the CAB a board meeting in Fall 2020, buildings produced greater than 40 percent of global carbon emissions—from concrete, steel, and aluminum to building finishes, glass, plastics, rubber, paper, and other equipment. Given this, and given that the world has little time to implement these changes to avoid the worst of Climate Change, the presentation

says that having CE requirements for architects on the topic of zero net carbon is essential.

*Current Architecture Education Requirements.* Currently, California requires architects to take five hours of CE coursework per two-year renewal focused on state and federal accessibility laws. As the author notes, some California graduate school programs, such as UC Berkeley and Cal Poly San Luis Obispo, have architecture programs that offer coursework in architecture for climate change. This coursework, however, remains voluntary.

*What This Training Would Provide.* According to the author, it is anticipated that the training will include instruction on best practices related to:

- Highly insulated building envelope design
- Deep energy retrofits of existing structures
- Natural ventilation and daylighting
- Passive solar design
- Advanced energy efficiency strategies
- Renewable energy strategies

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

According to the Senate Appropriations Committee, CAB anticipates a one-time cost of approximately $23,000 for workload related to adopting regulations to establish qualifications for the zero net carbon courses and total ongoing costs of approximately $82,000 for workload related to auditing compliance with the new continuing education requirement and other associated enforcement activities (California Architects Board Fund). CAB anticipates this workload to be absorbable within its existing resources.

The Office of Information Services estimates costs of less than $5,000 for technology changes to add the new coursework requirements.

**SUPPORT:** (Verified 6/22/21)

American Institute of Architects California (source)
California Building Officials

**OPPOSITION:** (Verified 6/22/21)

None received

**ARGUMENTS IN SUPPORT:** The American Institute of Architects California writes in support: "Architects in California and most states already are required to take continuing education to renew their license. In California, architects have to complete only five hours every two years in disabled access requirements. Forty five states, the District of Columbia, and Puerto Rico require architects to complete significantly more hours; most require 24 hours every two years in topics related to the health, safety, and welfare of the public. AB 1010 will prepare California architects to take a leadership position in accelerating the decarbonization of buildings in order to protect the health, safety, and welfare of all Californians."

The California Building Officials (CALBO) writes in support: "[CALBO] believes that AB 1010 would provide design professionals with up-to-date knowledge of best practices to achieve the goals of net-zero carbon design, which will help California achieve its environmental goals. At the same time, these courses can be used as a reminder of the safety standards needed in development, while balancing the ecological solutions to address climate change in California."

ASSEMBLY FLOOR: 72-2, 4/19/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Kiley
NO VOTE RECORDED: Choi, Gallagher, Mayes, Seyarto, Smith

Prepared by: Dana Shaker / B., P. & E.D. /
6/23/21 15:04:01

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

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THIRD READING

Bill No: AB 1058
Author: Cristina Garcia (D)
Amended: 4/12/21 in Assembly
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 12-0, 6/14/21
AYES: Eggman, Dahle, Becker, Bradford, Dodd, Gonzalez, Grove, Hertzberg, McGuire, Min, Rubio, Stern
NO VOTE RECORDED: Borgeas, Hueso

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/29/21 (Consent) - See last page for vote

**SUBJECT:** Water corporations: bill payment options

**SOURCE:** California Water Association

**DIGEST:** This bill deletes a pilot program to authorize water corporations to allow customers to pay their utility bill with a credit card while waiving a transaction fee and other requirements that apply to electrical and gas corporations. This bill recasts these provisions to authorize water corporations, exclusively, to permanently allow customers to pay their utility bills with a credit card, debit card, or prepaid card and not apply a separate transaction fee on the use of the cards, but instead recover those costs in rates.

**ANALYSIS:**

Existing law:

1) Establishes the California Public Utilities Commission (CPUC) has regulatory authority over public utilities, including electrical, gas, and water corporations. (California Constitution Article XII)

2) Authorizes the CPUC to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. (Public Utilities Code §451)

3) Authorizes an electrical, gas, or water corporation to offer credit card and debit card bill payment options, if approved by the CPUC, and, upon approval, authorizes an electrical, gas, or water corporation to recover, through an individual customer transaction fee, reasonable transaction costs incurred by the electrical, gas, or water corporation from those customers that choose those methods of payment. Makes statements of legislative intent relative to electrical, gas, and water corporations offering customers the option to pay by credit card or debit card. (Public Utilities Code §755)

4) Authorizes, until January 1, 2022, a water corporation with more than 10,000 service connections to seek CPUC approval, through its general rate case application, to operate a pilot program designed to evaluate customer interest in, and utilization of, bill payment options, including, but not limited to, credit card, debit card, and prepaid card bill payment options, and to assess the cost-effectiveness of, and customer interests served by, customer access to those bill payment options. Establishes the duration of a pilot program to the duration of the water corporation's rate case cycle. Requires the CPUC to allow a water corporation to recover the reasonable expenses incurred by the water corporation in providing its customers with these bill payment options, but allows water corporations to not impose a transaction fee on its customers for using these bill payment options. Prohibits the costs of a pilot program from being collected from customers who participate in the California Alternate Rates for Energy (CARE) program or the Customer Assistance Program (CAP) for low-income water ratepayers. (Public Utilities Code §755.5)

5) Establishes the CARE program to provide assistance to eligible electric and gas customers with annual household incomes that are no greater than 200 percent of federal poverty guideline levels. (Public Utilities Code §739.1)

6) Authorizes the CPUC to consider and implement programs to provide rate relief for low-income water ratepayers. The CPUC has directed large water corporations to implement a low-income rate relief program, known as the Customer Assistance Program. (Public Utilities Code §739.8)

7) Exempts from requirements that prohibit retailers in any sales, service, or lease transaction with a consumer to impose a surcharge on a cardholder who elects to use a credit card in lieu of payment by cash, check, or similar means charges for payment by credit card or debit card that are made by an electrical, gas, or

water corporation and approved by the CPUC, pursuant to Section 755 of the Public Utilities Code. (Civil Code §1748.1)

This bill:

1) Deletes water corporations from the existing authorization applied to electrical, gas, and water corporations to offer credit card and debit card bill payment options, the associated cost recovery provisions, and the related statements of legislative intent, thereby limiting those provisions to electrical and gas corporations.

2) Deletes the time-limited pilot program provisions.

3) Requires the CPUC to authorize a water corporation, without limitation as to the number of customers it serves and unrelated to its rate case cycle, to recover the reasonable expenses incurred by the water corporation in providing bill payment options to its customers, and not require the water corporation to impose a transaction fee on its customers.

4) Prohibits a water corporation from recovering the costs of offering the bill payment options to its customers from participants in the low-income water rate relief CAP program.

**Background**

*CPUC-regulated water utilities.* The CPUC has jurisdiction over water companies that provide water service to about 16 percent of California's residents with annual water and wastewater revenues totaling about $1.4 billion. Approximately 95 percent of those residents are served by nine large water utilities, each serving more than 10,000 service connections. Combined, the nine largest utilities serve approximately 1.175 million customers. However, the majority of the CPUC-regulated water utilities (92) have service connections of 2,000 or less, and 87 of those have service connections of 500 or less. As with other investor-owned utilities (IOUs), the CPUC regulates rates of the water utilities under its jurisdiction to ensure they are providing service at just and reasonable rates.

*CAP - low-income rate assistance programs.* The CPUC has authorized the largest nine water utilities, which combined serve 1.175 million customers, to offer low-income rate assistance programs similar in concept to those provided to electricity customers through CARE. As with CARE, the CAP is available to customers whose income falls at or below 200 percent of the federal poverty line. However, each water utilities' program varies in terms of the amount of the assistance provided to low-income customers and the collection of the surcharge from non-

participating ratepayers to cover the cost of the program. All nine Class A water utilities, one Class B in a few districts, and one Class C water utility offer discounts on their monthly bills for qualifying low-income customers. Water utilities will be slowly transitioning the unique names of their low-income assistance programs to the uniform name CAP, pursuant to CPUC Decision (D.) 20-08-047. In CPUC Decision D.11-05-020, the CPUC ordered large water and energy utilities to exchange information about their low-income customers to cross-promote the goal of increasing participation in both programs. Reports from the CPUC indicate the effort has yielded a substantial increase in participation.

*Credit cards and utilities*. As more and more customers turn to credit or debit cards as their primary payment method, companies must determine how to pay for the transaction cost of each payment. For the most part, retail and service providers recover the transaction cost from various methods such as increasing the price of the good or service sold or using company revenue. Pursuant to Civil Code Section 1748.1, most retailers and private entities are prohibited from imposing a surcharge on sales related to the use of credit cards. In the case of a CPUC-regulated utility, current law exempts electrical, gas, and water corporations from the prohibition on a surcharge. Instead, these utilities are allowed to recover reasonable transactions cost, but only from those customers that choose to pay by those payment options. Currently, the CPUC requires electric, natural gas, and water companies it regulates to get approval from the CPUC to offer a credit/debit card bill payment option. As a result, some utilities assess a separate fee on top of the monthly bill, when a credit card is used to pay the bill. In the case of water utilities, the fee generally ranges between $1 to $ 3. According to the sponsor, this transaction fee frustrates customers. While other forms of payment such as check processing or cash payments also generate some cost for the utility to process the payments, those transactions are not assessed an individual fee to the user. Unlike credit or debit card fees, all the other payment transaction costs are spread across the entire customer-base and recovered in the utility's rates.

*AB 1180 (C. Garcia, Chapter 254, Statutes of 2016).* AB 1180 authorized the creation of a pilot program that authorizes Class A water utilities, those with over 10,000 service connections, to waive transaction fees for customers paying by credit card, debit card, and prepaid card. The bill required water utilities who wish to participate in the pilot program to submit a request and secure CPUC approval through their general rate case applications, which occur about every three years, and allows them to recover the costs of operating the pilot program from customers, other than low-income customers. Three Class A water utilities requested authorization, and received approval, to participate in the credit card pilot program: California American Water Company (starting June 2017), Golden

State Water Company (starting May 2019) , and Great Oaks Water Company (starting September 2019).

AB 1180 also required a report of the CPUC to the Legislature to include specified assessments, including: (1) an assessment on the use of credit cards by low-income customers to avoid service disconnections; (2) an assessment of impact of the use of credit cards for customer bills on household debt burden; and (3) an assessment of data, considered on an aggregated basis, regarding customer utilization and the cost-effectiveness of the bill payment options. Statute also requires the CPUC to include in the report an assessment on the usefulness of transaction fees for credit card, and a recommendation regarding individual customer transaction fees for credit card, debit card, and prepaid card payments.

*CPUC report and recommendation*. In January 2021, the CPUC released their report, *Report to the Legislature on Credit Card Pilot Program,* on the pilot program's impact on low-income customers and excluded data collected during the months impacted by the COVID-19 pandemic (roughly March 2020 through January 2021). The CPUC compared data from two years prior to the transaction fee waivers to determine whether more customers preferred card payments. There was mixed or incomplete reporting on customer utilization of credit cards and the use of credit cards to avoid disconnections in low-income households, for which only Golden State Water Company provided data. Based on the data, the CPUC noted that California American Water Company shows a statistically significant increase in low-income customers using card payments after transaction fee waivers. The other two utilities did not show a statistically significant increase in use of card payments by low-income customers until the onset of the COVID-19 pandemic. The recent increase reflects the government orders to shelter-at-home, efforts by individuals to reduce exposure and transmission of the COVID-19 virus, and the temporary closure of utility offices. The second finding is that household debt burden and cost of water service increases when customers choose to pay their water bills using credit card payments and pay the minimum amount on a monthly credit card bill. The third finding is that more customers are using card payments and the cost-effectiveness is dependent on the type of payment from which a customer is transitions. The CPUC found that the transition of customers from in-person to card transactions is cost-effective while the transition from other forms of payments (mail, electronic transfer funds, and electronic check) to card transactions is not cost-effective. As part of the report, the CPUC recommended that, should transaction fees continue to be waived, the waiver should only apply to low-income customers.

*AB 1058.* This bill permanently applies a waiver of transaction fees for water utility customer payments involving the use of credit, debit, and prepaid cards across all customers. This bill deletes the provisions of the pilot program and instead allows water utilities, exclusively of those regulated by the CPUC, to recover from customers the transaction costs of these payment options, except low-income customers who participate in the CAP program would be exempted.

*Impact on ratepayers.* By allowing water corporations to forgo the individual transaction fee in lieu of recovering the reasonable expenses in the general rate case, ratepayers may likely see an increase in rates to cover the costs. However, it's possible the increased costs would be fairly minimal and possibly consistent with costs associated with processing other payments. Debit and credit cards are now the most commonly utilized payment tools in the country. Payment utilization data from California American Water Company and Golden State Water Company between 2017 and 2020 also show that low-income customers utilize credit or debit cards as much as any other payment forms, after in-person payment. Therefore, any benefits associated with card payments would presumably apply to all customers, including low-income customers. Meanwhile, transaction costs from all other payment tools are recovered in rates across all customers. Additionally, the COVID-19 pandemic has increased the use of electronic payments, including the use of card payments, to pay utility bills across all customers. Electronic payment options became a necessity during the COVID-19 pandemic when in-person options were unavailable. Card payment options became especially important as the Employment Development Department (EDD) of California paid unemployment through prepaid cards during the pandemic. Supporters of this bill state that exponentially more customers sought to pay their bills electronically during the pandemic, but became distressed over the additional fee required for electronic transactions. As a result, more water utilities seek to take part in the pilot to make bill payment cost-effective and easier for their customers, which will be critical as electronic payment practices will likely remain permanent.

*What about protections for low-income customers of Class B, C, and D water utilities?* Currently, CAP are operated by the Class A and one Class B and Class C water utility. By exempting CAP-eligible customers from the individual transaction fee, Class B, C, and D water utilities will need to identify these customers, or have these customers forgo this protection.

**Related/Prior Legislation**

AB 1180 (C. Garcia, Chapter 254, Statutes of 2016) allowed, until January 1, 2022, water corporations with over 10,000 service connections to establish pilot

programs through a general rate case application, once approved by the CPUC, that evaluate customer interest in utilization of credit cards, debit cards and prepaid cards without requiring an individual payment transaction fee and allowed a water corporation to recover the reasonable expenses incurred in providing its customers with these bill payment options.

AB 746 (Blakeslee, Chapter 746, Statutes of 2005) permitted an electrical, gas or water corporation to charge a reasonable transaction fee when customers pay their utility bills by credit card and debit card and exempts these fees from an existing exemption on retailers to impose a surcharge for using a credit card for payment.

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

**SUPPORT:** (Verified 6/22/21)

California Water Association (source)

**OPPOSITION:** (Verified 6/22/21)

None received

**ARGUMENTS IN SUPPORT:** According to the author:

> Current law is impeding the payment of utility bills by electronic payment, at a time when more consumers are utilizing electronic payments as their primary method of paying recurring bills. Paying recurring bills online by electronic payment has become a matter of convenience for customers throughout California, especially during the COVID-19 pandemic.
>
> We also recognized that in some cases, before the pandemic, consumers become confused, disgruntled, and discouraged from paying their bill by electronic payment when they are required to pay an additional fee to complete a transaction.
>
> To avoid consumers being discouraged from paying by electronic payment and to make it more convenient to pay by electronic payment, AB 1058 authorizes a water corporation with more than 10,000 service connections to recover in rates the transaction costs relating to all payment options, including credit cards, debit cards and prepaid cards, and prohibits such a water corporation from recovering such transaction costs from customers participating in a water rate relief program for low-income ratepayers authorized by the California Public Utilities Commission (CPUC).

ASSEMBLY FLOOR: 77-0, 4/29/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Luz Rivas

Prepared by: Nidia Bautista / E., U., & C. / (916) 651-4107
6/23/21 15:07:49

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

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CONSENT

Bill No: AB 1065
Author: Maienschein (D)
Amended: 4/29/21 in Assembly
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/10/21
AYES: McGuire, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 5/3/21 - See last page for vote

**SUBJECT:** Personal income taxes: voluntary contributions: Mental Health Crisis Prevention Voluntary Tax Contribution Fund

**SOURCE:** Author

**DIGEST:** This bill establishes the Mental Health Crisis Prevention Voluntary Tax Contribution Fund on the personal income tax return.

**ANALYSIS:**

Existing law:

1) Allows a taxpayer to contribute money to voluntary contribution funds (VCFs), by checking a box on their state Personal Income Tax return.

2) Requires taxpayers to make VCF contributions from their own resources. In other words, the contributions cannot come from the taxpayer's tax liability.

3) Allows taxpayers to claim the contributions as charitable deductions on their tax return in the subsequent year.

4) Allows the VCFs listed below to not be subject to the minimum contribution requirement:

a) California Firefighters' Memorial Foundation Fund;

b) California Peace Officer Memorial Foundation Fund; and

c) California Senior Citizen Advocacy Voluntary Tax Contribution Fund.

5) Requires that VCFs include the following:

a) A sunset provision of no more than seven years

b) A requirement for the administering agency to post online the process and the administrative costs of awarding the money

c) A requirement that funds shall be continuously appropriated to the administering agency

d) That the term "voluntary tax contribution" to be in the name of the fund.

This bill:

1) Establishes the Mental Health Crisis Prevention Voluntary Tax Contribution Fund on the Personal Income Tax Return.

2) Creates the Mental Health Crisis Prevention Voluntary Tax Contribution Fund where the Controller deposits the donations received. The measure then continuously appropriates money from the fund to the California Highway Patrol (CHP) for disbursement to the National Alliance on Mental Illness (NAMI) California to fund the Crisis Intervention Team Program that trains police officers to assist and engage safely with persons living with mental illness, after Franchise Tax Board (FTB), the Controller, and the CHP subtract their administrative costs.

3) Prohibits NAMI California from using more than five percent of the money received for administrative purposes.

4) Allows the Fund to remain on the Personal Income Tax Return until it either does not meet a $250,000 minimum contribution requirement, or has made seven appearances on the return, whichever comes first.

5) Requires CHP to report on an internet website information that NAMI California provides on the process for awarding money, the amount of money spent on administration, and an itemization of how program funds were awarded.

**Background**

VCFs must be added individually through legislation. With a few exceptions, VCFs remain on the return until the Franchise Tax Board (FTB) removes the VCF due to a sunset provision, or the VCF fails to meet the minimum contribution amount. In general, the minimum contribution amount is $250,000 beginning in the fund's second year, annually adjusted for inflation.

The 2021 tax return contains 19 VCFs.

*National Alliance on Mental Illness (NAMI).* NAMI California is the nation's largest grassroots organization of families and individuals whose lives have been affected by serious mental illness. The organization advocates for lives of quality and respect, without discrimination or stigma, for all of its constituents. Specifically, the organization has 56 local affiliates and advocates for a coherent system offering a continuum of care for the persistent, long-term needs of people with mental illness.

NAMI's Crisis Intervention Team program is a model for community policing that brings together law enforcement, mental health providers, hospital emergency departments, and individuals with mental illness to improve law enforcement responses to those experiencing a mental health crisis.

The "National Alliance on Mental Illness California Voluntary Tax Contribution Fund" (SB 1363, Moorlach, Chapter 359, Statutes of 2018) received $211,000 in contributions in its first year on the return, the earlier VCF; in 2020, the VCF received $214,000. Because the VCF failed to meet the minimum contribution amount of $250,000 in its second year, its statutory provisions were automatically repealed and it was removed from the tax return.

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

**SUPPORT:** (Verified 6/22/21)

California Peace Officers Association
California State Sheriffs' Association
California Statewide Law Enforcement Association
Dbsa California
Los Angeles County Sheriff's Department
National Alliance on Mental Illness - California

**OPPOSITION:** (Verified 6/22/21)

None received

**ARGUMENTS IN SUPPORT:** According to the author, "The Crisis Intervention Team program is a national model for community policing that brings together law enforcement, mental health providers, hospital emergency departments, and individuals with mental illness and their families to aid and improve law enforcement's response to those experiencing a mental health crisis. This worthwhile program would benefit from voluntary tax contributions, which can help to broaden the reach of the program and enable the training of more law enforcement personnel."

ASSEMBLY FLOOR: 77-0, 5/3/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Quirk

Prepared by: Jessica Deitchman / GOV. & F. / (916) 651-4119
6/23/21 16:28:27

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

**SENATE RULES COMMITTEE** AB 1096
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1096
Author: Luz Rivas (D), et al.
Amended: 4/7/21 in Assembly
Vote: 21

SENATE JUDICIARY COMMITTEE: 8-2, 6/15/21
AYES: Umberg, Caballero, Durazo, Gonzalez, Laird, Stern, Wieckowski, Wiener
NOES: Borgeas, Jones
NO VOTE RECORDED: Hertzberg

ASSEMBLY FLOOR: 71-0, 5/20/21 - See last page for vote

**SUBJECT:** Alien: change of terms

**SOURCE:** Author

**DIGEST:** This bill makes nonsubstantive changes to the Codes by removing the term "alien" and replacing it with more appropriate terms, depending on the context.

**ANALYSIS:** Existing law uses the term "alien" throughout the Codes to describe a person who is not a citizen or national of the United States. (*E.g.*, Bus. & Prof. Code §§ 2064.3-2064.4; Civ. Code § 671; Educ. Code §§ 32400-32401; Gov. Code §§ 241-242; Health & Saf. Code §§ 1796.22 & 1796.32; Ins. Code § 12693.76; Lab. Code § 350; Mil. & Vet. Code § 550; Pen. Code §§ 112-114; Prob. Code § 6411; Pub. Contract Code § 6101; Pub. Resources Code § 6403; Unemp. Ins. Code § 1264; Veh. Code § 12801.7; and Welf. & Inst. Code § 219.5.)

This bill:

1) States that it is the intent of the Legislature in enacting this bill to make only nonsubstantive changes that remove the dehumanizing term "alien" from all California code sections, and that nothing in this bill shall be interpreted to make any substantive change to existing law, including, but not limited to,

eligibility for federal programs or benefits that are available to a person who meets the definition of "alien" under state or federal law.

2) Replaces the term "alien" in the Codes, where used to refer to a person who is not a citizen or national of the United States, and replaces it with appropriate substitutions, including definitions where necessary.

3) Makes additional technical and nonsubstantive changes.

**Comments**

The term "alien" conveys inhuman otherness—by definition, an alien could be from a different country or from a different planet.[1] Today, when used to describe people, the term is generally used as a derogatory or othering way to describe immigrants; the belittling effect is compounded when the term is used with "illegal," for a dehumanizing (and often legally incorrect) way to describe undocumented immigrants.[2] Recently, use of the term has been used as a racist tool to dehumanize immigrants from Mexico, Central, and South America.[3] The term has also been used to distance "other" U.S. citizens whom racist government officials deemed insufficiently "American" (i.e., white). For example, in World War II, the forced relocation of persons of Japanese descent to concentration camps referred to "alien and non-alien" persons, not aliens and *citizens*; the word "alien" thus did the linguistic work of distancing native-born persons of Japanese ancestry from their status as U.S. citizens and instead presenting them as a security threat.[4]

This bill eliminates the negative connotations of the word "alien"—however inadvertent—in our state's laws by removing the term from the Codes and replacing it with neutral, legally correct terms. This is not a novel proposition. In California, this Legislature passed, and the Governor signed, legislation to remove the term "alien" from the Labor Code[5] and "illegal alien" from the Education Code.[6] At the federal level, Congress is considering the U.S. Citizenship Act of

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[1] *E.g.*, "Alien," *Merriam-Webster.com Dictionary*, Merriam-Webster, https://www.merriam-webster.com/dictionary/alien [last visited Jun. 17, 2021].
[2] Stribley, *The Way We Speak About Unauthorized Immigrants Matters*, HuffPost.com (Oct. 19, 2016; updated Sept. 6, 2017), https://www.huffpost.com/entry/the-language-of-illegal-immigration_b_58076b62e4b00483d3b5cdba [last visited Jun. 17, 2021].
[3] *E.g.*, Fritze, *Trump used words like 'invasion' and 'killer' to discuss immigrants at rallies 500 times: USA Today* (Aug. 8, 2019; updated Aug. 21, 2019), https://www.usatoday.com/story/news/politics/elections/2019/08/08/trump-immigrants-rhetoric-criticized-el-paso-dayton-shootings/1936742001/ [last visited Jun. 17, 2021].
[4] Saito, *Alien and Non-Alien Alike: Citizenship, Foreignness, and Racial Hierarchy in American Law*, 76 Or. Law. Rev. 261, 275 (1997).
[5] SB 432 (Mendoza, Ch. 160, Stats. 2015).
[6] AB 1850 (Eduardo Garcia, Ch. 69, Stats. 2016).

2021, which, among other things, would remove the term "alien" from federal immigration laws and replace it with "noncitizen" and ensure that no executive branch uses the term in its signage or literature.[7] And since President Joseph R. Biden took office, the top officials at Customs and Border Patrol, U.S. Immigration and Customs Enforcement, and U.S. Citizenship and Immigration Services have already issued guidance memos directing their agencies to stop using "alien" when referring to immigrants in the United States.[8]

Unless and until Congress passes legislation removing "alien" from federal statutes, the term will remain in federal law.[9] On review, it appears that AB 1096 is appropriately drafted to replace "alien" with terms that will not give rise to confusion or conflict with the use of "alien" in federal law, including by cross-referencing federal law where appropriate. Out of an abundance of caution, however, the author has included a statement of intent for this bill making clear that the Legislature's intent is to make nonsubstantive changes only and not affect eligibility for state and federal programs by people who currently fall under the definition of "alien" under state and federal law.

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

**SUPPORT:** (Verified 6/17/21)

Lieutenant Governor Eleni Kounalakis
Anti-Defamation League
California Faculty Association
California Teachers Association
Consumer Attorneys of California
Dolores Huerta Foundation
National Association of Social Workers, California Chapter
TechNet

**OPPOSITION:** (Verified 6/17/21)

America First Latinos
We The People Rising
Three individuals

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[7] S. 348 (Menendez, 2021); H.R. 1177 (Sanchez, 2021). Colorado's legislature is also considering legislation to eliminate the term "illegal alien" from the one statute where it appears. (*See* Colo. HB 21-1075 (Lontine,2021).)
[8] Sacchetti, *ICE, CBP to stop using 'illegal alien' and 'assimilation' under new Biden administration order*, Washington Post (Apr. 19, 2021), https://www.washingtonpost.com/immigration/illegal-alien-assimilation/2021/04/19/9a2f878e-9ebc-11eb-b7a8-014b14aeb9e4_story.html [last visited Jun. 17, 2021].
[9] *E.g.*, 8 U.S.C. § 1101(a)(3) ("The term 'alien' means any person not a citizen or national of the United States").

**ARGUMENTS IN SUPPORT:**

According to bill supporter, Anti-Defamation League:

> Employing the outdated term "alien" to describe a person is dehumanizing. Although it is not an explicit racial slur, it has become a code word for bigotry against immigrant communities. Language shapes attitudes, and using terms like "alien" to refer to a person can lead to prejudice and even harmful actions.
>
> In 2015, SB 432 (Mendoza, Chapter 160, Statutes of 2015) first began to modernize California law by deleting the definition of "alien" and eliminating the requirement that "aliens" should be hired on public-works contracts only after U.S. citizens. However, the term "alien" is still found extensively throughout California statutes, including the Labor Code. By keeping this dehumanizing term in our statutes, we continue to normalize its use without acknowledging the pain it causes.

According to bill supporter, California Teachers Association (CTA):

> CTA believes immigrants and their contributions have a positive effect on our communities. Immigrants' ideas, customs, languages, traditions, and values enrich our culture and the foundational fabric of society. Use of the word "alien" dehumanizes undocumented immigrants. The current political climate has shown an increase in hate crimes targeting immigrants, and we should do everything we can to put a stop to this inhumane, unconscionable, and cruel behavior. Political leaders may fan those tensions rather than diffuse them, as part of an agenda to divert attention from their own lack of governance. Changing the language we use in state law can help change attitudes, curb discrimination, and treat people more humanely.

**ARGUMENTS IN OPPOSITION:**

According to bill opponent, We The People Rising:

> AB 1096 is legislation that deals with specific language and seeks to muddy the clarity of the existing government term, alien. The word is defined as meaning noncitizen. It is a short and concise word used by the government because it is a precise and clear definition. This legislation would remove the word and replace it with an undefined list of terms.
>
> In reality, this legislation appears to be political grandstanding…

It is a monumental waste of legislative energy and time as well as the taxpayers' money to proceed with this legislation.

ASSEMBLY FLOOR: 71-0, 5/20/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Cooley, Cooper, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Choi, Cunningham, Kalra, Patterson, Seyarto, Voepel

Prepared by: Allison Meredith / JUD. / (916) 651-4113
6/18/21 10:50:38

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

**SENATE RULES COMMITTEE** AB 1124
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1124
Author: Friedman (D)
Amended: 6/22/21 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/17/21
AYES: McGuire, Nielsen, Durazo, Hertzberg, Wiener

ASSEMBLY FLOOR: 70-0, 5/24/21 - See last page for vote

**SUBJECT:** Solar energy systems

**SOURCE:** California Solar and Storage Association

**DIGEST:** This bill revises the definition of "solar energy system" to include all structural design features, whether mounted on the ground or on a roof.

**ANALYSIS:**

Existing law:

1) Enacts the Solar Rights Act and declares that it is the policy of the state to promote and encourage the use of solar energy systems and to remove obstacles to their installation.

2) Defines, pursuant to Civil Code 801.5 governing solar easements, "solar energy system" to mean either of the following:

   a) Any solar collector or other solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, space cooling, electric generation, or water heating; or,

   b) A structural design feature of a building, including either of the following:

i) Any design feature whose primary purpose is to provide for the collection, storage, and distribution of solar energy for electricity generation, space heating or cooling, or for water heating; or,

ii) Any photovoltaic (PV) device or technology that is integrated into a building, including, but not limited to, PV windows, siding, and roofing shingles or tiles.

3) Requires a city or county to administratively approve applications to install solar energy systems through the issuance of a building permit or a similar nondiscretionary permit.

4) Prohibits a city or county from denying an application for a use permit to install a solar energy system unless it makes written findings based upon substantial evidence in the record that the proposed installation would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. The findings shall include the basis for the rejection of potential feasible alternatives of preventing the adverse impact.

5) Limits permit fees that local agencies can charge for permits to install solar energy systems.

6) Defines "residential permit fee" as the sum of all charges levied by a city, county, city and county, or charter city in connection with the application for a solar energy system.

This bill:

1) Revises the definition of "solar energy system" to additionally include any structural design feature by eliminating the provision that it be a feature of a building.

2) Explicitly include the following structural design features in the definition of solar energy system, regardless of whether the feature is on the ground or on a building:

   a) Solar racking;

   b) Solar mounting; and

   c) Elevated solar support structures.

3) Specifies that a solar energy system must be designed to serve utility retail customers on the same property or adjacent and contiguous properties.

4) Defines "elevated solar support structures" to include, but are not limited to, solar carports, shade structures, awnings, canopies, and patio covers, and include both the aboveground superstructure and associated foundation elements that support solar energy devices or collectors.

5) Defines "commercial permit fee" to mean the sum of all charges levied by a city, county, city and county, or charter city in connection with the application for a commercial solar energy system, including, but not limited to, a solar energy system that is installed on the property of multifamily housing that has more than 2 family dwellings.

6) Revises the definition of "residential permit fee" to mean the sum of all charges levied by a city, county, city and county, or charter city in connection with the application for a solar energy system that is installed on the property of a single- or 2-family dwelling.

7) States that nothing in the bill:

   a) Affects the required Contractors State License Board classifications or the field of scope of operations of a licensed contractor; or

   b) Precludes a city or county from conducting a plan check to confirm the safety of a solar energy system that requires a permit under the California Building Standards Code.

**Background**

*Solar costs.* The cost of installing solar energy systems—devices or structural design features that collect, store, and distribute solar energy for heating, cooling, and electricity generation—has dropped dramatically over the past decade, from $7.53/watt for a residential photovoltaic (PV) system in 2010 to $2.71/watt in 2020, according to National Renewable Energy Laboratory (NREL) benchmarks for these systems.

Initial cost reductions were largely due to cheaper solar panels. However, in recent years, this trend has continued because of reductions in "soft costs," such as sales taxes, supply chain costs, installer and developer profit, indirect corporate costs, transaction and financing costs, customer acquisition, permitting, and other non-hardware costs. Although soft costs have been declining, they have not dropped as much as hard costs, and therefore are increasing as a share of the system's total

cost. According to NREL, soft costs comprised about 64% of the total system price for residential solar PV systems in 2020.

*Lower fees for solar permitting.* The California Constitution and state law prohibit local agencies from levying fees for permit processing and inspection that exceed the reasonable cost of providing the service for which the fee is charged. Local agencies can only charge these fees to defray the cost of permit processing and enforcement, not for general revenue purposes.

Seeking to reduce the cost of solar installations, the Legislature additionally capped building permit fees that local agencies can charge for residential and commercial solar energy systems: first by SB 1222 (Leno, Chapter 614, Statues of 2012) until January 1, 2018, and then until January 1, 2025, by AB 1414 (Friedman, Chapter 849, Statutes of 2017). A city or county can charge permit fees exceeding the caps, provided that the city or county makes a written finding and adopted a resolution or ordinance showing substantial evidence of the reasonable cost to issue the permit, along with other specified findings.

*Definition of solar energy system.* AB 1414 also expanded the definition of solar energy system to include PV systems integrated into other parts of a building. As amended by AB 1414, the Solar Rights Act defines solar energy system to mean:

- Any solar collector or other solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, space cooling, electric generation, or water heating; or
- A structural design feature of a building, including any design feature whose primary purpose is to provide for the collection, storage, and distribution of solar energy and any photovoltaic (PV) technology integrated into a building (such as PV windows, siding, and roofing shingles or tiles).

Solar energy system installers note that some jurisdictions have excluded solar carports, shade structures, patios, and other ground-mounted systems from the fee caps established by AB 1414 on the basis that the primary purpose of such structures is to provide shade, not capture solar energy. The California Solar and Storage Association wants the Legislature to ensure that these types of structures are captured under AB 1414's fee caps.

**Comments**

1) *Purpose of the bill*. According to the author, "AB 1124 will increase the development of solar needed for the state to meet its greenhouse gas reduction

goals and build a reliable electric grid. In 2017, I authored AB 1414, which extended the cap on the fees local building departments can charge to issue solar permits. AB 1414 also adopted a definition of 'solar energy system' so that the fee caps would include all forms of solar, whether mounted to a roof or directly onto the ground. Since AB 1414 went into effect, some building departments have circumvented the intent of the law by claiming the bill does not pertain to solar energy systems built above parking lots and patios. As a result, the permit fees for solar energy systems charged by some building departments can balloon project costs by thousands and tens of thousands of dollars. AB 1124 is a simple bill that makes clear that the cap on permitting fees in AB 1414 pertains to all solar energy systems."

2) *Once more, with fee-ling.* Local building permit and inspection processes exist for good reason: to protect the health and safety of residents by ensuring that improvements are designed correctly and properly installed. When installed incorrectly, solar energy systems can pose potential risks of electrocution or fire, or impose loads too great for underlying structures to bear. Local inspectors check many aspects of the design to ensure that solar panels are attached to a building in a structurally sound manner or are otherwise safely supported, are sized appropriately, and include all the requisite safety measures. These processes can involve significant time and effort by building officials and cost local jurisdictions substantial sums. AB 1124 includes solar racking and mounting and elevated solar support structures, such as carports, in the definition of "solar energy system," thereby applying the fee caps in existing law to those types of installations. Some local officials are concerned that applying the existing fee caps to carports, patios, and other structures could prevent them from recovering the full cost of thorough inspections. Solar installers state that many jurisdictions already interpret AB 1414's permit fee caps as applying to the types of structures identified in AB 1124, and that this bill simply puts these structures explicitly into law to resolve any further ambiguity and to ensure that they aren't subject to unnecessary charges. Furthermore, existing law allows local agencies to charge more than the fee caps for solar permits if they can demonstrate that the reasonable cost to issue the permit is greater than the fee cap. Does AB 1124 impose an unfair cost burden on local agencies?

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

**SUPPORT:** (Verified 6/23/21)

California Solar and Storage Association (source)

California Business Properties Association
California Hotel & Lodging Association
California Housing Partnership Corporation
California Retailers Association
Center for Sustainable Energy
Coalition for Clean Air
Engie Services U.S., Inc.
Environment California
JKB Energy
Shade Power
Sierra Club of California
Solar Energy Industries Association
Sun Light & Power
Sunpower Corporation

**OPPOSITION:** (Verified 6/23/21)

California Building Officials
California State Association of Counties
Rural County Representatives of California
Urban Counties of California

ASSEMBLY FLOOR: 70-0, 5/24/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Choi, Cooley, Cooper, Cunningham, Daly, Davies, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Chen, Megan Dahle, Flora, Kiley, Mathis, Seyarto, Smith

Prepared by: Anton Favorini-Csorba / GOV. & F. / (916) 651-4119
6/23/21 15:07:51

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

Office of Senate Floor Analyses
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CONSENT

Bill No: AB 1180
Author: Mathis (R)
Amended: 4/26/21 in Assembly
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/17/21
AYES: McGuire, Nielsen, Durazo, Hertzberg, Wiener

ASSEMBLY FLOOR: 75-0, 5/24/21 - See last page for vote

**SUBJECT:** Local governments: surplus land: tribes

**SOURCE:** Tule River Indian Tribe of California

**DIGEST:** This bill expands the definition of "exempt surplus land" to include surplus land that a local agency transfers to a federally recognized California Indian tribe.

**ANALYSIS:**

Existing law:

1) Requires each local agency, on or before December 31 of each year, to make an inventory of all lands held, owned or controlled by it or any of its departments, agencies, or authorities, to determine what land, if any, is in excess of its foreseeable needs. Requires a description of each parcel found to be in excess of needs to be made a matter of public record and requires the agency to report this information to the Department of Housing and Community Development no later than April 1, beginning in 2021.

2) Requires a local agency that wants to dispose of property to follow specified procedures under the Surplus Land Act (SLA).

3) Defines "surplus land" as land owned by any local agency that is determined to be no longer necessary for the agency's use.

4) Requires a local agency that is disposing of surplus land to notify certain public entities and housing sponsors that surplus land is available for one of the following purposes:

   a) Low- and moderate-income housing;

   b) Park and recreation, and open space;

   c) School facilities; or,

   d) Infill opportunity zones or transit village plans.

5) Requires that, if another agency or housing sponsor wants to buy or lease the surplus land for one of these purposes, it must inform the disposing agency of its interest within 60 days, and if multiple entities want to purchase the land, the housing sponsor that proposes to provide the greatest level of affordable housing gets priority. The disposing agency and the interested entity have an additional 90 days to negotiate a mutually satisfactory price and terms in good faith. If they can't agree, the agency that owns the surplus land can dispose of the land on the private market.

6) Designates certain categories of surplus land as "exempt surplus land," which does not have to meet the requirements of the SLA.

This bill expands the definition of "exempt surplus land" to include surplus land that a local agency transfers to a federally recognized California Indian tribe.

**Background**

*Indian tribes.* The United States has a unique legal and political relationship with Indian tribes, as provided by the Constitution of the United States, treaties, court decisions, and federal statutes. The United States government recognizes 574 Indian tribes as sovereign governments, including 109 tribes in California. Due to this status, federally recognized tribes are not subject to state and local laws and regulations, except for those required under compacts negotiated with the State of California that provide for authority to conduct gaming activity on Indian lands. Some Indian lands are held in trust by the federal government for the benefit of the tribe ("trust lands"), and are therefore immune from state law except as provided in compacts. Other land is owned by the tribe in "fee simple," but remains subject to state and local laws. Federal law defines Indian lands to mean all lands within the limits of any Indian reservation, and any lands for which the title is either held in trust by the United States for the benefit of any Indian tribe or individual, or held

by any Indian tribe or individual subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power.

*Exemption for government-to-government transfers.* One way land qualifies as exempt surplus land under SLA is if a local agency is transferring land to another local, state, or federal agency for the agency's use. However, this exemption does not cover land transferred to Indian tribes, even though they are sovereign governments. The Tule River Indian Tribe of California wants the Legislature to exempt transfers of land to federally recognized tribes from SLA.

**Comments**

*Purpose of the bill.* According to the author, "AB 1180 provides a fair and meaningful opportunity that allows for the return of ancestral territory to our States' many indigenous tribes. The bill recognizes and addresses the States' history and policy towards tribal land and the cultural significance that they have to our many indigenous groups."

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

**SUPPORT:** (Verified 6/18/21)

Tule River Indian Tribe of California (source)
Barona Band of Mission Indians
City of Porterville
Jamul Indian Village
Tejon Indian Tribe
Yocha Dehe Wintun Nation

**OPPOSITION:** (Verified 6/18/21)

None received

ASSEMBLY FLOOR: 75-0, 5/24/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto,

Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Carrillo, Flora

Prepared by: Anton Favorini-Csorba / GOV. & F. / (916) 651-4119
6/23/21 15:07:51

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

**SENATE RULES COMMITTEE** AB 1281
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1281
Author: Blanca Rubio (D), et al.
Amended: 4/29/21 in Assembly
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 6/22/21
AYES: Bradford, Ochoa Bogh, Skinner, Wiener
NO VOTE RECORDED: Kamlager

ASSEMBLY FLOOR: 75-0, 5/24/21 - See last page for vote

**SUBJECT:** Criminal procedure: protective orders

**SOURCE:** Los Angeles County District Attorney's Office

**DIGEST:** This bill specifies that expungement of a conviction does not release the defendant from an unexpired post-conviction protective order, and that such an order shall remain in effect until its expiration or until any further order by the court modifying or terminating the order.

**ANALYSIS:**

Existing law:

1) Requires a court to grant expungement relief, with specified exceptions, for a misdemeanor or felony conviction for which the sentence included a period of probation and the petitioner successfully completed probation or terminated early, is not serving a sentence for, on probation for, or charged with the commission of any offense. The court has discretion to do so in the interests of justice in other probation cases. (Pen. Code, § 1203.4, subds. (a) & (b).)

2) Requires the court to grant expungement relief, with specified exceptions, to defendants convicted of a misdemeanor and not granted probation or an infraction after one year from the date of the pronouncement of judgement, if the defendant has fully complied with and performed the sentence, is not

serving a sentence, is not charged with a crime, has lived an honest and upright life, and has conformed to and obeyed the law. If the defendant does not satisfy these requirements, the court may in its discretion and in the interests of justice after one year from the date of pronouncement of judgment grant relief in non-probation cases in which the defendant has fully complied with and performed the sentence, is not serving a sentence, and is not charged with a crime. (Pen. Code, § 1203.4a subds. (a) & (b).)

3) Allows the court to grant expungement relief for a felony conviction of a petitioner sentenced to county jail pursuant to criminal justice realignment if specified conditions are satisfied. (Pen. Code, § 1203.41.)

4) Allows the court to grant expungement relief for a conviction of a petitioner sentenced to prison for a felony that, if committed after enactment of Criminal Justice Realignment legislation in 2011, would have been eligible for county-jail sentencing to obtain an expungement. (Pen. Code, § 1203.42.)

5) Created an automatic expungement process, subject to an appropriation in the budget, for defendants who otherwise are eligible to petition the court for relief. (Pen. Code, § 1203.425.)

6) States that if a defendant successfully participated in the California Conservation Camp program as an inmate hand crew member, as specified, or successfully participated as a member of a county inmate hand crew, as specified, and has been released from custody, the defendant is eligible for dismissal of charges. (Pen. Code, § 1203.4b.)

7) Specifies that expungement relief releases the person from the penalties and disabilities resulting from the conviction, except the person:

   a) May have a prior conviction pleaded and proved if the person is subsequently prosecuted for another crime;

   b) Is not relieved of any prohibition on possessing, owning, or having under his or her custody or control any firearm and may be convicted as an ex-offender in possession of a firearm;

   c) Must disclose the conviction in response to any direct question in a questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery; moreover, any ban on holding public office that resulted from the conviction remains in effect; and

d) May have their driver's license revoked, suspended, or use limited after two or more Vehicle Code convictions. (Pen. Code, §§ 1203.4, subd. (a)(1)-(3); 1203.4a, subds. (a) & (c); 1203.41, subds. (a) & (b); 1203.42, subds. (a) & (b).)

8) Requires a court to consider issuing a protective order that may be valid for up to 10 years to protect the victim of the crime when a defendant is convicted of any of the following crimes:

   a) A crime involving domestic violence, as specified; human trafficking for purposes of forced labor; rape, spousal rape, and statutory rape; pimping and pandering; criminal gang activity; or any offense requiring sex offender registration. (Pen. Code, § 136.2, subd. (i)(1).)

   b) Willful infliction of corporal injury resulting in a traumatic condition upon a spouse or partner. (Pen. Code, § 273.5, subd. (j).)

   c) Stalking. (Pen. Code, § 646.9, subd. (k).)

   d) Elder and dependent adult abuse. (Pen. Code, § 368, subd. (l).)

9) Provides that the post-conviction protective orders authorized above may be issued by the court regardless of whether the defendant is sentenced to the state prison or a county jail or subject to mandatory supervision, or whether imposition of sentence is suspended and the defendant is placed on probation. It is the intent of the Legislature in enacting this subdivision that the duration of a restraining order issued by the court be based upon the seriousness of the facts before the court, the probability of future violations, and the safety of a victim and the victim's immediate family. (Pen. Code, §§ 136.2, subd. (i)(1); 273.5, subd. (j); 368, subd. (1); 646.9, subd. (k).)

This bill:

1) Specifies that a dismissal of an accusation or information does not release the defendant from the terms and conditions of an unexpired post-conviction criminal protective order that has been issued by the court in connection with the underlying case.

2) Provides that the unexpired protective order shall remain in full effect until expiration or until any further order by the court modifying or terminating the order, despite the dismissal of the underlying accusation or information.

**Comments**

According to the author, "During the COVID-19 pandemic and resulting Safer at Home orders, we have seen incidents of domestic violence increase greatly. As a state, we need act strongly and decisively to support survivors of domestic violence. Allowing courts to exercise more discretion on whether or not a protective order should be terminated is a common-sense approach to protect survivors from ongoing cycles of abuse."

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

**SUPPORT:** (Verified 6/23/21)

Los Angeles County District Attorney's Office (source)
Alameda County District Attorney's Office
Crime Victims Alliance
Crime Victims United of California
Prosecutors Alliance California

**OPPOSITION:** (Verified 6/23/21)

American Civil Liberties Union California Action

**ARGUMENTS IN SUPPORT:** According to the Los Angeles County District Attorney's Office, "Criminal protective orders are not punitive in nature. They are non-penal restrictions designed to protect crime victims. Unless Penal Code sections 1203.4, 1203.4a, 1203.4b, and 1203.425 are amended to exclude 10-year criminal protective orders from the "penalties and disabilities" provision of those sections, there will always be a lack of clarity in the laws as to whether these important protective orders are still valid after a case has been dismissed."

**ARGUMENTS IN OPPOSITION:** According to American Civil Liberties Union California Action, "AB 1281 would broadly require all restraining orders to remain in effect unless the judge affirmatively chooses to terminate or modify the order. This will leave many defendants who successfully petition to have the cases again them dismissed under the jurisdiction of the criminal court for years after the dismissal, even when there is no reason to believe that they will otherwise creak the law or cause harm."

ASSEMBLY FLOOR: 75-0, 5/24/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Fong, Frazier, Friedman, Gabriel,

Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Bigelow, Carrillo, Flora

Prepared by: Stella Choe / PUB. S. /
6/23/21 15:15:57

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

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CONSENT

Bill No: AB 1291
Author: Frazier (D)
Introduced: 2/19/21
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 14-0, 6/8/21
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Borgeas, Bradford, Glazer, Hueso, Jones, Kamlager, Portantino, Rubio, Wilk
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/29/21 (Consent) - See last page for vote

**SUBJECT:** State bodies: open meetings

**SOURCE:** Author

**DIGEST:** This bill requires a state body, when it limits time for public comment, to provide at least twice the allotted time to a member of the public who utilizes translating technology.

**ANALYSIS:**

Existing law:

1) Requires, pursuant to the Bagley-Keene Open Meeting Act (Bagley-Keene), that meetings of a state body be open and public and that all persons be permitted to attend, with certain exceptions.

2) Requires a state body, with certain exceptions and reasonable regulations, to provide members of the public an opportunity to directly address the state body on agenda items.

3) Authorizes a state body to limit the amount of time allotted for each member of the public to speak, but requires, when a state body limits time for public comment, to provide at least twice the allotted time to a member of the public who utilizes a translator.

4) Defines "state body" to mean each of the following:

   a) Every state board, or commission, or similar multimember body of the state that is created by statute or required by law to conduct official meetings, and every commission created by executive order.
   b) A board, commission, committee, or similar multimember body that exercises any authority of a state body delegated to it by that state body.
   c) An advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body, as specified.
   d) A board, commission, committee, or similar multimember body on which a member of a body that is a state body services in his or her official capacity as a representative of that state body, as specified.
   e) The State Bar of California, as specified.

This bill:

1) Requires a state body, when it limits time for public comment, to provide at least twice the allotted time to a member of the public who utilizes translating technology.

2) Makes various technical and nonsubstantive changes.

**Background**

*Purpose of the bill*. According to the author's office, "public participation is a crucial part of our democratic process, including the ability for all individuals to provide public comment. This bill will further provide for effective communication for the people of this state who are at times hindered from public participation in meetings of a state body due to language barriers. At times, technology issues have precluded Californians from not having equal time to speak due to regulations limiting the total amount of time allocated for public testimony on particular issues and for each speaker. To ensure equitable and meaningful public participation, AB 1291 will require a state body, when it limits time for public comment, to provide at least twice the allotted time to a member of the

public who utilizes translating technology to address the state body to offset potential language and technological barriers."

*Bagley-Keene Act*. When the Legislature enacted the Bagley-Keene Act of 1967 it essentially said that when a body sits down to develop its consensus, there needs to be a seat at the table reserved for the public. In doing so, the Legislature has provided the public with the ability to monitor and be part of the decision-making process. Bagley-Keene explicitly mandates open meetings for California State agencies, boards, and commissions. By doing so, Bagley-Keene facilitates transparency of government activities and protects the rights of citizens to participate in state government deliberations. Therefore, absent a specific reason to keep the public out of meetings, the public should be allowed to monitor and participate in the decision-making process.

Under Bagley-Keene, a state body must disclose their agenda 10 days prior to holding a meeting. Public disclosure of the items to be discussed and acted upon in advance of a meeting allows members of the public adequate time to review the items listed, so they can provide substantive, efficient, and informed comments during the public comment period.

Existing law, subject to certain exceptions and reasonable regulations, requires that a state body must provide an opportunity for members of the public to directly provide comment on each agenda item for discussion or consideration. However, Bagley-Keene authorizes a state body to limit the amount of time allotted for each member of the public to speak. When a state body limits the time for public comment, Bagley-Keene requires that members of the public utilizing a translator be provided at least twice the allotted time.

This bill requires that when a member of the public utilizes some other translating technology, that member be provided with at least twice of the allotted time to address the state body.

*The Dymally-Alatorre Bilingual Services Act*. Existing law ensures that all residents, including those who are limited English proficient (LEP), have equal access to public services. Existing law requires every state and local agency, where contact is made with a substantial number of LEP people, to have a sufficient number of qualified bilingual staff and translated written materials so that the LEP population they serve are able to effectively access and communicate with government.

**Related/Prior Legislation**

AB 2028 (Aguiar-Curry, 2020) would have removed an exemption in Bagley-Keene, thereby requiring that a state body make an agenda item that had already been discussed by a committee of the state body open to public comment, as specified. (Died on the Senate Inactive File)

AB 1107 (Chu, 2020) would have required all proclamations, materials, and announcements made by the Governor or issued by a state agency related to a state of emergency to be made available in all languages spoken by LEP speakers that meet the Medi-Cal threshold languages as determined by the State Department of Health Care Services, as specified. (Held on the Senate Appropriations Committee Suspense File)

SB 53 (Wilk, 2019) would have modified Bagley-Keene to require two-member advisory committees of a state body to hold open, public meetings, if specified conditions are met. (Held on the Assembly Appropriations Committee Suspense File)

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

**SUPPORT:** (Verified 6/21/21)

California Federation of Teachers
California Immigrant Policy Center
Disability Rights California

**OPPOSITION:** (Verified 6/21/21)

None received

**ARGUMENTS IN SUPPORT:** In support of this bill, Disability Rights California (DRC) writes that, "DRC believes this bill will assist people who use assistive technology including speech recognition technology and dictation software. Even when used proficiently, users may experience delays and errors in effectively articulating the thoughts they wish to convey to state bodies. By providing additional time for public comment, we believe this bill provides a reasonable accommodation to persons with disabilities. Currently, the Bagley-Keene Open Meeting Act requires that meetings of a state body be open and public and that all persons be permitted to attend, with certain exceptions. Existing law provides that, subject to certain exceptions, the state body shall provide members of the public an opportunity to directly address the state body on agenda items. With California having one of the country's most diverse populations and being

home to the nation's largest limited English proficient (LEP) population, AB 1291 will allow all Californians, particularly those who are limited English proficient, to meaningfully participate in and have equitable access to these public meetings. The state has close to 7 million residents who primarily speak one of over 200 non-English languages."

ASSEMBLY FLOOR: 77-0, 4/29/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Luz Rivas

Prepared by: Brian Duke / G.O. / (916) 651-1530
6/23/21 15:10:13

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

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CONSENT

Bill No: AB 1305
Author: Lackey (R)
Introduced: 2/19/21
Vote: 27

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 12-0, 6/7/21
AYES: Roth, Archuleta, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Melendez, Bates

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/22/21 (Consent) - See last page for vote

**SUBJECT:** The Medicinal and Adult-Use Cannabis Regulation and Safety Act: exemption for DEA-approved commercial cannabis activity

**SOURCE:** Author

**DIGEST:** This bill exempts activity that is authorized under the federal Controlled Substances Act—namely, the cultivation and distribution of cannabis for research purposes, as specified, pursuant to a registration with the United States Drug Enforcement Administration (DEA), as specified—from the licensure and regulatory requirements of the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).

**ANALYSIS:** Existing federal law establishes procedures governing the registration of manufacturers seeking to plant, grow, cultivate, or harvest marijuana for legitimate medical, scientific, research, and industrial purposes via a federal registration program with the DEA. (Title 21 United States Code of Federal Regulations Part 1318)

Existing state law:

1) Establishes the MAUCRSA to regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of both medicinal cannabis and adult-use cannabis. (Business and Professions Code (BPC) § 26000)

2) Establishes the Bureau of Cannabis Control (Bureau) under the Department of Consumer Affairs to regulate cannabis with the sole authority to create, issue, deny, renew, discipline, suspend, or revoke licenses for microbusinesses, transportation, storage unrelated to manufacturing activities, distribution, testing, and sale of cannabis and cannabis products within the state. (BPC §§ 26010, 26012 (a)(1))

3) Requires the California Department of Food and Agriculture (CDFA) to administer the portions of MAUCRSA related to and associated with the cultivation of cannabis. Delegates to CDFA the authority to create, issue, deny, and suspend or revoke cultivation licenses for violations of MAUCRSA. (BPC § 26012 (a)(2))

4) Requires the State Department of Public Health (DPH) to administer the provisions of MAUCRSA related to and associated with the manufacturing of cannabis products. DPH shall have the authority to create issue, deny, and suspend or revoke manufacturing licenses for violations of MAUCRSA. (BPC § 26012 (a)(3))

5) Exempts from MAUCRSA any product containing cannabidiol (CBD) that has been approved by the federal Food and Drug Administration that has either been placed on a schedule of the federal Controlled Substances Act other than Schedule I or has been exempted from one or more provisions of that act, and that is intended for prescribed use for the treatment of a medical condition. (BPC § 26002)

This bill exempts activity that is authorized under the federal Controlled Substances Act—namely, the cultivation and distribution of cannabis for research purposes, as specified, pursuant to a registration with the DEA, as specified—from the licensure and regulatory requirements of the MAUCRSA. This bill also makes findings and declarations that this bill furthers the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

**Background**

*State Regulation of Cannabis*. In 1996, California first legalized cannabis for medical consumption via Proposition 215, also known as the Compassionate Use Act (the Act). Proposition 215 protected qualified patients and primary caregivers from prosecution related to the possession and cultivation of cannabis for medicinal purposes. In 2003, the Legislature authorized the formation of medical marijuana cooperatives—nonprofit organizations that cultivate and distribute marijuana for medical uses to their members through dispensaries.

In 2015, the Legislature passed the Medical Cannabis Regulation and Safety Act (MCRSA). For the first time, MCRSA established a comprehensive, statewide licensing and regulatory framework for the cultivation, manufacture, transportation, testing, distribution, and sale of medicinal cannabis to be administered by the Bureau within Department of Consumer Affairs, DPH, and CDFA.

Shortly following the passage of MCRSA in November 2016, California voters passed Proposition 64, the "Control, Regulate and Tax Adult Use of Marijuana Act" (Proposition 64), which legalized adult-use cannabis. Less than a year later in June 2017, the California State Legislature passed a budget trailer bill, *SB 94* (Committee on Budget and Fiscal Review, Chapter 27, Statutes of 2017), that integrated MCRSA with Proposition 64 to create MAUCRSA, the current regulatory structure for both medicinal and adult-use cannabis. Beginning in 2018, Proposition 64 permitted adults 21 years of age or older can legally grow, possess, and use cannabis for nonmedical purposes, with certain restrictions. The current administrative penalties were enacted in *AB 97* (Committee on Budget, Chapter 40, Statutes of 2019).

*DEA.* At the federal level, regulations establish "procedures governing the registration of manufacturers seeking to plant, grow, cultivate, or harvest marihuana" under the DEA. For example, these regulations allow the DEA Administrator to "grant an application for a registration to manufacture marihuana, including the cultivation of cannabis," but only if that person "determines that such registration is consistent with the public interest…." These regulation state that proposed cultivation and manufacturing is in the public interest when it is for "legitimate medical, scientific, research, and industrial purposes," among other factors. These other factors a DEA Administrator must consider when determining when to grant a registration include "compliance with applicable State and local law," which arguably means following licensing and regulatory parameters.

According to the Assembly Business and Professions Committee analysis, "…because cannabis is still classified as a Schedule I controlled substance at the federal level, the author believes that participating in the MAUCRSA regulatory system would mean that registrants would be violating federal law, creating an irreconcilable conflict."

*Cannabis Consolidation Efforts.* In an effort to improve access to licensing and simplify regulatory oversight of commercial cannabis activity, the Governor's 2021 Budget includes a proposal to consolidate the three cannabis licensing entities that are currently housed at the Bureau, the CDFA, and DPH into a single Department of Cannabis Control by July 2021. Establishment of a standalone department with an enforcement arm is designed to centralize and align critical areas to build a successful legal cannabis market, by creating a single point of contact for cannabis licensees and local governments. The goal is to ultimately simplify and centralize State regulatory efforts; improve coordination, including enforcement; reduce barriers to participation in the legal market; and incentivize greater local participation.

*The Impact of This Bill.* To address the concern of the author that this bill might violate federal law, this bill exempts activity that is authorized under the federal Controlled Substances Act—namely, the cultivation and distribution of cannabis for research purposes, as specified, pursuant to a registration with the DEA, as specified—from the licensure and regulatory requirements of the MAUCRSA. DEA registrants could then fully comply with both state and federal law when engaging in federally-authorized cannabis research.

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

**SUPPORT:** (Verified 6/22/21)

Natura
University of California

**OPPOSITION:** (Verified 6/22/21)

None received

**ARGUMENTS IN SUPPORT:** Natura writes in support, "Cannabis and its effects much be more broadly and more deeply researched and understood. Unfortunately, there is a paucity of research on cannabis and is molecules. This lack of research means that its use, safety and efficacy isn't as understood as it should be. The results of cannabis research will help shape smart public policy and

potentially lead to the creation of life-saving medicines for suffering patients around our state and country. As California advances cannabis policies and cannabis use becomes more widespread, our citizenry must have more robust data on cannabis' applications in order to drive smart policy, industry development and scientific advancement."

The University of California writes in support, "UC researchers have made impressive strides to increase scientific knowledge around cannabis. However, there remain substantial impediments to conducting cannabis research. Under the current legal requirements, researchers working directly with cannabis and its derivatives must navigate a lengthy maze of approvals from three federal agencies, in addition to state and institutional authorization. We appreciate that AB 1305 makes clear that institutions engaged in federally permitted cannabis research activities are not required to receive a medicinal or adult-use cannabis license under the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA)."

ASSEMBLY FLOOR: 77-0, 4/22/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Holden, Reyes

Prepared by: Dana Shaker / B., P. & E.D. /
6/23/21 15:04:00

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

**SENATE RULES COMMITTEE** AB 1426
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1426
Author: Mathis (R)
Introduced: 2/19/21
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 12-0, 6/14/21
AYES: Eggman, Dahle, Becker, Borgeas, Bradford, Dodd, Gonzalez, Grove, Hertzberg, McGuire, Min, Rubio
NO VOTE RECORDED: Hueso, Stern

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 5/6/21 (Consent) - See last page for vote

**SUBJECT:** California Advanced Services Fund

**SOURCE:** Author

**DIGEST:** This bill eliminates existing law allowing an incumbent internet service provider (ISP) to block California Advanced Services Fund (CASF) broadband infrastructure grants to areas where the ISP intends to expand service.

**ANALYSIS:**

Existing law:

1) Establishes the CASF, which is administered by the California Public Utilities Commission (CPUC) to fund broadband infrastructure deployment in unserved areas through December 31, 2022. (Public Utilities Code §281(a-b)).

2) Provides incumbent ISPs with the ability to object to and block a CASF application on an annual basis if the ISP intends to upgrade or extend service to the project area within six months. If the ISP does not extend or upgrade the service within six months, the ISP must update the CPUC with information

about its progress towards providing service. If the CPUC finds that the ISP is making progress towards providing or upgrading service, the CPUC must extend the ISP's six-month right of first refusal period. (Public Utilities Code §281(f))

This bill deletes existing law allowing incumbent ISPs to object to a block CASF grants for projects where an ISP intends to extend or upgrade broadband service.

**Background**

*The CASF's Role in Addressing the Digital Divide*. The CASF is administered by the CPUC to provide grants for broadband infrastructure and adoption. Lack of broadband access generally stems from two primary causes: a lack of sufficient infrastructure and a lack of affordable broadband service. The CASF helps address the degree to which a lack of infrastructure limits broadband access. The CASF is funded by an end user surcharge on in-state telecommunications services. Under existing law, the CASF is scheduled to sunset on December 31, 2022. This bill does not extend the operation of the CASF or provide additional revenue for the program; however, it modifies an element of the CASF grant process until the 2022 sunset.

*This bill eliminates the "right of first refusal."* Existing law provides an incumbent ISP with the ability to challenge any proposed CASF grant if the ISP intends to upgrade service in or extend service to the project's area within six months. This rebuttal process is known as the "right of first refusal. While the right of first refusal may be intended to ensure that CASF grants are provided only to unserved areas that would not otherwise obtain broadband infrastructure through private capital, the process has been used to challenge the majority of proposed CASF grants in recent years. The lengthy rebuttal process can significantly delay a CASF project, increasing project costs and limiting grant recipients' ability to leverage multiple funding sources, including federal funds. Eliminating the right of first refusal could help streamline and accelerate the CASF grant process and provide successful grant applicants with greater certainty that they will be able obtain funds in a timely manner.

**Related/Prior Legislation**

SB 4 (Gonzalez, 2021) extends the CASF and makes various changes to the program, including increasing the minimum speed of CASF-funded infrastructure to 100/20 mbps, expanding the definition of an unserved area, updating the

program's funding mechanism, and eliminating the right of first refusal. The bill is currently pending in the Assembly.

AB 14 (Aguiar-Curry, 2021) makes various modifications to the CASF, including eliminating the right of first refusal, increasing the minimum speed standards for CASF-funded infrastructure, expanding the definition of an unserved area eligible for grants, and expanding the types of projects eligible for CASF funding to include projects that deploy broadband to specified "anchor institutions." The bill is currently pending in the Senate.

AB 1349 (Mathis, 2021) adds religious organizations to the list of groups eligible for grant funding from the CASF's broadband adoption account. The bill is currently pending consideration in the Senate.

SB 1130 (Gonzalez, 2020) would have extended and modified the CASF, including increasing minimum speed standards for CASF-funded infrastructure, expanded the communities eligible for the CASF, and set open access requirements for certain infrastructure projects. The bill died in the Assembly.

AB 570 (Aguiar-Curry, 2020) would have extended and modified the CASF, including increasing the minimum speed standards for CASF-funded infrastructure, expanding the communities eligible for CASF monies, allowing the CPUC to collect additional CASF revenue, and authorizing the issuance of up to $1 billion in bonds secured by the CASF. The bill died in the Senate.

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

**SUPPORT:** (Verified 6/21/21)

Sierra Business Council
The Rural Caucus of the California Democratic Party

**OPPOSITION:** (Verified 6/21/21)

None received

**ARGUMENTS IN SUPPORT:** According to the author, "Covid-19 has highlighted the deep digital divide within the state of California, and the urgent need for broadband infrastructure development. AB 1426 enables greater broadband deployment and access by removing the 180 day right of first refusal offered to an existing facility-based broadband provider which can unnecessarily delay a CASF project, increase costs and reduce competition."

ASSEMBLY FLOOR: 77-0, 5/6/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Mullin

Prepared by: Sarah Smith / E., U., & C. / (916) 651-4107
6/23/21 15:07:50

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

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CONSENT

Bill No: AB 1428
Author: Quirk (D)
Introduced: 2/19/21
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 7-0, 6/14/21
AYES: Allen, Bates, Dahle, Gonzalez, Skinner, Stern, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 75-0, 5/27/21 (Consent) - See last page for vote

**SUBJECT:** Safe Drinking Water Act: applicability

**SOURCE:** State Water Resources Control Board

**DIGEST:** This bill removes the ability of certain water districts to self-certify that the water they provide achieves an equivalent level of public health protection as the protection provided by applicable drinking water regulations.

**ANALYSIS:**

Existing federal law:

1) Requires states to have drinking water regulations which are no less stringent than the National Primary Drinking Water Regulations promulgated by the United States Environmental Protection Agency (US EPA) as a condition of primary enforcement responsibility. (40 Code of Federal Regulations § 142.10)

2) Defines a public water system and exempts irrigation districts from being regulated as public water systems if the districts were in existence prior to May 18, 1994; provide primarily agricultural service through a piped water system with only incidental residential use; and, the US EPA Administrator or a State exercising primary enforcement responsibility determines that the water

provided achieves an equivalent level of public health protection or is treated to achieve an equivalent level of protection. (42 United States Code § 300f (4))

Existing state law:

1) Vests the State Water Resources Control Board (State Water Board) with all of the authority, duties, powers, purposes, functions, responsibilities, and jurisdiction of the California Department of Public Health (CDPH) and its predecessor to enforce the State Drinking Water Act (SDWA). (Health and Safety Code (HSC) § 116271)

2) Requires any person who owns a public water system to ensure that the system does all of the following:

   a) Complies with primary and secondary drinking water standards;
   b) Will not be subject to backflow under normal operating conditions;
   c) Provides a reliable and adequate supply of pure, wholesome, healthful, and potable water;
   d) Employs or utilizes only water treatment operators or water treatment operators-in-training that have been certified by the State Water Board at the appropriate grade; and,
   e) Complies with the operator certification program. (HSC § 116555 (a))

3) Defines a "public water system" as a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. (HSC § 116275)

4) Exempts water districts from being regulated as a public water system if the districts were in existence prior to May 18, 1994; primarily provide agricultural services and incidentally provide residential water; and, the systems self-certify that the water provided achieves the equivalent level of protection provided by primary drinking water regulations. (HSC § 116286 (a))

This bill revokes the current authority agricultural water districts use to self-certify that the water they provide achieves an equivalent level of public health protection as provided by applicable drinking water standards.

**Background**

1) *Federal Safe Drinking Water Act.* The federal SDWA was enacted in 1974 to protect public health by regulating drinking water. California has enacted its own safe drinking water act to implement the federal law and establish state standards under the state SDWA. The US EPA enforces the federal SDWA at the national level. Most states, including California, have been granted primary enforcement responsibility or "primacy" by the US EPA, giving them the authority to implement and enforce the federal SDWA at the state level. In accordance with the federal SDWA, the US EPA provides funds to states for their drinking water loan programs, conducts an annual oversight review of each state's program, and issues an annual program evaluation report.

2) *California's drinking water program*. SB 861 (Senate Committee on Budget and Fiscal Review, Chapter 35, Statutes of 2014) transferred the drinking water program from CDPH to the State Water Board effective July 1, 2014, creating the new Division of Drinking Water within the State Water Board and made other statutory changes to create efficiencies and adoption and administration of the drinking water program.

   The State Water Board directly enforces the federal SDWA for all large water systems (those with 200 or more service connections), including those water systems regulated under the California Public Utilities Commission, Division of Corporations, or Department of Housing and Community Development. For small water systems (those with less than 200 connections), local health departments can be delegated to have regulatory authority as the local primacy agency. Along with the regulation of drinking water, the State Water Board and the Regional Water Quality Control Boards (Regional Water Boards) are responsible for protecting the waters of the state, including drinking water sources, both surface water and groundwater supplies.

   The State Water Board has adopted regulations for drinking water standards, monitoring requirements, cross-connections, design and operational standards, and operator certification. The implementation of the drinking water program involves: (a) establishment of drinking water standards, (b) certification of operators and point-of-use treatment devices, and (c) direct regulation of public water systems with the authority to delegate oversight responsibility of small water systems to local county health departments. The regulation of public water systems includes: (a) issuance of permits covering the approval of water system design and operation procedures, (b) inspection of water systems, (c) the

enforcement of laws and regulations to assure that all public water systems routinely monitor water quality and meet current standards, and (c) assuring notification is provided to consumers when standards are not being met.

3) *What is a public water system?* A public water system is defined as a system that provides water for human consumption to 15 or more connections or regularly serves 25 or more people daily for at least 60 days out of the year. According to the State Water Board, there are approximately 7,400 public water systems in the state. Many people think of public water systems as large city or regional water suppliers, but they also include small housing communities, businesses, and even schools and restaurants that provide water. A public water system is not necessarily a public entity, and most public water systems are privately owned. There are three legal distinctions between the types of public water systems: community, non-transient non-community, and transient. The type of water system is based on how often people consume the water. Drinking water regulations impose the most stringent monitoring requirements on community and non-transient non-community water systems because the people they serve obtain all or much of their water from that system each day. Community water systems are city, county, regulated utilities, regional water systems, and even small water companies and districts where people live. Non-community non-transient water systems are places like schools and businesses that provide their own water. The customers of non-community non-transient water systems have a regular opportunity to consume the water, but they do not reside there. Transient water systems include entities like rural gas stations, restaurants, and State and National parks that provide their own potable water. Most people that consume the water neither reside nor regularly spend time there.

   Being a public water system means providing affordable, safe drinking water to customers 24 hours a day, 7 days a week, 365 day a year. This includes the associated legal, fiscal, and operational responsibilities, and future planning. Public water systems typically are run more efficiently when costs can be spread out over a large group of people to obtain good economies of scale. Small public water systems without a very high level of managerial, technical, and financial capacity tend to be unsustainable.

4) *Water districts exempt from regulation as public water systems*. Some water districts can be exempted from classification as public water systems if they meet certain requirements. For this purpose, a water district is defined as any district or other political subdivision (other than a city or county) that primarily

functions to provide irrigation, reclamation, or drainage of land. According to the federal SDWA, these agricultural water districts can be exempted from regulation as public water systems if they existed prior to May 18, 1994; they primarily provide agricultural services and only incidentally provide drinking water; and, the US EPA Administrator or a state exercising primary enforcement responsibility determines that the water provided achieves an equivalent level of public health protection as that provided by primary drinking water regulations. Under the state SDWA, agricultural districts can be exempted from regulation as public water systems if the district self-certifies that the water provided would meet drinking water standards.

5) *US EPA review flags self-certification of water districts*. In March 2019, US EPA completed its review of several California regulations and found that this discrepancy between the federal and state SDWAs makes the state SDWA less stringent than the federal SDWA. Allowing agricultural water districts to self-certify that the water meets drinking water standards eliminates the state's role in confirming that the criteria for exemption of agricultural districts is met. Agricultural water districts could have a conflict of interest in self-certifying the quality of the alternative water they provide because this certification allows them to avoid regulation.

   If the state SDWA is not amended to reflect the more stringent language of the federal SDWA, the State Water Board could lose its approved primary enforcement responsibility to implement the federal SDWA in California. If this happens, public water systems in the state will be regulated both by the State Water Board under the California SDWA and the US EPA under the federal SDWA. This dual regulation could be inefficient and costly to public water systems.

6) *Impacts to water districts*. It is not clear how many agricultural water districts are exercising the self-certification authority to exempt themselves from regulation as public water systems. These agricultural water districts may still be able to obtain exemptions, but the State Water Board would need to certify that the water provided is equivalent to water that adheres to standards in primary drinking water regulations.

7) *AB 1428*. This bill removes the ability of agricultural water districts to self-certify that the water they provide achieves a level of public health protection that is equivalent to the protection provided by drinking water that meets drinking water standards. This is necessary to align the state SDWA with the

more stringent federal SDWA. Without this legislative correction, it is possible that the State Water Board could lose its primary enforcement responsibility of the federal SDWA, requiring public water systems to be regulated by both the State Water Board and US EPA.

**Comments**

1) *Purpose of this bill.* According to the author, "AB 1428 would amend the California Safe Drinking Water Act to preserve the State's primary enforcement responsibility (also known as 'primacy') for public water systems in California. This bill would remove the option for agricultural water districts to self-certify that the drinking water they provide meets water quality standards. This self-certification allows agricultural water districts to exempt themselves from public water system classification without evaluation and confirmation by the State Water Resources Control Board. AB 1428 will ensure that the California Safe Drinking Water Act is at least as stringent as the requirements under the federal Safe Drinking Water Act, allowing for continued primary enforcement responsibility by the state and ensuring that residents served by agricultural water districts are being provided safe drinking water."

**Related/Prior Legislation**

SB 861 (Senate Committee on Budget and Fiscal Review, Chapter 35, Statutes of 2014) transferred the drinking water program from CDPH to the State Water Board effective July 1, 2014, creating the new Division of Drinking Water within the State Water Board and made other statutory changes to create efficiencies and adoption and administration of the drinking water program.

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

**SUPPORT:** (Verified 6/22/21)

State Water Resources Control Board (source)
Association of California Water Agencies

**OPPOSITION:** (Verified 6/22/21)

None received

ASSEMBLY FLOOR: 75-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood
NO VOTE RECORDED: Maienschein, Mullin, Rendon

Prepared by: Gabrielle Meindl / E.Q. / (916) 651-4108
6/23/21 16:07:56

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

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

CONSENT

Bill No: AB 1527
Author: Ting (D), et al.
Introduced: 2/19/21
Vote: 21

SENATE HEALTH COMMITTEE: 10-0, 6/10/21
AYES: Pan, Eggman, Gonzalez, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 5/6/21 (Consent) - See last page for vote

**SUBJECT:** Seton Medical Center: seismic safety

**SOURCE:** AHMC Health System

**DIGEST:** This bill permits the Office of Statewide Planning and Development to extend the seismic retrofit requirements for Seton Medical Center until July 1, 2023.

**ANALYSIS:**

Existing law:

1) Establishes the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983 (Alquist Act), to ensure that hospital buildings are designed and constructed to resist the forces generated by earthquakes and requires the Office of Statewide Health Planning and Development (OSHPD) to propose building standards for earthquake resistance and to provide independent review of the design and construction of hospital buildings. [HSC §129675, et seq.]

2) Establishes timelines for hospital compliance with seismic safety standards, including a requirement that buildings posing a significant risk of collapse and a

danger to the public (referred to as SPC -1 buildings) be rebuilt or retrofitted to be capable of withstanding an earthquake, or removed from acute care service, by January 1, 2008 (which has since been extended for various hospitals to various dates), and a requirement that hospital must also be capable of continued operation by January 1, 2030. [HSC §130060, §130065]

3) Permits OSHPD to grant an extension of up to five years to the 2008 deadline, which would be January 1, 2013, for hospitals for which compliance will result in a loss of health care capacity, as defined. Allows OSHPD to grant various further extensions beyond this, including up to seven years to January 1, 2020, in part based on the loss of essential hospital services to the community if the hospital closed, and financial hardship. [HSC §130060, §130061.5]

4) Permits OSHPD, under legislation enacted in 2018, to provide for an extension of the January 1, 2020 deadline in 3) above, for up to 30 months (until July 1, 2022) for hospitals that plan to replace or retrofit a building to meet the 2020 standard, and up to five years (January 1, 2025) for hospitals that plan to rebuild to a standard that meets the 2030 requirement. [HSC §130062]

This bill:

1) Permits OSHPD, notwithstanding any other law, to waive the requirements for the Seton Medical Center in Daly City to comply with the seismic requirements of existing law, in whole or in part, if both of the following occur:

   a) Seton Medical Center submits a plan to OSHPD, on or before January 15, 2022, that proposes compliance with the applicable seismic safety standards in existing law on or before July 1, 2023; and,
   b) OSHPD accepts the plan submitted by Seton Medical Center as feasible to complete and promoting public safety.

2) Requires Seton Medical Center, if OSHPD accepts the plan pursuant to 1) above, to report to OSHPD on its progress to timely complete the plan, on or before all of the following dates:

   a) April 1, 2022;
   b) July 1, 2022;
   c) October 1, 2022;
   d) January 1, 2023; and,
   e) April 1, 2023.

3) Permits OSHPD to revoke its waiver, in whole or in part, if Seton Medical Center fails to timely report progress that OSHPD deems is sufficient to complete the plan.

4) States legislative findings and declarations that a special statute is necessary and that a general statute cannot be made applicable because of the unique financial challenges Seton medical Center is resolving while providing medical and care services during the COVID-19 pandemic to underserved and vulnerable populations.

**Comments**

1) *Author's statement.* According to the author, this bill authorizes OSHPD to grant Seton Medical Center in Daly City a waiver, of up to one year, to achieve compliance with seismic retrofit requirements. This waiver is urgently needed in order to allow Seton Medical Center additional time to comply with these requirements after years of financial uncertainty as to whether this hospital would close. Seton Medical Center provides much-needed emergency services for roughly 27,000 people in the Bay Area, and 80% of those are MediCal or Medicare patients. The waiver would allow the hospital to continue providing critical community care and acute medical services to a significant population of individuals in the Bay Area and allow for continued medical resources and services to remain available to help further combat the ongoing coronavirus pandemic.

2) *Overview of hospital seismic requirements.* Following the 1971 San Fernando Valley earthquake, California enacted the Alquist Act, which mandated that all new hospital construction meet stringent seismic safety standards. In 1994, after the Northridge earthquake, SB 1953 (Alquist, Chapter 740, Statutes of 1994) required OSHPD to establish earthquake performance categories for hospitals, and established a January 1, 2008, deadline by which general acute care hospitals must be retrofitted or replaced so that they do not pose a risk of collapse in the event of an earthquake, and a January 1, 2030, deadline by which they must be capable of remaining operational following an earthquake. Subsequent legislation allowed most hospitals to qualify for an extension of the January 1, 2008 deadline to January 1, 2013.

   OSHPD categorizes hospitals into five Structural Performance Categories (SPCs). SPC-1 is the category of buildings at most risk of collapse in an earthquake, and it is these hospitals that were originally required to be taken out of service or retrofitted by January 1, 2008, which has since been extended

multiple times. Buildings in SPC-2, 3, 4, and 5 are generally categorized based on when they were built and the building code regulations in effect at that time. Hospital buildings in any of these categories may be used up until January 1, 2030, at which time hospitals must either meet SPC-5 requirements, or under recently adopted regulations, the new category of SPC-4D. SPC-5 generally requires new construction for any building constructed before 1989, while SPC-4D allows for some more recently constructed buildings to be retrofitted and still be compliant with January 1, 2030 standards.

In addition to the original five-year extension to January 1, 2013, the Legislature has passed additional bills allowing hospitals to extend the deadlines for retrofitting SPC 1 buildings beyond the 2013 deadline. SB 306 (Ducheny, Chapter 642, Statutes of 2007) permitted a hospital owner to comply with seismic safety deadlines and requirements in current law by replacing all of its buildings subject to seismic retrofit by January 1, 2020, rather than retrofitting by 2013 and replacing them by 2030, if the hospital meets several conditions and OSHPD certifies that the hospital owner lacks the financial capacity to meet seismic standards, as defined. SB 90 (Steinberg, Chapter 19, Statutes of 2011) allowed a hospital to seek an extension for seismic compliance for its SPC-1 buildings of up to seven years (no later than January 1, 2020) based on the following elements: the structural integrity of the building, the loss of essential hospital services to the community if the hospital closed, and financial hardship.

3) *Seismic deadline extensions passed in 2018 were intended to allow last stragglers to comply.* In 2018, the Legislature passed AB 2190 (Reyes, Chapter 673, Statutes of 2018) which was intended to allow the last remaining hospitals that had not yet met the SPC 2 standard, to meet the mandate without fear of closure should they have a construction or financing delay. AB 2190 provided two paths: a 30 month extension (to July 1, 2022) for hospitals that submitted a retrofit plan or a "replacement plan" (relocating acute care services or beds from nonconforming buildings into a conforming building); or alternatively, a five year extension (to January 1, 2025) for hospitals that submitted a rebuild plan to construct a new building that would meet the 2030 standard. This bill only applies to extensions to July 1, 2022 granted under retrofit or replacement plans.

   In order to receive the extension to July 1, 2022 for a retrofit or replacement plan, the hospital and OSHPD were required to identify at least two major milestones relating to the compliance plan to be used as a basis for determining

whether the hospital is making adequate progress toward meeting the new seismic compliance deadline. The hospital needed to start construction by April 1, 2020, and meet any agreed upon milestone, or be subject to a $5,000 fine per calendar day until the requirements or milestones are met. Similarly, hospitals seeking an extension to January 1, 2025 for a rebuild plan had to work with OSHPD to identify major milestones, begin construction by January 1, 2022, and are also subject to the daily $5,000 fine for failure to meet requirements or agreed upon milestones. AB 2190 permitted OSHPD to grant adjustments to the deadlines to meet milestones or other requirements as necessary to deal with specified delays, but OSHPD was prohibited from extending the final seismic compliance dates of July 1, 2022 for replacement or retrofit plans, and January 1, 2025 for rebuild plans. Hospitals granted extensions under AB 2190 are required to provide a quarterly status report to OSHPD until seismic compliance is achieved.

4) *Background on Seton Medical Center and its seismic compliance status.* Seton Medical Center, located in Daly City, is licensed for 357 beds, and until 2015 was part of the Daughters of Charity Health System. In 2015, Daughters of Charity sought to sell their hospitals, and after a failed deal with Prime Healthcare Services, management of the hospitals was turned over to a new management company which became Verity Health Systems. In 2018, Verity Health Systems declared bankruptcy, and after a planned sale to KPC group fell through, in March of 2020 Verity Health Systems announced plans to close Seton Medical Center. After the San Mateo County Board of Supervisors stepped in with a commitment of funds to keep its doors open, AHMC Healthcare agreed to purchase the hospital. The sale was approved by the Attorney General in July of 2020, subject to a commitment to keep the hospital open for at least five and a half years, and to completely cover the cost of care for people who earn at or less than 250% of the federal poverty level, and to partially cover the cost of care for other low-income patients. According to an August 14, 2020 article in the San Jose Mercury News, San Mateo County committed $10 million towards the seismic retrofit of the hospital, and the Health Plan of San Mateo contributed an additional $10 million for the retrofit.

   According to OSHPD, of the seven buildings that comprise Seton Medical Center, there is a one-story front wing building attached to an 11-story tower, both completed in 1963, that are still categorized as SPC-1 and are the subject of a retrofit plan. According to OSHPD, they have been engaged with the new owner of Seton Medical Center, and have found a way forward with the retrofit that is quicker than the plan submitted by the previous owner. The hospital recently awarded a construction contract based on the new plan, and a Notice to

Proceed has been issued. OSHPD believes the project will be completed by January 1, 2023.

5) *Current status of SPC 1 seismic compliance in California.* According to OSHPD, there are a total of 3146 buildings at 419 licensed hospital facilities that are subject to the seismic safety standards. All have achieved at least the SPC 2 standard that allows them to remain in service until 2030 except for 123 buildings spread across 51 hospital facilities. In some cases, there are no plans to retrofit or rebuild, and the hospital has either already taken them out of service but it is not reflected in the data yet, or there are plans to take them out of service prior to the July 1, 2022 deadline. It is unclear at this time how many of the remaining out of compliance buildings are expected to remain in service but are in jeopardy of missing the July 1, 2022 deadline for retrofit or replacement projects, or the January 1, 2025 for rebuild projects.

**Related/Prior Legislation**

AB 2190 (Reyes, Chapter 673, Statutes of 2018) provided for an extension of the January 1, 2020, hospital seismic safety deadline of up to 30 months (until July 1, 2022) for hospitals that plan to replace or retrofit a building to at least the 2020 standard of SPC-2, and up to five years (January 1, 2025) for hospitals that plan to rebuild to SPC-4D or SPC-5 standards that meet 2030 standards.

AB 908 (Dababneh, Chapter 350, Statutes of 2017) permitted Providence Tarzana Medical Center in Los Angeles to request an additional extension, until October 1, 2022, of the seismic safety requirement that hospital buildings be rebuilt or retrofitted in order to be capable of withstanding an earthquake.

AB 81 (Wood, Chapter 63, Statutes of 2015) permitted a hospital in the City of Willits to request an eight-month deadline extension of a seismic safety requirement that hospitals be rebuilt or retrofitted to be capable of withstanding an earthquake, which it is currently required to meet by January 1, 2015, so that this hospital could have until September 1, 2015, to meet this seismic safety requirement.

AB 2557 (Pan, Chapter 821, Statutes of 2014) permitted a hospital located in the Counties of Sacramento, San Mateo, or Santa Barbara or the City of San Jose, that had received an additional extension of the January 1, 2008, seismic safety requirements under specified provisions of existing law to January 1, 2015, to

request an additional extension until September 1, 2015, in order to obtain either a certificate of occupancy or a construction final from the OSHPD.

SB 90 (Steinberg, Chapter 19, Statutes of 2011) allowed a hospital to seek an extension for seismic compliance for its SPC-1 buildings of up to seven years based on the following elements: the structural integrity of the building, the loss of essential hospital services to the community if the hospital closed, and financial hardship.

SB 499 (Ducheny, Chapter 601, Statutes of 2009) required all general acute care hospitals that have SPC-1 buildings to report to OSHPD by November 1, 2010, and annually thereafter, on the status of their compliance with the seismic safety deadlines.

SB 306 (Ducheny, Chapter 642, Statutes of 2007) amended the Alquist Act to permit hospitals to delay compliance with the July 1, 2008 seismic retro deadline, and the 2013 extension, to the year 2020, by filing a declaration with OSHPD that the owner lacks financial capacity to comply with the law.

SB 1661 (Cox, Chapter 679, Statutes of 2006) authorized an extension of up to an additional two years for hospitals that had already received extensions of the January 1, 2008 seismic safety compliance deadline if specified criteria were met, and required specified hospital reports to be posted on the OSHPD Web site.

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

**SUPPORT:** (Verified 6/22/21)

AHMC Health System (source)
California Hospital Association
City of South San Francisco
Daly City
National Union of Healthcare Workers
San Mateo County Board of Supervisors
Town of Colma

**OPPOSITION:** (Verified 6/22/21)

None received

**ARGUMENTS IN SUPPORT:** This bill is sponsored by AHMC Health System, which states that Seton Medical Center is behind on complying with seismic

retrofit requirements due to uncertainty that it would remain open due to bankruptcy and multiple potential ownership changes prior to being acquired by AHMC. According to AHMC, the Attorney General approved its purchase of Seton Medical Center in July 2020, and the sale was consummated in August. The conditions of the sale require the hospital to stay open for at least five and a half years, and to cover the cost of care for patients who earn less than 250% of the federal poverty level, among other requirements. AHMC states that Seton Medical Center is also the largest employer in Daly City, with approximately 1,500 employees, and this bill will ensure that the hospital can continue providing critical community patient care while complying with seismic retrofit requirements in a timely manner. The National Union of Healthcare Workers (NUHW) states in support that it represents 700 healthcare workers at Seton Medical Center, who have weathered several challenging years of bankruptcy, during which the previous operator suspended the seismic retrofit. NUHW supports giving the new operator up to a one-year extension, provided that the state ensures the AHMC is making progress towards fulfilling the seismic requirement.

ASSEMBLY FLOOR: 77-0, 5/6/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Mullin

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
6/23/21 16:27:07

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

**SENATE RULES COMMITTEE** AB 1579
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1579
Author: Committee on Judiciary
Introduced: 3/8/21
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 6/8/21
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

ASSEMBLY FLOOR: 78-0, 4/19/21 (Consent) - See last page for vote

**SUBJECT:** Family law omnibus

**SOURCE:** Author

**DIGEST:** This bill, a technical clean-up bill, updates cross-references in two sections of the Family Code.

**ANALYSIS:**

Existing law:

1) Establishes a rebuttable presumption that an award of sole or joint physical or legal custody to a party found to have perpetrated domestic violence against specified individuals in the previous five years is detrimental to the best interest of the child. (Fam. Code § 3044(a).)[1] Specifies that the individuals against whom domestic violence is perpetrated for these purposes includes a child, the other parent, or a parent, current spouse, or cohabitant, of the parent or person seeking custody, or a person with whom the parent or person seeking custody has a dating or engagement relationship, as provided in Section 3011. (*Id.*) Refers to an obsolete provision in that section. (*Id.*)

[1] All further section references are to the Family Code unless otherwise indicated.

2) Requires a court, in an evidentiary hearing or trial in which custody orders are sought and where there has been an allegation of domestic violence, to determine whether the rebuttable presumption described above applies before issuing a custody order, unless the court finds that a continuance is necessary, in which case the court may issue a temporary custody order for a reasonable amount of time, provided that the order complies with Sections 3011 and 3020, which set forth factors a court must consider in making a determination of the best interests of a child, and Section 3020. (§ 3044(g).) Refers to an obsolete provision in Section 3011. (*Id.*)

3) Provides that any supervised visitation maintained or imposed by the court must be administered in accordance with a specified provision of the California Standards of Judicial Administration recommended by the Judicial Council. (§ 3201.) Refers to an obsolete section of those standards. (*Id.*)

This bill updates the cross-references described above.

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

**SUPPORT:** (Verified 6/9/21)

None received

**OPPOSITION:** (Verified 6/9/21)

None received

ASSEMBLY FLOOR: 78-0, 4/19/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Mayes

Prepared by: Josh Tosney / JUD. / (916) 651-4113
6/10/21 10:03:25

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

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

CONSENT

Bill No: AB 1582
Author: Committee on Revenue and Taxation
Introduced: 3/10/21
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/10/21
AYES: McGuire, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/29/21 (Consent) - See last page for vote

**SUBJECT:** Income taxes: withholding: real property sales: Katz-Harris Taxpayers' Bill of Rights Act: report

**SOURCE:** Author

**DIGEST:** This bill modifies the requirements regarding tax withholding on the disposition of real property and amends the due date for the Franchise Tax Board's (FTB) Taxpayers' Bill of Rights report.

**ANALYSIS:**

Existing law:

1) Conforms, mostly, to provisions in federal law (Internal Revenue Code (IRC) §1031) that allows taxpayers to defer gain from the sale or disposition of property used in a trade or business or held for investment if replacement property of "like-kind," as long as the taxpayers comply with specific requirements under the law.

2) Directs taxpayers who defer gain or loss under §1031 to file California Like-Kind Exchanges form (FTB 3840), with FTB when they exchange California real property for like-kind property, but only when the replacement property is located outside of California.

3) States that the filing requirement applies for taxable years beginning on or after January 1, 2014, and failure to file the report can result in revocation of the deferment.

4) Requires taxpayers to file the form in the year the exchange is completed and each subsequent year the deferred gain or loss from the exchange is not recognized.

5) Applies the filing requirement to all individuals, estates, trusts, and all business entities regardless of their residency status or commercial domicile and continues until the gain is recognized and the last sale is made.

6) Requires withholding on the sale of that property when the total sales price of property exceeds $100,000, unless the seller qualifies for a specific exemption. These exemptions include:

   a) The property qualifies as the seller's principal residence, as defined.

   b) The seller last used the property as their principal residence without regard to the two-year time period.

   c) The seller has a loss or zero gain for California income tax purposes on the sale.

   d) The property is involuntarily converted and the seller intends to acquire property that will qualified for non-recognition of gain.

   e) The seller is treated as a corporation, qualified through the Secretary of State or has a permanent place of businesses in California.

   f) The seller is treated as a California partnership qualified to do business in California and is not a single member limited liability company.

   g) The seller is tax-exempt under California or federal law.

   h) The seller is an insurance company, individual retirement account, qualified pension/profit sharing plan, or a charitable remainder trust.

7) Requires that the seller use a "qualified intermediary" (QI) or accommodator to complete the exchange on their behalf.

8) Switches the duty to withhold on a transaction to the QI from the seller when a QI is used.

9) Requires a QI to withhold on the transaction when either of the following occur:

   a) The seller receives "boot" (generally defined as cash or other property) in excess of $1,500 including cash, excess debt relief, or non-like-kind property from the sale.

   b) The exchange fails, does not occur, or does not meet the IRC §1031 exchange requirements.

10) Directs the QI to withhold $3^1/_3$ percent of the boot or sales price, or the amount of alternative withholding.

11) Requires the QI to remit the full withholding amount even if it does not receive sufficient funds from escrow.

12) Provides that if the QI fails to submit withholding, it may be subject to a penalty for failure to remit the full amount of withholding of $500, or 10 percent of the amount required to be withheld, whichever is more.

13) Provides a reasonable cause exception to the penalty.

14) Requires FTB to submit an annual report to the Legislature by December 1 of each year.

This bill:

1) Limits a QI's withholding obligation to available funds in those situations where the QI does not receive sufficient funds from escrow or the QI disbursed funds for the purpose of completing an exchange under §1031.

2) Applies to deferred exchanges for deferred exchanges occurring after January 1, 2022

3) Authorizes FTB to prescribe regulations to implement this change.

4) Modifies the due date for the annual Taxpayers' Bill of Rights report from FTB to the Legislature to January 15.

**Background**

In a §1031 exchange, the gain from the sale of qualified property is "deferred," so no tax is due. The taxpayer does not recognize the gain until they sell property without reinvesting the proceeds of the sale in a replacement property. Taxpayers

can make an unlimited number of exchanges as long as they follow IRC's requirements.

To qualify for deferment, a taxpayer must exchange property for property, not for money, even if the taxpayer buys replacement property of a like-kind at a later date.

Generally, a reasonable cause exemption to the failure to submit penalty exists where noncompliance occurs despite the exercise of ordinary business care and prudence. If a QI does not receive sufficient funds from escrow to pay the withholding (cash-poor exchange), FTB can abate the withholding penalty. According to the FTB, a strong factor to support a reasonable cause determination would be if the QI provides evidence that the QI submitted a written demand to the seller at the time the withholding is due to require the transferor to remit the amount of any shortage. If the QI shows its noncompliance was due to reasonable cause, and not due to willful neglect based on the facts, FTB will, in some cases, abate the penalty.

*Taxpayer Bill of Rights Report.* Generally, FTB holds their last board meeting in the 2nd week of December. Any information discussed in that meeting will not be included in that year's report. FTB wants to modify the deadline for the Taxpayers' Bill of Rights report to January 15th of each year so it can include information from the last board meeting of the year.

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

**SUPPORT:** (Verified 6/22/21)

None received

**OPPOSITION:** (Verified 6/22/21)

None received

**ARGUMENTS IN SUPPORT:** According to the author, "Assembly Bill 1582 is sponsored by the Franchise Tax Board (FTB) and makes two modest changes to existing law. The first is a clarification regarding withholding responsibility in a deferred exchange. Existing law allows a taxpayer to defer a gain when exchanging similar properties used for a productive business or held for investment. The properties must be exchanged directly, requiring a qualified intermediary to facilitate the transaction. In this case, the responsibility of withholding shifts to the intermediary. The FTB has determined that

intermediaries can have difficulty meeting the withholding requirement when there are insufficient funds in the exchange account. This bill would clarify that an intermediary is required to withhold and remit amounts related to a deferred exchange only in cases where the intermediary has received amounts from the disposition of the property and has not disbursed those amounts to complete the exchange.

"The second is a technical amendment to the due date of the annual Taxpayers' Bill of Rights' report. The FTB is required to submit a report to the Legislature by December 1st of each year identifying proposals which address recurrent taxpayer noncompliance. The FTB notes this due date gives insufficient time for the board to accurately prepare the report and for members of the board to consider proposals. Thus, the Legislature is left without the most up-to-date recommendations. This bill would amend the due date of the report to January 15th of each year to address the issue."

ASSEMBLY FLOOR: 77-0, 4/29/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Luz Rivas

Prepared by: Jessica Deitchman / GOV. & F. / (916) 651-4119
6/23/21 15:07:53

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

**SENATE RULES COMMITTEE** AB 1583
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

CONSENT

Bill No: AB 1583
Author: Committee on Revenue and Taxation
Amended: 3/30/21 in Assembly
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/10/21
AYES: McGuire, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/29/21 (Consent) - See last page for vote

**SUBJECT:** Property taxation: equalized assessment roll: aircrafts

**SOURCE:** State Controller Betty Yee

**DIGEST:** This bill clarifies that non-certificated aircraft are excluded from the last assessment roll for purposes of property tax allocation.

**ANALYSIS:**

Existing law:

1) Provides, in Article XIII of the California Constitution, that all property is taxable unless explicitly exempted by the Constitution or federal law. The Constitution limits the maximum amount of any ad valorem tax on real property at 1% of full cash value, and directs assessors to only reappraise property when newly constructed, or when ownership changes (Proposition 13, 1978).

2) Directs county auditors to allocate property tax revenues to local governments each fiscal year based on the amount received the prior year plus a share of the property tax growth within their boundaries, and then apportion and allocate revenues to local agencies and schools using prescribed formulas and methods defined in the Revenue and Taxation Code.

3) Defines taxable property to include land, improvements, and other properties that are accounted for on the property tax rolls, which are primarily maintained by the county assessor.

4) Provides specific methods of assessment and allocation procedures in the Revenue and Taxation Code for certain kinds of property, including aircraft, which allocates property tax revenues derived from non-certificated aircraft between cities, counties, and school districts determined by where the aircraft is "habitually based."

5) Requires the State Controller's Office (SCO) to audit counties' property tax allocation and apportionment to ensure they correctly calculate these various formulas according to the following schedule:

   a) Annually for counties with more than five million residents;

   b) Every three years for counties with between 200,000 and five million residents; and,

   c) Every five years for counties with less than 200,000 residents.

This bill:

1) States that the equalized assessment roll excludes the value of aircraft assessed under its specifically identified part of the Revenue and Taxation Code for purposes of allocating property tax revenue.

2) Applies the change commencing in the 2022-23 fiscal year.

3) Specifies that any counties that did not exclude aircraft assessed values from the equalized assessment roll prior to that year must also exclude them for the 2021–22 fiscal year solely for purposes of determining the annual tax increment for the 2022–23 fiscal year.

**Background**

During recent audits, the Controller discovered that the Counties of Los Angeles, San Joaquin, and San Mateo, unlike all other counties were allocating property tax revenue according to general AB 8 factors, and not the specific provisions set forth in the aircraft assessment statutes. The three counties pointed to other sections of law defining "equalized assessment roll" and "the entire assessment roll" to justify allocating revenues according to the AB 8 process. The Controller disputed this interpretation, instead pointing to the Board of Equalization guidance, as well as its

long-held interpretation of property tax allocation law. AB 1583 removes any potential ambiguity in law by clearly stating that non-certificated aircraft is not part of the equalized assessment roll.

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

**SUPPORT:** (Verified 6/23/21)

State Controller Betty Yee (source)

**OPPOSITION:** (Verified 6/23/21)

None received

**ARGUMENTS IN SUPPORT:** According to the author, "AB 8, passed by the Legislature in 1979, established the basic property tax apportionment system after the approval of Proposition 13. Under the AB 8 system, a local government jurisdiction receives property tax revenue equal to what it received the prior fiscal year - the 'base' - plus a share of growth in the tax revenue that is due to growth in assessed values within its boundaries - the 'tax increment.' Since 1961, however, the assessment and apportionment of the aircraft property tax has been controlled by its own set of rules found in Revenue and Taxation Code (R&TC) Section 5301 et seq. The Legislature's intent in enacting these rules, as stated in R&TC Section 5301, was to 'provide for a uniform countywide system of ad valorem taxation of all aircraft in this State, regardless of where the aircraft is based in the State.' With regard to the distribution of the aircraft property tax, R&TC Section 5451 provides that the 'revenue derived from any tax levied pursuant to this part shall be distributed as prescribed in this chapter.' Consistent with agency interpretation, and the practice of the vast majority of counties, AB 1583 would simply clarify that aircraft assessed values are not included in the AB 8 calculations. AB 1583 is being sponsored by the State Controller's Office to provide statewide consistency."

ASSEMBLY FLOOR: 77-0, 4/29/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Robert Rivas, Rodriguez, Blanca

Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Luz Rivas

Prepared by: Colin Grinnell / GOV. & F. / (916) 651-4119
6/23/21 15:07:52

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

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(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1585
Author: Committee on Health
Amended: 4/5/21 in Assembly
Vote: 21

SENATE HEALTH COMMITTEE: 10-0, 6/10/21
AYES: Pan, Eggman, Gonzalez, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: 7-0, 6/21/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

ASSEMBLY FLOOR: 77-0, 4/29/21 (Consent) - See last page for vote

**SUBJECT:** Health care

**SOURCE:** Author

**DIGEST:** This bill revises the requirement that skilled nursing facilities have a dedicated infection preventionist to allow a broader range of health care professionals to serve in this capacity provided they are qualified and have completed specialized training in infection prevention and control, and extends the deadline, to January 1, 2022, by which the Department of Health Care Services is required to adopt regulations governing California Children's Services Whole Child Model.

**ANALYSIS:**

Existing law:

1) Provides for the licensure of health facilities, including long-term care facilities such as skilled nursing facilities (SNFs), intermediate care facilities, and congregate living health facilities, by the California Department of Public Health (CDPH). [HSC §1250, et seq.]

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 a SNF to have a full-time, dedicated Infection Preventionist (IP). Permits the IP role to be filled either by one full-time IP staff member or by two staff members sharing the IP responsibilities, as long as the total time dedicated to the IP role equals at least the time of one full-time staff member. Requires the IP to be a registered nurse or a licensed vocational nurse. [HSC §1255.9]

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

5) Establishes the California Children's Services Program (CCS), administered by the DHCS, under which individuals under the age of 21, who have specified health conditions and meet financial requirements, are eligible to receive medically necessary services and treatments. [HSC §123800, et seq.]

6) Authorizes DHCS, no sooner than July 1, 2017, to establish a "Whole Child Model" (WCM) program for Medi-Cal enrolled children who are also enrolled in CCS in specified counties. [WIC §14094.4.]

7) Requires DHCS to implement, interpret, or make specific the WCM program, and any applicable federal waivers and state plan amendments, by means of all-county letters, plan letters, CCS numbered letters, plan or provider bulletins, or similar instructions until the time regulations are adopted. Requires DCHS to adopt regulations by July 1, 2020.

This bill:

1) Deletes the requirement that the IP that a SNF is required to employ be a registered nurse or a licensed vocational nurse, and instead requires the IP to meet the following requirements:

    a) Have a primary professional training as a licensed nurse, medical technologist, microbiologist, epidemiologist, public health professional, or other health care related field;
    b) Be qualified by education, training, clinical or health care experience, or certification; and,
    c) Have completed specialized training in infection prevention and control.

2) Extends the deadline, from July 1, 2020, to January 1, 2022, by which DHCS is required to adopt regulations governing CCS WCM.

**Comments**

1) *Author's statement.* According to the author, this bill is intended to clarify language from AB 2644 (Wood, Chapter 287, Statutes of 2020). The current definition of an IP only applies to those working in SNFs, however, the language would inadvertently prevent some IPs currently employed by hospitals or other health facilities from seeking employment in a SNF, for example a person with a Master's degree in Public Health who is also a trained IP. In addition, this bill contains a provision from the DHCS-proposed trailer bill language (TBL) extending a past due date by which regulations have to be adopted for the CCS WCM for the purpose of reducing the volume of proposed TBL that is part of DHCS' proposed California Advancing and Innovating Medi-Cal initiative.

2) *All Facilities Letter on SNF COVID-19 mitigation plan includes IP requirement.* On May 11, 2020, CDPH sent an all facilities letter advising all SNFs of the requirement to submit a facility-specific COVID-19 mitigation plan with specified elements. An SNF's mitigation plan is required to include the following six elements:

   a) *Testing and cohorting.* Requires the SNF to develop a plan in conjunction with their LHO for regular testing of residents and staff, including how test results will be used to inform residents and health care personnel;
   b) *Infection Prevention and Control.* Requires the SNF to have a full-time, dedicated IP. Specifies that this can be achieved by more than one staff member sharing this role, but a plan must be in place for infection prevention quality control. Requires the SNF to ensure health care providers receive infection prevention and control training and can work with CDPH to develop a reasonable implementation timeline and plan to bring on the necessary IP staff;
   c) *Personal protective equipment (PPE).* Requires the SNF to have a plan for adequate provision of PPE, including types that will be kept in stock, duration the stock is expected to last, and information on established contracts or relationships with vendors for replenishing stock;
   d) *Staffing shortages.* Requires the SNF to have policies in place to address health care personnel shortages, including contingency and crisis capacity strategies;

e) *Designation of space.* Requires the SNF to have policies in place for dedicated spaces within the facility to ensure separation of infected patients and for eliminating movement of health care personnel among those spaces to minimize transmission risk; and,
f) *Communication.* Requires a designated staff member to be assigned responsibility for daily communications with staff, residents, and their families regarding the status and impact of COVID-19 in the facility.

3) *SNFs and infection control.* Centers for Medicare and Medicaid Services (CMS) requires long-term care (LTC) facilities, as a condition of participation, to have an infection prevention and control program designed to prevent the development and transmission of communicable diseases and infections. The infection prevention and control program is required to include specific elements, including a system for preventing, identifying, reporting, investigating, and controlling infections and communicable diseases for all residents, staff, volunteers, visitors, and other individuals providing services. Effective November 28, 2019, the final requirement includes specialized training in infection prevention and control for the individual(s) responsible for the facility's program. CMS and the Centers for Disease Control and Infection (CDC) collaborated on the development of a free on-line training course in infection prevention and control for nursing home staff, called the "Nursing Home Infection Preventionist Training Course." The course is approximately 19 hours long, and is made up of 23 modules and submodules, which can be completed at any time, in any order, and over multiple sessions.

4) *CCS "carve out" and WCM.* CCS is a state-only health program for children, up to the age of 21, with certain diseases or health problems, including bleeding disorders, cystic fibrosis, Duchenne muscular dystrophy, and other genetic conditions and rare diseases. CCS requires applicants to meet additional requirements, such as income limits or expected out-of-pocket medical expenses. CCS provides coverage for a variety of medical visits, medical case management, and care at sickle cell disease centers. Children who are eligible for both Medi-Cal and the CCS program are enrolled in a Medi-Cal managed care plan (MCMC) and receive CCS-covered services through the CCS program on a fee-for-service basis. This is known as the CCS "carve out," which been extended a number of times since it was first established by SB 1371 (Bergeson, Chapter 917, Statutes of 1994).

   When the CCS program reached the end of one of its "carve out" authorization periods in 2015, the Brown Administration indicated that it would support an

extension of the "carve out" only if it is accompanied by a plan for a more organized delivery system. SB 586 (Hernandez, Chapter 625, Statutes of 2015) authorized DHCS to establish the WCM in 21 counties, in which both Medi-Cal and most CCS services would be covered and paid for by the MCMC. SB 586 also required DHCS to create a statewide WCM stakeholder advisory group to inform implementation, as well as, the development of the monitoring and evaluation process.

**Related/Prior Legislation**

AB 2644 (Wood, Chapter 287, Statutes of 2020) required an SNF, during a declared emergency related to a communicable disease, to report each disease-related death within 24 hours. Required SNFs to have a full-time IP, and prohibited a long-term care facility from preventing a representative of the Long-Term Care Ombudsman Program from entering the facility in the event of a declared emergency.

AB 1688 (Committee on Health, Chapter 511, Statues of 2017) required DHCS to provide a report on the CCS WCM by the later of January 1, 2021, or three years from the date when all counties in which DHCS is authorized to establish the WCM program are fully operational, instead of by January 1, 2021, under prior law.

SB 586 (Hernandez, Chapter 625, Statutes of 2015) authorized the WCM for children enrolled in both CCS and Medi-Cal in 21 counties where both Medi-Cal and most CCS services would be covered by the MCMC.

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

According to the Assembly Appropriations Committee, cost pressure to CDPH over three years, not likely to exceed $100,000 per year, to issue regulations implementing education and training for IPs (Licensing and Certification Fund).

**SUPPORT:** (Verified 6/22/21)

California Association for Professionals in Infection Control & Epidemiology

**OPPOSITION:** (Verified 6/22/21)

None received

**ARGUMENTS IN SUPPORT:** The California Association for Professionals in Infection Control & Epidemiology (APIC) states that while California APIC

supports the requirement of a dedicated IP for SNFs, the nursing-exclusive parameters defined in existing law do not align with the full range of backgrounds and training of IPs. California APIC states that this bill will bring the requirement for an UIP in line with APIC, the CDC, and the Certification Board for Infection Control & Epidemiology qualifications for IPs. This bill will expand access to a broader range of qualified IPs.

ASSEMBLY FLOOR: 77-0, 4/29/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Luz Rivas

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
6/23/21 15:12:18

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

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CONSENT

Bill No: AB 1588
Author: Committee on Governmental Organization
Introduced: 3/17/21
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 15-0, 6/22/21
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Borgeas, Bradford, Glazer, Hueso, Jones, Kamlager, Melendez, Portantino, Rubio, Wilk

ASSEMBLY FLOOR: 75-0, 5/27/21 (Consent) - See last page for vote

**SUBJECT:** Gambling Control Act: records: open to public inspection

**SOURCE:** Author

**DIGEST:** This bill requires the California Gambling Control Commission (Commission) and the Department of Justice (DOJ) to make specified records open for public inspection during normal business hours.

**ANALYSIS:**

Existing law:

1) Provides, under the Gambling Control Act (Act), for the licensure of certain individuals and gambling establishments involved in various gambling activities, and for the regulation of those activities by the Commission.

2) Provides for the enforcement of those gambling activities by the Bureau of Gambling Control (Bureau) under DOJ.

3) Requires every person who, either as owner, lessee, or employee, deals, operates, carries on, conducts, maintains, or exposes for play any controlled game, or who receives, directly or indirectly, any compensation or reward, or any percentage or share of the money or property played, for keeping, running, or carrying on any controlled game, to apply for and obtain from the

Commission a valid state gambling license, key employee license, or work permit, as specified.

4) 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.

5) 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:

1) Requires the Commission to make records of all proceedings at regular and special meetings open to public inspection during normal business hours.

2) Requires the Commission and DOJ to make records pertaining to applications for licensure under the Act open to public inspection during normal business hours.

**Comments**

*Purpose of the bill.* According to the author's office, "under current law both the Commission and DOJ are required to maintain various records of their regular and special meetings in addition to records of all applications for licenses under the Act. Those records are required to be open for public inspection. AB 1588 would clarify that the records should be open for public inspection during normal business hours. This small change will guarantee the availability of records for public inspection while also providing clarity for the Commission and DOJ."

*Gambling regulation/enforcement in California*. The Act created a comprehensive scheme for statewide regulation of legal gambling under a bifurcated system of administration involving the Bureau within DOJ and the five-member Commission by the Governor. The Commission is authorized to establish minimum regulatory standards for the gambling industry and to ensure that the state gambling licenses are not issued to, or held by, unsuitable or unqualified individuals.

The Bureau monitors the conduct of gaming operations to ensure compliance with state gambling laws and conducts extensive background investigations of applicants seeking a state gambling license. The Bureau also conducts background checks for all key employees and state gambling licensees and vendor applications.

The Bureau inspects premises where gambling is conducted, examines gambling equipment, audits papers, books, and records of the gambling establishment,

investigates suspected violations of gambling laws, and is ultimately responsible for enforcing compliance with all state laws pertaining to gambling.

**Related/Prior Legislation**

SB 302 (Governmental Organization, 2021) requires the Commission to post a public record of each of its votes on its internet website no later than the close of business on the second business day after the meeting at which the vote was taken. (Pending in the Assembly Governmental Organization Committee)

SB 869 (Governmental Organization, 2020) 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 to an unrelated issue)

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 to an unrelated issue)

AB 1827 (Governmental Organization, 2019) would require the Commission to post a public record of each of its votes on its Internet Web site. (Died in the Senate Inactive File)

AB 2838 (Low, 2018) would have required the Bureau 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.: No Local: No

**SUPPORT:** (Verified 6/23/21)

None received

**OPPOSITION:** (Verified 6/23/21)

None received

ASSEMBLY FLOOR: 75-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood
NO VOTE RECORDED: Maienschein, Mullin, Rendon

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
6/23/21 15:10:15

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

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(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1593
Author: Lorena Gonzalez (D)
Amended: 6/15/21 in Senate
Vote: 27 - Urgency

SENATE APPROPRIATIONS COMMITTEE: 7-0, 6/21/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

ASSEMBLY FLOOR: 73-0, 5/17/21 - See last page for vote

**SUBJECT:** State claims: California Victim Compensation Board: Government Claims Program

**SOURCE:** Author

**DIGEST:** This bill appropriates $5,675,880 to the Executive Officer of the California Victims Compensation Board (Board) for the payment of five specified erroneous conviction claims. This bill also appropriate $1,146 to the Department of General Services (DGS) for the payment of three government claims.

**ANALYSIS:** Existing law requires DGS to administer the Government Claims Program, which processes claims for money or damages against the state. Existing law also authorizes a person convicted and imprisoned for a felony to submit a claim to the Board for pecuniary injury sustained as a result of erroneous conviction and imprisonment.

This bill appropriates $1,146 from the General Fund and Motor Vehicle Account to DGS for the payment of three claims accepted by the Government Claims Program for the reissuance of stale-dated warrants (expired checks). This bill also appropriates General Fund revenues to the Board for the payment of the following erroneous conviction claims:

1) *Derrick Harris, finding of factual innocence, $379,540.* Mr. Harris was alleged to have been the gunman when a Mr. Curtis Blackwell was robbed of a gold chain at gunpoint by two men while waiting for food outside the Hawkins

House of Burgers in Los Angeles on July 1, 2013. Mr. Blackwell gave a description of the suspects to the police and stated his belief that he could identify them if he saw them again. Blackwell later positively identified Mr. Harris and Desmen Mixon, both of whom were documented Bounty Hunter Blood gang members, from a police lineup as having participated in the robbery. At trial, Mr. Blackwell identified both men as the perpetrators, but Harris denied committing the robbery, testifying that he had spent the night at his girlfriend's residence in Long Beach, which was corroborated by his girlfriend. On December 16, 2013, a jury convicted Mr. Harris of second degree robbery, being a felon in possession of a firearm, and violating a court-ordered gang injunction, and he was sentenced to an aggregate term of 15 years.

In February of 2014, the Los Angeles Public Defender's Office (LAPDO) received an anonymous call from someone who said they had witnessed the Blackwell robbery and that he was certain Mr. Harris was not one of the perpetrators. The Superior Court denied a motion for a new trial, however, because the information was provided by an anonymous informant. In November of 2014, police arrested an individual for an unrelated offense who stated he had witnessed Blackwell's robbery, and identified the gunman. In February of 2015, Harris's girlfriend provided a letter from Mixon, which was authenticated by the Los Angeles District Attorney's Office (DAO), apologizing for Harris's conviction and stating Mr. Harris was not involved in the robbery. In July of 2018, Harris' attorney received a document signed by Mixon under penalty of perjury confessing to the robbery and stating that Harris was innocent because he was not involved in the robbery. The DAO also interviewed the person previously identified as the gunman in September of 2020. After advising him that the statute of limitations had run for the prosecution of the July 1, 2013 crimes, he confessed to Blackwell's robbery and described the incident, including Mixon's involvement.

Based on the newly discovered evidence, the DAO drafted a letter containing the factual and procedural history, as well as a proposed stipulation that the letter serve as a Petition for Writ of Habeas Corpus, filed on behalf of Derrick Harris, alleging that newly discovered evidence proved Harris is factually innocent of the robbery, gun possession, and gang injunction violation for which he was convicted. The letter requested that the Superior Court issue an order: 1) making a finding that Harris is factually innocent of the crimes for which he was convicted; 2) granting the Petition for Writ of Habeas Corpus on the ground of factual innocence; 3) recalling, vacating, and setting aside the judgment of conviction, and dismissing the case, with prejudice, as to Harris; 4)

permanently releasing Harris from imprisonment and any other custodial terms imposed as a result of the convictions; and 5) sealing the criminal record. On October 6, 2020, the Honorable William C. Ryan signed an order granting all five requests for relief, as well as a Petition to Seal and Destroy Adult Arrest Records.

On December 17, 2020, the Board unequivocally accepted that Harris is factually innocent of robbery, possessing a firearm, and violating a court-ordered gang injunction, for which he was erroneously incarcerated, and granted his application for compensation under Penal Code section 4900. The Board recommended that the Legislature appropriate $379,540 as payment to Harris for 2,711 days of erroneous incarceration.

2) *Jeremy Puckett, finding of factual innocence, $968,800.* The body of Anthony Galati was found on the side of a road in Sacramento on March 14, 1998. He had been shot twice in the back of his head. His hands were tied behind his back with electrical cords and his wallet was missing. More than one year later in 1999, Israel Sept (Sept), who was serving a prison sentence for an unrelated crime, told authorities that Mr. Puckett was the killer. According to Sept, Puckett robbed and murdered Galati with the help of Angela D. after they happened to encounter Galati at an apartment where Sept was selling drugs. Sept claimed several others were also at the apartment, including a Mr. James R. In April 1998, just over a month after Galati's murder, Angela D. was also the victim of an unsolved homicide.

   Soon after his conversation with law enforcement, Sept was charged with Galati's murder and robbery in Sacramento County Superior Court. On March 28, 2001, Sept pleaded guilty to a reduced offense on the condition that he cooperate against Puckett. Less than a week later, Puckett was arrested on April 3, 2001, and charged in Sacramento County Superior Court with first-degree murder, second-degree robbery and being a felon in possession of a firearm. At trial, no physical evidence connected Puckett to Galati's death, which the prosecutor maintained had occurred on the evening of March 13, 1998. Besides Sept's testimony, the only evidence against Puckett consisted of two witnesses who claimed to have seen Puckett with Galati at the apartment, but one of those witnesses was under the influence of crack and alcohol, and the other did not see the face of the person he thought may have been Puckett. Neither side called James R. to testify. On February 8, 2002, the jury found Puckett guilty of murder and robbery but not guilty of possessing a firearm. Puckett was sentenced to life without the possibility of parole.

Puckett appealed his convictions, which were affirmed by the Third District Court of Appeal on April 21, 2005, and the California Supreme Court denied review on May 10, 2006. Puckett also filed multiple petitions in state court. In 2019, after considering Puckett's habeas petion, the California Supreme Court issued an order to show cause why relief should not be granted for Puckett's claims that (1) the prosecutor failed to disclose exculpatory evidence in violation of Brady v. Maryland (1963) 373 U.S. 83, (2) trial counsel rendered ineffective assistance of counsel, and (3) new evidence of actual innocence. An evidentiary hearing ensued before the Sacramento County Superior Court. Notably, both parties stipulated that the events leading to Galati's killing commenced on the evening of March 12, 1998, not March 13, 1998 as asserted at trial, but the District Attorney otherwise opposed the petition.

The superior court granted Puckett's habeas petition on March 3, 2020, finding both Brady error and ineffective assistance of counsel. Specifically, the prosecution violated Brady by failing to disclose that Angela D. had a history of committing armed robberies with James R.; Angela D. made statements to others that implicated herself and James R. in Galati's shooting; the absence of any relationship between Angela D. and Puckett; and that Sept had previously committed two violent robberies. In addition, trial counsel rendered deficient representation by failing to impeach Sept with his prior admissions that Angela D. and James R. had planned to rob Galati, Puckett was not involved with the robbery, and Sept intended to lie at trial. Counsel compounded this deficiency by failing to present persuasive evidence that the events leading to Galati's murder commenced on the evening of March 12, 1998, when Puckett was attending a family barbecue. Based upon these prejudicial errors of constitutional magnitude, the court vacated Puckett's murder and robbery convictions, without considering his claim of factual innocence. At a hearing on March 13, 2020, the District Attorney moved to dismiss the remaining charges against Puckett, explaining that the evidence was currently insufficient to prove Puckett's guilt beyond a reasonable doubt. The court granted the motion, and Puckett was released from custody that same day, after being continuously imprisoned for 6,920 days. The entire duration of Puckett's imprisonment resulted solely from his vacated convictions for Galati's murder and robbery.

Puckett subsequently moved the Sacramento County Superior Court for a finding of factual innocence, which the District Attorney opposed. On January 15, 2021, the court granted the motion and expressly declared Puckett to be factually innocent. The court found that the events leading up to Galati's death

commenced on the evening of March 12, 1998, and the killing occurred in the early morning hours of March 13, 1998. The court further found that Puckett's alibi witness, who testified at the evidentiary hearing that Puckett had attended a family barbeque on the evening of March 12, 1998, was credible. The court additionally considered Sept's post-trial statement, in which he admitted falsely implicating Puckett because of an unrelated dispute and then lying at Puckett's trial to avoid losing his sentencing deal. The court therefore concluded that Puckett was "factually innocent of the robbery and murder of Anthony Galati" for which he was erroneously convicted in Sacramento County Superior Court.

On February 25, 2021, the Board unequivocally accepted that Harris is factually innocent of the murder and robbery of Galati, for which he was erroneously incarcerated, and granted his application for compensation under Penal Code section 4900. The Board recommended that the Legislature appropriate $968,800 as payment to Harris for 6,920 days of erroneous incarceration.

3) *Arturo Jimenez, finding of factual innocence, $1,251,600.* At approximately 2:00 a.m. on September 18, 1994, 14-year-old Hugo Colmenarez (Colmenarez) was fatally shot at a gas station in Los Angeles. Moments before, Colmenarez had stepped out of a 1982 Firebird, in which he and his four friends had been riding, and shouted the name of his gang, "Reseda." The four friends with Colmenarez that night were Jose M., Gabriel C., Mayra M., and Llamily C. In response to Colmenarez's "Reseda" proclamation, numerous members of a rival gang called the "Harpys" surrounded the car and congregated around Colmenarez, who remained standing outside of the Firebird with three of his friends nearby. Mayra M. stayed in the back seat of the Firebird. One of the Harpys emerged from the crowd, drew his gun, and fired three times, fatally striking Colmenarez. The shooter, as described by Llamily C., was male, approximately 5'5" to 5'6" tall, and wearing a dark shirt with three-quarter length sleeves. As Llamily C. tended to Colmenarez, the driver of a blue Blazer yelled at her to "take him to the hospital." Llamily C. was sure that the driver of the Blazer was not the shooter, and was also sure that she would be able to identify the shooter if she saw him again. Significantly, Jimenez was the driver of the Blazer. Jimenez, who is approximately 5'9" tall, was wearing a white t-shirt that night and was spotted by responding officers driving away from the gas station. By then, Jimenez's brother, Armando A., and another Harpys member were also inside the Blazer, along with Jimenez's other brother Pedro A. Both Jimenez and Pedro A. insisted that they arrived at the gas station from a nearby bar only after hearing the gunshots, which was corroborated by another bar patron who was also a family friend.

When shown a photographic lineup that included Jimenez, Llamily C. did not identify him as the shooter. Jose M. was shown the same lineup and stated that Jimenez's photograph "most looks like" the shooter, but he noted several differences between the two, including skin tone and weight. Gabriel C. separately viewed the lineup but did not identify Jimenez as the shooter. Finally, Mayra M. was shown the lineup and, based upon her limited view through the side window of the Firebird, selected Jimenez as the shooter.

Two months later, Jimenez was charged with first-degree murder in Los Angeles Superior Court in November 995 1994. Solely based on Mayra M.'s identification, and without any other physical evidence connecting Jimenez to the shooting, the jury returned a guilty verdict on May 5, 1995. The jury rejected Jimenez's alibi defense and Llamily C. was not called as a witness. On July 7, 1995, Jimenez was sentenced for Colmenarez's murder to an indeterminate term of 30 years to life. The sentence was concurrently imposed with any prior, uncompleted cases. Jimenez was previously charged with two counts of second-degree robbery, and following a plea to one of the counts and dismissal of the other, he was sentenced in November of 1994 to the low term of two years imprisonment. Accounting for specified credits, he would have completed his robbery sentence no later than October 19, 1995. Thus, for 105 days after the imposition of sentence for murder, until the completion of his robbery sentence, Jimenez was concurrently imprisoned for both of these convictions. Starting on October 20, 1995, Jimenez's custody was solely attributable to his murder conviction.

Jimenez challenged his murder conviction on appeal, which was affirmed by the Second Appellate District on September 4, 1996, and the California Supreme Court denied review on November 20, 1996. On January 15, 2020, Jimenez filed a petition for a writ of habeas corpus in the Los Angeles County Superior Court. The petition sought to vacate the murder conviction on multiple grounds, including new evidence of actual innocence and ineffective assistance of counsel for failing to call Llamily C. as a witness. On August 11, 2020, the Los Angeles District Attorney (LADA) conceded that Jimenez's counsel was ineffective, and the next day the court granted the habeas petition solely on that basis and vacated the underlying murder conviction. Immediately thereafter, the court granted the prosecution's motion to dismiss the case with prejudice. By then, Jimenez had already been released on parole.

On February 1, 2021, after conducting additional investigation, the LADA joined Jimenez's motion for a finding of factual innocence, and both parties

agreed that "credible, corroborated evidence of innocence establishes by a preponderance of evidence that Mr. Jimenez did not commit the 1994 shooting for which he was convicted." The exculpatory evidence included: (1) Llamily C.'s consistent exclusion of Jimenez as the shooter; (2) statements from three persons that identified the shooter as Oscar "Sneaky" Sanchez, a member of the Harpy's street gang who had since passed away; and (3) a statement from Mayra M., explaining that she did not immediately recognize anyone in the photographic lineup and only selected one after she felt pressed by the detective repeatedly instructing her to look again. On February 2, 2021, the court granted the parties' motion for a finding of factual innocence.

On May 20, 2021, the Board unequivocally accepted that Jimenez is actually innocent of Colmenarez's murder, but he remains guilty of robbery in another case for which he was concurrently incarcerated for 105 days, which was not disputed at the proceeding. Since he did not obtain a finding of factual innocence for each and every conviction underlying his incarceration, he does not qualify for automatic compensation for all of his post-sentencing imprisonment (a total of 9,045 days). As such, the Board granted, in part, his application for compensation under Penal Code section 4900, but limited Jimemez's demonstrated injury to 8,940 days (the total of 9,045 days, less the 105 days served concurrently for the robbery conviction). The Board recommended that the Legislature appropriate $1,251,600 as payment to Jimenez for 8,940 days of erroneous conviction that were solely attributable to his erroneous incarceration for murder.

4) *Robert Fenenbock, finding of factual innocence, $1,425,060*. On October 6, 1991, the body of Gary "Hop" Summar (Summar) was found at a logging site in Trinity County, partially covered with dirt. He had been bludgeoned and stabbed over 70 times, and a knife with his blood was discovered nearby. Summar was last seen alive on October 2, 1991, in the small community of Hawkins Bar, where he was confronted by a group of residents while traveling on a road leading to a campground. The group included Bernard MacCarlie and his live-in girlfriend Barbara Adcock, who were riding together in her white Ford Ranchero. Anthony Lockley was also present with his red truck, as were Robert Bond and Mr. Fenenbock. The confrontation involved an unsubstantiated accusation against Summar involving Adcock's five-year old daughter. Earlier that day at the campground, MacCarlie had stabbed one of the campers, Bert J., who had expressed disbelief at Adcock's accusation. The assault was witnessed by Adcock's nine-year old son Randy H., who was in the back of the Ranchero, lying on a mattress with some blankets. Later that night, at some point after Summar's murder, Randy H. was in the Ranchero when

MacCarlie dropped off Fenenbock and Bond at Fenenbock's trailer.

Several weeks later on October 18, 1991, Fenenbock was arrested and charged in a ten-count complaint with premediated murder, conspiracy to murder, and other offenses related to Summar's death in Trinity County Superior Court. Nine residents of Hawkins Bar were ultimately charged in connection with Summar's murder, including MacCarlie, Adcock, Lockley, Bond, and Fenenbock. The court granted the defendants' motion for a change in venue, which resulted in two separate trials before dual juries in Solano County Superior Court for five of the defendants, and a third trial in Contra Costa County for two other defendants, while the ninth remaining defendant was dismissed entirely. All three trials were prosecuted by a specially appointed prosecutor from Trinity County.

In November 1993, Fenebock's trial proceeded first in Solano County Superior Court. By then, the prosecutor had dismissed all but two counts for murder and conspiracy to murder with an enhancement for personal use of a weapon. No physical evidence connected Fenenbock to Summar's death. Instead, the knife with Summar's blood at the crime scene was the same knife used by MacCarlie to stab Bert J., and a shovel found in Lockley's red truck contained blood matching both MacCarlie and Summar. Also, Summar's blood was found spattered and smeared inside the red truck belonging to Lockley. No blood was found inside the Ranchero. The primary evidence implicating Fenenbock consisted of testimony from Adcock's son Randy H., who claimed to have witnessed all of the men stabbing Summar before dropping off Bond and Fenenbock at his trailer. Fenenbock testified in his defense and admitted confronting Summar as part of the group but denied any involvement in the subsequent murder. Fenenbock insisted that, after the confrontation, he had proceeded to the campground, where he remained, until MacCarlie arrived sometime later in the Ranchero and gave him and Bond a ride home.

On February 4, 1994, the jury found Fenenbock guilty of murder with an enhancement for personal use of a weapon. The jury acquitted Fenenbock of conspiracy to murder. Accordingly, Fenenbock was sentenced on March 16, 1994, to an indeterminate term of 26 years to life imprisonment for murder.

In September 1994, the second trial against MacCarlie, Bond, and a third codefendant commenced in Solano County Superior Court. Significantly, MacCarlie testified that he had an out-of-body experience where he watched himself stabbing Summar, unable to control his actions, and did not observe

anyone else present during the attack. The jury found MacCarlie guilty of conspiracy to murder but deadlocked on the murder charge. The jury similarly found Bond guilty of conspiracy to murder but deadlocked on the murder charge. The jury acquitted the third defendant entirely. In 1995, the third trial ensued against Adcock and Lockley in Contra Costa County Superior Court. The jury found Adcock guilty of both murder and conspiracy to commit murder, although her murder conviction was subsequently reversed on appeal, but her conviction for conspiracy to murder was affirmed. The jury found Lockley guilty only of conspiracy to commit murder.

Fenenbock appealed his murder conviction, which has affirmed by the First District Court of Appeal, and the California Supreme Court denied review on October 2, 1996. Thereafter, Fenenbock pursued habeas relief in state and federal court, which was ultimately denied by the Ninth Circuit in 2012. On August 17, 2017, Fenenbock filed another habeas petition in Solano County Superior Court seeking to vacate his murder conviction. Over the prosecution's objection, the court granted the petition on August 23, 2019, and ordered a new trial. The court expressly found that MacCarlie's trial testimony, which implicated only himself in Summar's murder, constituted new and credible evidence that likely would have changed the outcome of Fenenbock's trial. As support, the court noted that neither of MacCarlie's codefendants in the second trial was found guilty of murder.

On September 13, 2019, Fenenbock filed a motion to dismiss on the basis of outrageous government misconduct in Solano County Superior Court. The motion alleged that law enforcement had pressured Randy H. to inculpate Fenenbock, as evidenced by Randy H.'s initial statements to police in which he had denied witnessing the murder. A lengthy evidentiary hearing ensued, at which Randy H. and several members of law enforcement testified. Randy H. insisted that he did not observe Summar's stabbing or see a red truck on the day of the murder. Randy H. did, however, observe MacCarlie assault Bert J. with a knife and also recalled travelling in the Ranchero later that night to drop off Fenenbock and Bond. Randy H. explained that he had inculpated the defendants after law enforcement told him that, without his statement, they would be released from jail and kill him. His statements against the defendants included details of the murder that had been suggested to him by law enforcement. As an adult, Randy H. filed a civil suit for coercing his statements to implicate the defendants. On August 24, 2020, the superior court granted Fenenbock's motion to dismiss, and ordered Fenebock unconditionally released from bail.

On February 8, 2021, Fenenbock moved the Solano County Superior Court for a finding of factual innocence of the dismissed murder charges. The exculpatory evidence included: (1) MacCarlie's trial testimony that he alone had stabbed Summar; (2) Randy H.'s evidentiary hearing testimony, in which he had credibly denied witnessing Summar's murder; and (3) new information that Fenenbock had been interviewed by the police on the night of the murder and the next morning, while wearing the same clothes as the day before, and those clothes were "free of any evidence of him having been involved in the murder specifically." The superior court granted Fenenbock's unopposed motion, after noting its findings when granting habeas relief and dismissing the charges for outrageous government misconduct, and finding that Fenenbock has established by a preponderance of evidence that he is factually innocent of the charges against him.

On May 20, 2021, the California Victim Compensation Board unequivocally accepted that Fenenbock is actually innocent of Summar's murder, for which he was erroneously incarcerated for over 27 years, and granted his application for compensation under Penal Code section 4900. The Board recommended that the Legislature appropriate $1,425,060 as payment to Fenenbock for his 10,179 days of erroneous incarceration.

5) *Andrew Wilson, finding of factual innocence, $1,650,880.* On October 23, 1984, Chris Hanson and his girlfriend, Saladena Bishop, were asleep in their vehicle on Hobert Boulevard in Los Angeles. According to Bishop, she awoke at around 9:30 p.m. to find two men attacking Hanson on the driver's side of the vehicle. By the time the attackers fled, Hanson had suffered nine puncture wounds. Although the wounds were superficial and would not have ordinarily been fatal, Hanson suffered from the blood clotting disorder Von Willebrand disease, and died within minutes. The Los Angeles Police discovered a knife tip east of the pickup that was consistent with the stab wound on Hanson's cheek and matched the broken blade found on the floorboard of the truck. No physical evidence was discovered on the knife tip. Wilson's fingerprints were not found on the knife. Officers found 14 identifiable fingerprints in Hanson's truck, but none matched Wilson's fingerprints. Los Angeles Police Department (LAPD) Detective Richard Marks was assigned to investigate Hanson's murder.

   Marks interviewed Bishop the following morning. Bishop reviewed three mug shot books, which contained more than 1500 images. She selected several photographs of the same suspect, who was later eliminated due to the suspect's incarceration at the time of Hanson's murder. Clarence Pace was interviewed

on November 27, 1984 and remembered that he was walking north on LaSalle Street with his cousin and a friend. Pace reported seeing two men jogging towards him, but neither matched Bishop's description of the attackers. Pace stated that the only person who looked like one of the men who ran past him was "A.D.," who he later identified as Mr. Wilson. Pace told Detective Marks that he was not certain it was A.D. who he saw on October 26, 1984, but Marks wrote a statement stating Pace was "80% sure" he saw A.D.

On November 26, 1984, Mark Brown told law enforcement that, a week after Hanson's murder, Albert Ware confessed to "gigging" the person on Hobart. LAPD detectives recognized that Ware was a member of the Westside Rollin 20s criminal street gang and known as "Sweaty Teddy." There is no evidence, however, that Marks investigated or questioned Ware about the crime.

Over the following six weeks, Bishop identified several other individuals as possible suspects, but it was not until November 29, 1984, when Marks constructed a 16-photo lineup and showed it to Bishop, that she identified Wilson. The photo array included photographs of Wilson, Frederick Terrell, Pace, Vincent Sanders, and Marshaunt "Freddie" Jackson. Initially, Bishop did not identify anyone in the lineup, but Marks admitted in an affidavit that he "directed Bishop's attention" to Wilson's photograph, and acknowledged that he routinely used this improper practice throughout his career, despite knowing the practice was not part of departmental policies and did not conform with his law enforcement training. Marks stated he would make a notation next to an improper identification because he knew it was an item to be litigated in the future. Following Marks's direction, Bishop identified Wilson. She also independently identified Terrell as a suspect in Hanson's murder, and Marks arrested him on December 2, 1984.

The same day Terrell was arrested, Detective Marks said Sanders voluntarily agreed to go to the station for an interview regarding a new suspect. Sanders and Terrell were first cousins and lived across the street from one another. Marks admitted to recording Sanders's statement without his knowledge. Sanders stated Terrell was not involved and he overheard Wilson and another man named Ricky Wilson, confess to Hanson's murder the same night it occurred in an apartment full of other people. Sanders later testified at trial that Marks persuaded him go to the police station to make a statement by threatening to "F Sanders up with his parole and send him back to the pen, unless he gave a statement." Sanders further testified Marks threatened his mother. After learning Marks was seeking to question him, Wilson surrendered

himself to the LAPD, who picked him up on December 3, 1984, and he was booked just past midnight the next day.

On November 10, 1986, a jury returned verdicts finding Wilson guilty of first-degree murder and robbery and finding the special circumstances and weapon allegations to be true. The evidence against Wilson consisted of eyewitness identification by Bishop and Pace, and statements Sanders made to Detective Marks during his interview in December of 1984. The court denied Wilson's motion for a new trial and sentenced him to life without the possibility of parole plus one year for the murder and accompanying weapon finding. Sentence on the robbery was stayed.

Wilson's conviction and sentence was confirmed by the court of appeal on June 22, 1988. Numerous pro se petitions for writ of habeas corpus with various courts filed between 1990 and 2001 were summarily denied. On September 23, 2013, the superior court granted a motion for discovery for "newly discovered evidence," which was ultimately denied. Wilson filed another pro se petition with the superior court in October of 2015, and after he retained counsel and filed an amended petition for a writ of habeas corpus in August of 2016, the superior court granted the motion on March 15, 2017. The court vacated Wilson's conviction on that date based upon the Los Angeles County District Attorney's Office concession that numerous constitutional errors were committed during pre-trial and trial proceedings, which deprived Wilson of a fair trial. He was released from custody on March 16, 2017, after serving 32 years. Wilson timely filed an application with the Board seeking compensation for the erroneous conviction, but requested a stay of the application pending the result of his motion for a finding of factual innocence before the superior court. On February 22, 2021, the Los Angeles Superior Court granted Wilson's motion and found that he met his burden of proof to demonstrate factual innocence by a preponderance of evidence.

On May 20, 2021, the California Victim Compensation Board unequivocally accepted that Wilson is actually innocent of the murder and robbery of Hansen, for which he was erroneously incarcerated, and granted his application for compensation under Penal Code section 4900. The Board recommended that the Legislature appropriate $1,650,880 as payment to Wilson for 11,792 days of erroneous incarceration.

**Background**

The State Board of Control was established in 1945. It was revised and renamed the Victim Compensation and Government Claims Board by AB 2491 (Jackson, Chapter 1016, Statutes of 2000), and subsequently renamed the California Victim Compensation Board by SB 836 (Budget and Fiscal Review Committee, Chapter 31, Statutes of 2016). SB 836 transferred the authority to approve general government claims for which no legal available appropriation exists to the Department of General Services, and the Board currently administers the Victim Compensation Program, the Revenue Recovery Program, Claims of Erroneously Convicted Felons, the Good Samaritan Act, and the Missing Children Reward Program.

The re-issuance of stale-dated warrants (expired checks) is the most prevalent claim accepted by DGS's Government Claims Program. For stale-dated warrants, the State Controller must confirm the check was not cashed and that more than three years has passed since the check was issued and the monies have reverted to the General Fund or to the relevant special fund. For these warrants an appropriation is needed to reissue the payment.

Existing law authorizes a person convicted and imprisoned for a felony to submit a claim to the Board for pecuniary injury sustained as a result of erroneous conviction and imprisonment. Pursuant to SB 618 (Leno, Chapter 800, Statutes of 2013), a person who has secured a declaration of factual innocence from the court after having his or her conviction set aside is eligible for payment in a claim against the state. Upon application by the petitioner, the Board shall, without a hearing, recommend to the Legislature an appropriation to cover the claim. Likewise, if the court finds the petitioner has proven his or her innocence by a preponderance of the evidence, or the court grants a writ of habeas corpus concerning a person who is unlawfully imprisoned, or when the court vacates a judgment for a person on the basis of new evidence concerning a person who is no longer unlawfully imprisoned, and the court finds the evidence points unerringly to innocence, the Board shall, upon application by the claimant, without a hearing, recommend to the Legislature an appropriation to cover the petitioner's claim.

Otherwise, a claimant is required to introduce evidence in support of his or her claim at a hearing before the Board, and the Attorney General may introduce evidence in opposition. The claimant must prove, by a preponderance of the evidence, that: (a) the crime was not committed at all, or, if committed, was not committed by the claimant; and (b) the claimant sustained pecuniary injury though the erroneous conviction and imprisonment.

If a claimant meets the burden of proof, the Board shall recommend to the Legislature an appropriation of $140 per day of incarceration served, including any time spent in custody that is considered part of the term of incarceration, such as time served in a county jail.

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

According to the Senate Appropriations Committee:

- One-time General Fund appropriation in the amount of $379,540 to pay the claim of Derrick Harris, approved by the Board on December 17, 2020.

- One-time General Fund appropriation in the amount of $968,800 to pay the claim of Jeremy Puckett, approved by the Board on March 18, 2021.

- One-time General Fund appropriation in the amount of $1,251,600 to pay the claim of Arturo Jimenez, approved by the Board on May 20, 2021.

- One-time General Fund appropriation in the amount of $1,425,060 to pay the claim of Robert Fenenbock, approved by the Board on May 20, 2021.

- One-time General Fund appropriation in the amount of $1,650,880 to pay the claim of Andrew Wilson, approved by the Board on May 20, 2021.

- One-time General Fund appropriation in the amount of $1,000 to DGS for the re-issuance of an expired check issued by the Board of Equalization for security release.

- One-time appropriation of $146 from the Motor Vehicle Account to DGS for the re-issuance of two expired checks for a revenue refund and a vehicle license fee rebate.

**SUPPORT:** (Verified 6/23/21)

None received

**OPPOSITION:** (Verified 6/23/21)

None received

ASSEMBLY FLOOR: 73-0, 5/17/21

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

Prepared by: Mark McKenzie / APPR. / (916) 651-4101
6/23/21 16:25:47

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

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THIRD READING

Bill No: ACR 2
Author: Quirk-Silva (D) and Choi (R), et al.
Introduced: 12/7/20
Vote: 21

ASSEMBLY FLOOR: Read and adopted, 1/15/21

**SUBJECT:** Korean American Day

**SOURCE:** Author

**DIGEST:** This resolution proclaims January 13, 2021, as Korean American Day.

**ANALYSIS:** This resolution makes the following legislative findings:

1) On January 13, 1903, the history of Korean immigration to America began when 102 courageous Korean adults and children landed in the State of Hawaii after venturing across the vast Pacific Ocean aboard the S.S. Gaelic.

2) Between 1904 and 1907, approximately 1,000 Korean Americans entered the United States mainland from the State of Hawaii through the city of San Francisco,where the first Korean American political organizations and Korean language publications were established.

3) While the city of San Francisco remained the center of the Korean American community, there was a gradual migration from northern California to southern California as more employment opportunities opened up, and a new, burgeoning community of Korean Americans began to thrive in Los Angeles and surrounding areas.

4) Korean Americans are the largest and the fastest growing citizens of Orange County, making Orange County the second largest Korean population in any county in the nation.

5) While the first Korean immigrants to the United States fought and sacrificed to establish themselves, their children grew up to be patriotic citizens, many of

whom went on to serve in the Armed Forces of the United States during World War II and to make other important contributions to mainstream American society.

6) The 1965 amendments to the Federal Immigration and Nationality Act (Public Law 89-236) opened the door for a new wave of Korean immigrants to enter the United States. Since its enactment, Korean Americans have become one of the fastest growing groups of Asian Americans in the United States.

7) In 1994, the National Association of Korean Americans (NAKA), was founded in the state of New York, becoming the first national civil and human rights organization of Korean Americans.

8) On June 27, 2002, the NAKA was instrumental in the passing the historic resolution S.R. 185 by the United States Senate, recognizing the 100th anniversary of Korean immigration to the United States.

9) Korean American Day is celebrated on January 13 of each year, to not only commemorate the arrival of the first Korean immigrants to the United States but also to honor the Korean American's immense contributions to every aspect of society.

This resolution proclaims January 13, 2021, as Korean American Day.

**Related/Prior Legislation**

SCR 78 (Pan, Resolution Chapter 6, Statutes of 2020) proclaimed January 13, 2020, as Korean American Day.

ACR 142 (Choi, Resolution Chapter 3, Statutes of 2020) proclaimed January 13, 2020, as Korean American Day.

ACR 3 (Choi, Resolution Chapter 2, Statutes of 2019) proclaimed January 13, 2019, as Korean American Day.

ACR 144 (Choi, Resolution Chapter 6, Statutes of 2018) proclaimed January 13, 2018, as Korean American Day.

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

**SUPPORT:** (Verified 6/14/21)

None received

**OPPOSITION:** (Verified 6/14/21)

None received

Prepared by: Karen Chow / SFA / (916) 651-1520
6/16/21 14:54:15

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

**SENATE RULES COMMITTEE** ACR 17
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 17
Author: Voepel (R), et al.
Introduced: 2/1/21
Vote: 21

ASSEMBLY FLOOR: 76-0, 5/20/21 (Consent) - See last page for vote

**SUBJECT:** Special Districts Week

**SOURCE:** Author

**DIGEST:** This resolution proclaims the week of May 16, 2021, to May 22, 2021, inclusive, to be Special Districts Week and encourages all Californians to be involved in their communities and be civically engaged with their local government.

**ANALYSIS:** This resolution makes the following legislative findings:

1) Special districts are local governmental entities created by a community's residents, funded by those residents, and overseen by those residents, to provide specialized services and infrastructure.

2) Today, just over 2,000 independent special districts provide millions of Californians with essential services, including services related to water, sanitation and water recycling, fire protection, electricity, parks and recreation, health care, open space, ports and harbors, flood protection, mosquito abatement, cemeteries, resource conservation, airports, transit, road maintenance, veterans' facilities, and more.

3) In the 20th century, special districts increased dramatically in both number and scope, and during the periods of prosperity and population growth that followed both world wars when the demand for all types of public services increased, and special districts met that need.

4) Although originally created to provide individual services, in 1961 the Legislature authorized special districts to address multiple needs, when it provided for multipurpose, community services districts.

5) Local residents own special districts and govern them through locally elected or appointed boards. A series of sunshine laws ensure special districts remain transparent and accountable to the communities they serve, as these laws require open and public meetings, public access to records, regular audits, online posting of finances and compensation, and more.

6) To prevent overlapping services and ensure that local agencies are operating effectively and efficiently to meet community needs, special districts are formed, reviewed, consolidated, or dissolved through a methodical local process that includes the oversight of a local agency formation commission and the consent of local voters.

7) The Legislature seeks to promote and educate the public about their local public service providers, including awareness and understanding of special districts.

This resolution proclaims the week of May 16, 2021, to May 22, 2021, inclusive, to be Special Districts Week and encourages all Californians to be involved in their communities and be civically engaged with their local government.

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

**SUPPORT:** (Verified 6/1/21)

California Municipal Utilities Association
California Special Districts Association
Vista Irrigation District

**OPPOSITION:** (Verified 6/1/21)

None received

ASSEMBLY FLOOR: 76-0, 5/20/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin,

Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Cunningham, Kalra

Prepared by: Jonas Austin / SFA / (916) 651-1520
6/2/21 16:04:23

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

**SENATE RULES COMMITTEE** ACR 36
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 36
Author: O'Donnell (D), et al.
Introduced: 3/1/21
Vote: 21

ASSEMBLY FLOOR: 75-0, 6/2/21 (Consent) - See last page for vote

**SUBJECT:** California's regional occupational centers and programs

**SOURCE:** Author

**DIGEST:** This resolution commemorates California's regional occupational centers and programs for over 50 years of service to students, industry, and communities.

**ANALYSIS:** This resolution makes the following legislative findings:

1) For the last 50 years, California's regional occupational centers and programs ("ROC/Ps") have been promoting and supporting the regional delivery of exemplary career education, career development, and workforce preparation that contributes to student academic and career success and to the economic development of California.

2) ROC/Ps provide students with valuable career technical education ("CTE") so those students can enter the workforce with the skills and competencies needed to be successful, pursue advanced training in postsecondary institutions, and upgrade their existing skills and knowledge.

3) ROC/Ps have been operated by school districts, consortia of districts operating under joint powers agreements, or by county offices of education; and, have served as many as 500,000 students each year during the last 50 years.

4) ROC/P students represent the full diversity of California, both rural and urban communities, and all geographic regions of the state.

5) ROC/Ps have been a major factor in assisting students to prepare for careers and college by offering CTE pathways, access and equity for all students to participate in real-world instruction, many courses that meet "A-G" admission requirements, and courses that offer college credit through articulation and dual enrollment opportunities.

6) Students who enroll in CTE classes are more likely to graduate or transition into postsecondary opportunities at a consistently higher rate than students who do not participate in CTE learning opportunities.

7) ROC/Ps employ thousands of highly qualified CTE professionals, including teachers, administrators, counselors, and support staff, all of whom benefit from a close professional network and professional development opportunities.

This resolution commemorates California's regional occupational centers and programs for over 50 years of service to students, industry, and communities.

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

**SUPPORT:** (Verified 6/14/21)

None received

**OPPOSITION:** (Verified 6/14/21)

None received

ASSEMBLY FLOOR: 75-0, 6/2/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood

NO VOTE RECORDED: Bigelow, Lorena Gonzalez, Mullin, Rendon

Prepared by: Jonas Austin / SFA / (916) 651-1520
6/16/21 14:54:16

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

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



THIRD READING

Bill No: ACR 41
Author: Holden (D), et al.
Introduced: 3/8/21
Vote: 21

ASSEMBLY FLOOR: Read and adopted, 5/24/21

**SUBJECT:** COVID-19 direct support professionals appreciation

**SOURCE:** Author

**DIGEST:** This resolution recognizes the skills and dedication of direct support professionals, and shows appreciation for the direct support professionals who have faithfully served Californians with intellectual and developmental disabilities (IDD) during the COVID-19 public health crisis.

**ANALYSIS:** This resolution makes the following legislative findings:

1) The COVID-19 pandemic has a disproportionate impact on people with IDD, who are especially vulnerable to complications and mortality due to the coronavirus. More than 350,000 Californians with IDD receive regional center services.

2) During this pandemic, direct support professionals throughout the state prioritized the health and safety of people with IDD, often placing the needs of people in their care over their own personal interests.

3) Direct support professionals showed flexibility, consistently responding to changing public health conditions and state guidelines for health and safety, while also addressing the changing needs of the people they serve.

4) Direct support professionals were guided by person-centered philosophy to meet the support needs of people with IDD during a historic pandemic that changed every aspect of their life.

5) Direct support professionals demonstrated innovation in creating new programs to safely support individuals with IDD during the pandemic and mitigate the isolating impact of health and safety measures.

This resolution:

1) Values the heroism and commitment of direct support professionals in the service of Californians with IDD; and appreciates all direct support professionals who have faithfully served Californians with IDD during the COVID-19 public health crisis.

2) Finds that, having acknowledged the rights of Californians with IDD and the state's responsibility to them through the Lanterman Developmental Disabilities Services Act, direct support professionals are essential to carrying out this responsibility.

3) Recognizes the skills and dedication of direct support professionals.

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

**SUPPORT:** (Verified 6/1/21)

California Disability Services Association
Los Angeles Coalition of Service Providers
The Arc
United Cerebral Palsy California Collaboration

**OPPOSITION:** (Verified 6/1/21)

None received

**ARGUMENTS IN SUPPORT:** The author states, "The COVID-19 pandemic has had an enormously disruptive and traumatic impact on the lives of Californians with Intellectual and Developmental Disabilities (IDD). In situations throughout the state direct support workers put their own health at risk and sacrificed time with their own families in order to support the vulnerable people with IDD who depended upon them. ACR 41 is a modest action to recognize and honor the dedication and sacrifice of our direct support workers in California."

Prepared by: Melissa Ward / SFA / (916) 651-1520
6/2/21 16:04:24

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

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



CONSENT

Bill No: ACR 53
Author: Ward (D)
Amended: 3/29/21 in Assembly
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 6/9/21
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, McGuire, Pan

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/26/21 (Consent) - See last page for vote

**SUBJECT:** Purple Star School Program

**SOURCE:** Author

**DIGEST:** This resolution requests the California Department of Education (CDE) to establish and manage a program designating schools as Purple Star Schools when schools support military connected students in specified ways, and requests the CDE to use the Military Child Education Coalition for resources and information regarding establishing and managing a Purple Star School Program in California.

**ANALYSIS:**

Existing law:

1) Defines "a pupil who is a child of a military family" as a school-aged child who is living in the household of an active duty service member. This is the same definition used in current law for purposes of the Interstate Compact on Educational Opportunity for Military Children. (Education Code §§ 49701, 51225.1, and 51225.2)

2) Requires local educational agencies (LEAs), including charter schools, to exempt a student of a military family who transfers between schools any time

after the completion of the student's second year of high school from all coursework and other requirements that are in excess of state graduation requirements, unless the school district makes a finding that the student is reasonably able to complete the school district's graduation requirements in time to graduate from high school by the end of the student's fourth year of high school. (EC § 51225.1)

3) Establishes the Interstate Compact on Educational Opportunity for Military Children, which addresses educational transition issues of children of military families. (EC §§ 49700, et seq.)

This resolution requests the CDE to establish and manage a program designating schools as Purple Star Schools when schools support military connected students in specified ways, and requests the CDE to use the Military Child Education Coalition for resources and information regarding establishing and managing a Purple Star School Program in California. Specifically, this resolution:

1) Requests the CDE to establish and manage a program designating Purple Star Schools in California.

2) Requests the CDE to ensure that, before being designated a Purple Star School, a school, at a minimum:
   a) Designate a staff member as a point of contact for military-connected pupils and families.
   b) Establish and maintain a dedicated page on its website or a location in the school's administrative office featuring information and resources for military families.
   c) Maintain a pupil-led transition program that includes a pupil transition team coordinator.
   d) Provide professional development for staff members on special issues related to military-connected pupils and families.

3) Requests the CDE to use the Military Child Education Coalition for resources and information regarding establishing and managing a Purple Star School Program in California.

4) Resolves that the Chief Clerk of the Assembly transmit copies of this resolution to the Superintendent of Public Instruction (SPI).

5) States that a Purple Star School is a public school that is committed to supporting the unique educational and social-emotional needs of military-connected pupils.

6) States that Purple Star Schools recognize that military-connected pupils must move whenever their active duty parent receives a relocation order and will uproot and change schools far more often than their civilian peers.

7) States that military-connected pupil can expect to move six to nine times between kindergarten and their high school graduation.

8) States that Purple Star Schools acknowledge that every military-connected pupil leaves behind friends and support networks and may be dealing with a parent who is away from home on deployment.

9) States that several states have begun to recognize Purple Star Schools, including Arkansas, Georgia, Indiana, North Carolina, Ohio, South Carolina, Tennessee, Texas, and Virginia.

10) States that it is important that California schools share this commitment to military-connected pupils when they relocate to a new school district.

**Comments**

1) *Need for the bill.* According to the author's office, "Military members make up one of the largest workforces in the United States, with approximately 1.3 million active duty service member and 818,000 individuals serving in the National Guard and Reserves. Roughly, 40% of these service members are parents or guardians to two or more minor children and due to the frequent relocations required of military personnel, on average, military-connected children move between six and nine times between kindergarten and high school graduation. As they transition between schools, these students must adapt to varying cultures, curricula, standards, course offerings, schedules, and graduation requirements. As a result, military connected students often face unique academic and social-emotional challenges."

2) *Purple Star Schools programs.* According to the Military Child Education Coalition (MCEC), "A Purple Star School designation lets military parents know, whether they are on active duty or in the National Guard and Reserves, that a school is dedicated to helping their child gain the educational skills necessary to be college-, workforce- and life-ready. It signals that a school also supports the social and emotional wellbeing of military kids adjusting to new

schools and the absence of a parent during deployment… To date, only Texas, Tennessee, Virginia, Ohio, Arkansas, South Carolina, North Carolina, Georgia (called Military Flagship Schools) and Indiana, have Purple Star School programs."

In 2001, MCEC conducted a Secondary Education Transition Study that was commissioned by the U.S. Army Community and Family Support Center, which identified four specific recommended requirements for Purple Star Schools:

a) Designate a staff point of contact for military students and families. The individual can be a counselor, administrator, teacher, or other staff member.

b) Establish and maintain a dedicated page on its website featuring information and resources for military families.

c) Maintain a student-led transition program.

d) Provide professional development for additional staff.

This resolution encourages the SPI's program to include these components.

3) *California School Recognition Program.* The CDE operates several recognition programs known collectively as the California School Recognition Program (CSRP). Since its inception in 1986, the CSRP recognizes numerous types of schools, including:

a) California Exemplary Arts Education.

b) California Exemplary Physical Activity and Nutrition Education.

c) California Exemplary Career Technical Education.

d) California Exemplary Districts.

e) California Green Ribbon Schools.

f) California Teachers of the Year.

g) Civic Learning Award.

h) Classified School Employees of the Year.

i) Model Continuation High School Recognition Program.

j) National Blue Ribbon Schools.

k) National Elementary and Secondary Education Act Distinguished Schools.

According to the CDE, "the CSRP gives exceptional schools and school leaders the opportunity to gather and share their Model Programs and Practices and their special skills which have contributed to their success. There are many details that go into the eligibility and selection of these awardees. All of the award programs recognize sustained student achievement, excellence in environmental program design, or superior job performance, and community involvement. CSRP Awardees are recognized at a CSRP Awards Ceremony held during the spring."

4) *Students of military families in California.* According to the United States Department of the Navy, California is home to the largest number of military children, with nearly 58,000 children. Further, the United States Department of Defense states that, "As military Service members and their families move from state to state, providing smooth educational transitions for their children is key to eliminating one of the largest concerns their parents face. Military families transfer duty stations, on average, every two to four years, resulting in military children changing school systems a total of six to nine times before they graduate."

5) *Interstate Compact on Educational Opportunity for Military Children.* The United States Department of Defense, in collaboration with the National Center for Interstate Compacts and the Council of State Governments, developed the Interstate Compact on Educational Opportunity for Military Children (Compact) to address educational transition issues of children of military families.

   The goal of the Compact is to ensure that the children of military families are afforded the same opportunities for educational success as other children, and are not penalized or delayed in achieving their educational goals. States participating in the Compact work to coordinate graduation requirements, transfer of records, course placement, and other administrative policies. According to the Department of Defense, all 50 States and the District of Columbia participate in the interstate compact. California adopted the Compact in the state's Education Code in 2009. The Compact addresses a number of topics, including:

   a) Timely enrollment.

   b) Transfer of school records.

   c) School placement.

d) Eligibility for enrollment and participation in school programs, athletics, and extracurricular activities.

e) On-time graduation.

The Compact does not speak generally to the right of students to remain in their schools of origin when their parents' residence changes, but does state that a transitioning military child, placed in the care of a noncustodial parent or other person standing in loco parentis, who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which he/she was enrolled while residing with the custodial parent.

A 2014 review of the implementation of the Compact in California by the CDE found variations in implementation across districts. The report suggested that California undertake a more comprehensive effort to ensure that school district personnel and military families are maximally familiar with the provisions of the Compact so that its provisions are applied consistently. The report also found that California's membership in the Compact has substantially aided both school districts and military families by alleviating many of the educational difficulties military children encounter in their frequent moves from a school in one state to a school in another state.

**Related/Prior Legislation**

AB 2949 (Gloria, Chapter 327, Statutes of 2018) required that a student who is the child of a military family be allowed to remain in his or her school of origin, and to matriculate with his or her peers in accordance with the established feeder patterns of school districts.

AB 365 (Muratsuchi, Chapter 739, Statutes of 2017) extended to students from military families certain rights regarding exemptions from local graduation requirements and acceptance of partial credit which are currently afforded to other groups of highly mobile students.

SB 455 (Newman, Chapter 239, Statutes of 2017) established that a student whose parent is transferred or is pending transfer to a military installation within state while on active military duty pursuant to an official military order has complied with the residency requirements for school attendance in any school district.

AB 2306 (Frazier, Chapter 464, Statutes of 2016) required school districts to exempt former juvenile court school students who transfer into school districts after their second year in high school from local graduation requirements that

exceed those of the state, and required a county office of education to issue a diploma of graduation to a pupil who completes statewide coursework requirements for graduation while attending a juvenile court school.

AB 306 (Hadley, Chapter 771, Statutes of 2016) prohibited a school district of residence from prohibiting the transfer of a pupil who is a child of an active military duty parent to a school in any school district, if the school district to which the parents of the pupil applies approves the application for transfer.

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

**SUPPORT:** (Verified 6/22/21)

Military Child Education Coalition
Military Services in the State of California
San Diego Military Advisory Council
San Diego Unified School District
United States Department of Defense

**OPPOSITION:** (Verified 6/22/21)

None received

ASSEMBLY FLOOR: 77-0, 4/26/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Cervantes

Prepared by: Brandon Darnell / ED. / (916) 651-4105
6/23/21 15:04:05

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

**SENATE RULES COMMITTEE** ACR 59
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 59
Author: Aguiar-Curry (D) and Salas (D), et al.
Introduced: 3/25/21
Vote: 21

ASSEMBLY FLOOR: Read and adopted, 6/10/21

**SUBJECT:** Portuguese Heritage Month

**SOURCE:** Author

**DIGEST:** This resolution declare the month of June 2021, as Portuguese Heritage Month, in recognition of June 10 as the Day of Portugal, and June 1 as the Day of the Azores.

**ANALYSIS:** This resolution makes the following legislative findings:

1) Portuguese presence in California predates the establishment of California as a State in the Union.

2) The first Portuguese settlers came to California from the Azores Islands in the early 19th century. Waves of Azorean immigrants moved to California just before and during the 20th century, with the first wave of Azorean immigrants moving to California just before and after the turn of the 20th century, followed by the second and largest wave between 1958 and 1976, each contributing substantially to setting up agricultural operations, especially dairy, livestock, vegetable, fruit farms, and the tuna industry in southern California.

3) Throughout most of the 20th century, as many as one-half of all Portuguese Californians owned or operated a dairy farm, worked on a dairy farm, or worked in a dairy-related industry. Applying the Portuguese belief in hard work and thriftiness, along with additional labor from family members, Portuguese settlers could earn enough to reinvest in their businesses, and buy more land and cattle. Still today, Portuguese Americans in California continue to play an important role in agriculture and dairying, as proprietors and innovators.

4) The Portuguese fraternal movement has played a role in the financial and cultural stability of the community, led today by two societies, the Portuguese Fraternal Society of America and the Luso-American Fraternal Federation, with headquarters in this state.

5) Californians of Portuguese ancestry came together in 2016 to create the California Portuguese American Coalition sponsored by the Luso-American Development Foundation to create a network of public servants of Portuguese ancestry and elected officials who represent areas where Californians of Portuguese ancestry live and contribute to our rich diversity and to encourage young Portuguese Americans to participate in our democracy through public service.

6) In March of 2018 Californians of Portuguese ancestry created the only strategic plan in the United States to teach the Portuguese language and cultures in California public and private schools, colleges, and universities in order to contribute to the rich linguistic and cultural diversity of our state and to foster a deeper connection to, and increase economic opportunities between, California and all the Portuguese-speaking countries throughout the world.

7) The Portuguese Heritage Society of California built the Portuguese Historical Museum to serve as a center for the display of Portuguese heritage and culture, and the Portuguese Heritage Publications of California, through book publications, have recorded Portuguese contributions to this state in various .

8) The Portuguese Holy Ghost Festival and other religious and cultural festivals are an important part of the communities in which they are held, bringing communities together and preserving and disseminating in mainstream California the rich traditions of a proud people who are completely integrated into Californian society.

This resolution declares the month of June 2021, as Portuguese Heritage Month, in recognition of June 10 as the Day of Portugal, and June 1 as the Day of the Azores.

**Related/Prior Legislation**

ACR 89 (Salas, Resolution Chapter 81, Statutes of 2014) recognized the month of June 2014 as Portuguese Heritage Month.

SCR 79 (Denham, Resolution Chapter 24, Statutes of 2010) recognized the month of June as Portuguese Heritage Month.

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

**SUPPORT:** (Verified 6/21/21)

None received

**OPPOSITION:** (Verified 6/21/21)

None received

Prepared by: Karen Chow / SFA / (916) 651-1520
6/23/21 15:17:19

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

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



THIRD READING

Bill No: ACR 68
Author: O'Donnell (D), et al.
Introduced: 4/7/21
Vote: 21

ASSEMBLY FLOOR: 75-0, 5/13/21 (Consent) - See last page for vote

**SUBJECT:** Student Mental Health Week

**SOURCE:** California Association of School Counselors

**DIGEST:** This resolution declares the week of May 10, 2021, to May 14, 2021, inclusive, as Student Mental Health Week.

**ANALYSIS:** This resolution makes the following legislative findings:

1) Student mental health needs too often go unnoticed or unaddressed at school.

2) Reducing the stigma surrounding mental health will empower students to speak up when they need help.

3) The early identification of, intervention in, and treatment of mental health and behavioral issues is paramount for a healthy student body and school community.

4) The need for comprehensive, coordinated mental health services for students in school is a critical responsibility as part of an overall education plan.

5) Addressing the complex mental health needs of California students today is fundamental to the future of California.

6) It is appropriate that a week should be set aside each year for the direction of our thoughts towards our students' mental health and well-being.

This resolution declares the week of May 10, 2021, to May 14, 2021, inclusive, as Student Mental Health Week in California.

**Related/Prior Legislation**

ACR 172 (Low, 2020) declared the week of May 4, 2020, to May 8, 2020, as Student Mental Health Week. The resolution was not heard due to the shortened 2020 legislative calendar brought on by the COVID-19 pandemic.

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

**SUPPORT:** (Verified 5/24/21)

California Association of School Counselors (source)
California Alliance of Child and Family Services
California Association for School Psychologists
California Children's Trust
Californians for Justice
Children's Partnership
Humboldt County Office of Education
Los Angeles County Office of Education
Los Angeles Unified School District
Office of the Riverside County Superintendent of Schools
Santa Clara County Office of Education

**OPPOSITION:** (Verified 5/24/21)

None received

ASSEMBLY FLOOR: 75-0, 5/13/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Cervantes, Gallagher, Medina

Prepared by: Melissa Ward / SFA / (916) 651-1520
5/27/21 11:07:39

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

**SENATE RULES COMMITTEE** ACR 70
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 70
Author: Choi (R), et al.
Introduced: 4/13/21
Vote: 21

ASSEMBLY FLOOR: 75-0, 6/2/21 (Consent) - See last page for vote

**SUBJECT:** Secure Your Load Day

**SOURCE:** Author

**DIGEST:** This resolution declares June 6, 2021, as Secure Your Load Day in California.

**ANALYSIS:** This resolution makes the following legislative findings:

1) The State of California is the nation's most populous state with 38.8 million residents and growing. Traffic in California has become more congested in recent years, resulting in an increase in road debris and automobile collisions.

2) Over 200,000 accidents and 500 traffic deaths occurred in the United States between 2011 and 2014 due to dangerous road debris from unsecured loads.

3) Ethan Hawks, a 17-year-old senior and football star from Whittier Christian High School, was a victim of a tragic accident in the County of Orange caused by a heavy piece of metal escaping from another vehicle and striking the car that he was riding in, ultimately taking his life.

4) All residents of California should recognize the dangers of driving, and be accountable for their habits while in a vehicle.

5) Section 23114 of the Vehicle Code prohibits a vehicle from being driven on a highway unless it is constructed, covered, or loaded so as to prevent any of its contents or load from escaping from the vehicle.

6) The commonsense, routine act of securing every load protects the lives of California residents, and this precaution must not be overlooked.

7) The State of California recognizes and honors the profound suffering of those harmed by unsecured load; and stands in solidarity with persons impacted by those instances of avoidable incidents caused by unsecured loads.

This resolution declares June 6, 2021, as Secure Your Load Day in California to increase public awareness of the necessity of securing loads on vehicles using the state's highways.

**Comments**

The author states, "Every day people are injured or killed due to unsecured debris in California. This resolution will bring awareness to Californians the importance of securing one's load."

**Related/Prior Legislation**

The following are the most recent measures, which declared Secure Your Load Day:

- ACR 95 (Choi, Resolution Chapter 116, Statutes of 2019).
- ACR 225 (Choi, Resolution Chapter 108, Statutes of 2018).
- ACR 92 (Choi, Resolution Chapter 94, Statutes of 2017).

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

**SUPPORT:** (Verified 6/15/21)

None received

**OPPOSITION:** (Verified 6/15/21)

None received

ASSEMBLY FLOOR: 75-0, 6/2/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen,

O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood

NO VOTE RECORDED: Bigelow, Lorena Gonzalez, Mullin, Rendon

Prepared by: Melissa Ward / SFA / (916) 651-1520
6/16/21 14:54:17

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

**SENATE RULES COMMITTEE** ACR 72
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 72
Author: Nguyen (R), et al.
Introduced: 4/20/21
Vote: 21

ASSEMBLY FLOOR: 73-0, 6/10/21 (Consent) - See last page for vote

**SUBJECT:** Veterans of the Republic of Vietnam Armed Forces Day

**SOURCE:** Author

**DIGEST:** This resolution proclaims June 19, 2021, as Veterans of the Republic of Vietnam Armed Forces Day, in memory of the soldiers who sacrificed their lives for freedom and democracy and the victims of the Vietnam War, and in honor of the survivors, activists, and freedom fighters of that war.

**ANALYSIS:** This resolution makes the following legislative findings:

1) The Republic of Vietnam Military Forces consisted of four branches: the Army of the Republic of Vietnam, the Republic of Vietnam Air Force, the Republic of Vietnam Navy, and the Republic of Vietnam Marine Division.

2) The duties of all four branches included: protecting the sovereignty of the free Vietnamese nation and that of the Republic, maintaining the political and social order and the rule of law by providing internal security, defending the newly independent Republic of Vietnam from external and internal threats; and, ultimately, helping to reunify Vietnam, a country that had been divided since the Geneva Accords of 1954.

3) The Vietnam War brought about the loss of more than 250,000 members of the South Vietnamese Armed Forces and more than 58,000 members of the United States Armed Forces. More than 300,000 members of the United States Armed Forces and more than 1,000,000 members of the South Vietnamese Armed Forces were injured.

4) The end of the Vietnam War left the South Vietnamese Armed Forces in disarray. Many military personnel and their family members fled Vietnam, and hoped to find democracy and freedom in the United States and other free nations. They spent months at sea and in jungles, battling hunger, thirst, and separation from their families and loved ones.

5) Many of those who reached the United States found refuge in California and in various states throughout the country. They faced socioeconomic challenges but were determined to build entirely new lives here.

6) Annually, Vietnamese Americans around the world recognize the Republic of Vietnam Armed Forces Day on June 19, and this year, 2021, marks the 56th anniversary of this annual commemoration.

7) These servicemembers who paid the ultimate sacrifice for their nation and have contributed greatly to the development of our society deserve to be honored and recognized.

This resolution proclaims June 19, 2021, as Veterans of the Republic of Vietnam Armed Forces Day, in memory of the soldiers who sacrificed their lives for freedom and democracy and the victims of the Vietnam War, and in honor of the survivors, activists, and freedom fighters of that war.

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

**SUPPORT:** (Verified 6/23/21)

None received

**OPPOSITION:** (Verified 6/23/21)

None received

ASSEMBLY FLOOR: 73-0, 6/10/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago,

Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Chen, Davies, Flora, Lee, Quirk-Silva, Ramos

Prepared by: Jonas Austin / SFA / (916) 651-1520
6/23/21 15:17:20

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

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

THIRD READING

Bill No: ACR 77
Author: Bennett (D), et al.
Introduced: 4/26/21
Vote: 21

**SUBJECT:** Sea Level Rise Awareness Month

**SOURCE:** Author

**DIGEST:** This resolution proclaims May 2021 as Sea Level Rise Awareness Month in California in order to recognize the devastating effects of climate change and encourage local governments to take action.

**ANALYSIS:** This resolution makes the following legislative findings:

1) Human development and pressures from a rising sea threaten the already diminished coastal wetlands along the California coast. Hundreds of miles of roads and railways, harbors and airports, and power plants and wastewater treatment facilities, in addition to thousands of businesses and homes, are at risk from future flooding, inundation, and coastal retreat. The total potential impact of such coastal risks is significantly larger. Not only are economic assets and households in flood zones increasingly exposed, but also people's safety could be threatened and lives could be disrupted.

2) California also has the nation's largest ocean economy with the great majority of California's ocean economy connected to coastal recreation and tourism, as well as ports and shipping. Many of the facilities and much of the infrastructure that support this ocean economy, as well as the state's many miles of public beaches, lie within a few feet of present high tide.

3) Sea level rise is a slow-moving threat, but it demands immediate action. Global warming creates extreme hazards that cause significant harm to people, homes, infrastructure, and the environment. Thus, various cities and counties have taken steps to address global warming, including preventing sea level rise.

4) The Legislature recognizes that sea level rise will continue to threaten coastal communities and infrastructure through more frequent flooding and inundation,

as well as increased cliff, bluff, dune, and beach erosion. It is the obligation of the Legislature to encourage local governments to form coalitions to counter sea level rise and beach erosion and preserve marine life.

This resolution proclaims May 2021 as Sea Level Rise Awareness Month in California in order to recognize the devastating effects of climate change and encourage local governments to take action.

**Comments**

According to the author, "Sea levels are already intruding into existing wetlands, and urban areas in California. In addition, the state window to act is closing. With coastal communities already experiencing major flood events, and two thirds of the beaches in Southern California on track to disappear. In San Francisco, it took around 39 years for the sea level to rise around 6 inches, while current projections estimate another 6-inch rise in sea level in the next 16 years. San Diego's coastline has only risen by less than an inch, however this small increase has resulted in tidal flooding since 2000 and threatens cities like La Jolla and Imperial Beach. Planning for these changes requires data and information outlined Orange County damages that would result from 6 feet of sea-level rise: 11 square miles of land and 20 miles of roads would be underwater, affecting 50,000 residents. The Central Coast is no different. The rate of sea-level rise in the Santa Barbara region is expected to accelerate significantly in upcoming years. The Santa Barbara Vulnerability Assessment evaluated hazards for three sea-level rise scenarios: 0.8 feet by 2030, 2.5 feet by 2060, and 6.6 feet by 2100. With over 25 million people living near the sea, and over $100 billion worth of property along the coast, California's natural ecosystems and residence are at risk. As climate change threatens California's coast it is imperative that we not only call attention to sea level rise, but also recognize organizations that are working to preserve our coastline."

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

**SUPPORT:** (Verified 5/24/21)

None received

**OPPOSITION:** (Verified 5/24/21)

None received

Prepared by: Melissa Ward / SFA / (916) 651-1520
5/27/21 11:07:42

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

**SENATE RULES COMMITTEE** ACR 83
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 83
Author: McCarty (D), et al.
Introduced: 5/5/21
Vote: 21

ASSEMBLY FLOOR: Read and adopted, 6/14/21

**SUBJECT:** Loving Day

**SOURCE:** Author

**DIGEST:** This resolution proclaims Saturday, June 12, 2021, as Loving Day.

**ANALYSIS:** This resolution makes the following legislative findings:

1) Mildred and Richard Loving were an interracial couple who were married in Washington, D.C., in 1958, but banned from their home state of Virginia, where interracial marriage was illegal at the time. The Lovings eventually challenged this ruling. Their case went through many levels of the justice system before the United States Supreme Court unanimously decided in 1967 that the Loving's marriage should be upheld in all states.

2) At the time of the Loving decision, 16 states had laws banning interracial couples and the Loving decision made it illegal for these states to enforce those laws.

3) Loving Day was founded in 2004. Loving Day's mission is to fight racial prejudice, promote tolerance, awareness, and understanding through education, and foster supportive multicultural communities.

4) Loving Day seeks to commemorate and celebrate the United States Supreme Court's 1967 ruling, keeping its importance fresh in the minds of a generation that has grown up with interracial relationships being legal, as well as explore issues facing couples currently in interracial relationships.

5) California has led the marriage equality movement, beginning 61 years ago, by striking down laws prohibiting marriage between interracial couples (*Perez v. Sharp* (1948) 32 Cal.2d 711).

6) California became the first court in the 20th century to strike down an antimiscegenation law.

7) The Legislature has a history of supporting movements and legislation that celebrate the diversity and equality of all persons.

8) We are now moving forward in the 21st century as a multiracial and multicultural society and realize we must find a common vision from our interwoven past to build a society free of racism for the benefit of our collective future.

This resolution proclaims Saturday, June 12, 2021, as Loving Day and that it be observed and celebrated as the official commemoration of the landmark Supreme Court decision, *Loving v. Virginia* (1967) 388 U.S. 1, which legalized interracial marriage in the United States.

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

**SUPPORT:** (Verified 6/21/21)

None received

**OPPOSITION:** (Verified 6/21/21)

None received

Prepared by: Melissa Ward / SFA / (916) 651-1520
6/23/21 15:17:21

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

**SENATE RULES COMMITTEE** ACR 84
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 84
Author: Cooley (D), et al.
Introduced: 5/10/21
Vote: 21

ASSEMBLY FLOOR: Read and adopted, 5/24/21

**SUBJECT:** Foster Care Month

**SOURCE:** Author

**DIGEST:** This resolution declares the month of May 2021 as Foster Care Month.

**ANALYSIS:** This resolution makes the following legislative findings:

1) There are nearly 60,000 California children and youth in foster care who need and deserve safe, permanent connections to loving adults, a stable home, and adequate preparation for a secure future.

2) Many California counties and community partners have successfully supported permanent family connections for foster youth, provided support for families at risk of entering the child welfare system, and changed practices to fully engage youth, family, and communities, thereby reducing the number of children in foster care.

3) California recognizes the enduring and valuable contribution of relatives and foster and adoptive parents who open their hearts, families, and homes to vulnerable children and youth.

4) California recognizes the numerous individuals and public and private organizations that work to ensure that the needs of children and youth living in, and leaving, foster care are met, that help provide foster and former foster children and youth with vital connections to their siblings, and that help launch young people into successful adulthood.

5) California is engaged in continuum of care reform, which is a comprehensive approach to improving the experience and outcomes of children and youth in foster care by improving assessments of children and families to make more informed and appropriate initial placement decisions, emphasizing home-based family care placements of children, appropriately supporting these placements with needed services, creating short-term residential therapeutic programs for youth whose needs cannot be met safely in families, and increasing transparency and accountability for child outcomes.

This resolution declares the month of May 2021 as Foster Care Month.

**Related/Prior Legislation**

ACR 90 (Cooley, Resolution Chapter 124, Statutes of 2019) declared the month of May 2019 as Foster Care Month.

SCR 137 (Lara, Resolution Chapter 78, Statutes of 2018) recognized the month of May 2018 as Foster Care Month.

ACR 237 (Cooley, Resolution Chapter 100, Statutes of 2018) declared the month of May 2018 as Foster Care Month.

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

**SUPPORT:** (Verified 6/2/21)

None received

**OPPOSITION:** (Verified 6/2/21)

None received

Prepared by: Karen Chow / SFA / (916) 651-1520
6/2/21 16:04:25

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

**SENATE RULES COMMITTEE** ACR 86
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 86
Author: Gipson (D), et al.
Introduced: 5/19/21
Vote: 21

ASSEMBLY FLOOR: 75-0, 6/2/21 (Consent) - See last page for vote

**SUBJECT:** California Fishing and Boating Week

**SOURCE:** Author

**DIGEST:** This resolution proclaims the week of June 5, 2021, through June 13, 2021, as California Fishing and Boating Week.

**ANALYSIS:** This resolution makes the following legislative findings:

1) National Fishing and Boating Week, June 5, 2021, through June 13, 2021, is a fantastic opportunity for families to spend time together on the water; it is a special week, filled with events nationwide that provide families an opportunity to reconnect, create new memories, and have fun together on the water.

2) Fishing and boating are cherished American traditions, activities that promote family values and unity, as well as wholesome recreation and outdoor lifestyles.

3) Anglers and boaters are stewards of the environment, contributing $1.6 billion in excise taxes annually to the federal Sport Fish Restoration and Boating Trust Fund, which funds habitat conservation and restoration efforts, preserving our natural resources for future generations.

4) Recreational boating is vital to the California economy, with an annual impact of $13 billion, including 41,125 jobs, 2,820 businesses, and 745,641 registered boats.

5) Recreational boating and angling has seen a resurgence of interest during the COVID-19 pandemic as families and individuals look for safe and responsible recreational outdoor activities.

This resolution proclaims the week of June 5, 2021, through June 13, 2021, as California Fishing and Boating Week.

**Related/Prior Legislation**

ACR 81 (Gipson, Resolution Chapter 85, Statutes of 2019) proclaimed the week of June 1 through June 9, 2019, as California Fishing and Boating Week.

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

**SUPPORT:** (Verified 6/16/21)

None received

**OPPOSITION:** (Verified 6/16/21)

None received

ASSEMBLY FLOOR: 75-0, 6/2/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood
NO VOTE RECORDED: Bigelow, Lorena Gonzalez, Mullin, Rendon

Prepared by: Karen Chow / SFA / (916) 651-1520
6/16/21 14:54:18

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

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



THIRD READING

Bill No: ACR 87
Author: Gipson (D), et al.
Introduced: 5/20/21
Vote: 21

ASSEMBLY FLOOR: Read and adopted, 6/3/21

**SUBJECT:** National Gun Violence Awareness Day

**SOURCE:** Author

**DIGEST:** This resolution proclaims June 4, 2021, as National Gun Violence Awareness Day and encourages all citizens to support their communities' efforts to prevent the tragic effects of gun violence and to honor and value human lives.

**ANALYSIS:** This resolution makes the following legislative findings:

1) Every day, more than 100 Americans are killed by gun violence alongside more than 230 who are shot and wounded, and on average there are more than 14,000 gun homicides every year. Americans are 25 times more likely to die by gun homicide than people in other high-income countries.

2) California has the 45th highest rate of gun deaths in the United States, with over 3,000 gun deaths every year, a rate of 7.6 deaths per 100,000 people.

3) Gun violence prevention is more important than ever as the COVID-19 pandemic continues to exacerbate gun violence after more than a year of increased gun sales, increased calls to suicide and domestic violence hotlines, and an increase in city gun violence.

4) In January 2013, 15-year-old Hadiya Pendleton was tragically shot and killed, and on June 4, 2021, to recognize the 24th birthday of Hadiya Pendleton, people across the United States will recognize National Gun Violence Awareness Day and wear orange in tribute to Hadiya, other victims of gun violence, and their loved ones.

5) The idea was inspired by a group of Hadiya's friends, who asked their classmates to commemorate her life by wearing orange because hunters wear orange to announce themselves to other hunters when out in the woods and orange is a color that symbolizes the value of human life.

6) By wearing orange on June 4, 2021, Americans will raise awareness about gun violence and honor the lives of gun violence victims and survivors.

This resolution:

1) Declares the first Friday in June, June 4, 2021, to be National Gun Violence Awareness Day.

2) States that the Legislature renews their commitment to reduce gun violence and pledges to do all that can be done to keep firearms out of the wrong hands and to encourage responsible gun ownership to help keep our children safe.

3) Encourages all citizens to support their communities' efforts to prevent the tragic effects of gun violence and to honor and value human lives.

**Comments**

According to the author,

> ACR 87 seeks to proclaim Friday, June 4, 2021 as National Gun Violence Awareness Day. The intent of this effort is raise awareness about an issue that many communities collectively share in California and across the [United States] Prevention is more important than ever, as gun violence issues have been exacerbated by the COVID-19 pandemic. And while Americans are 25 times more likely to die by gun homicide than people in other high-income countries, Black and Latino/Latina communities have borne the heaviest burden of gun violence in cities for years. I cannot describe to you the feeling I get in the pit of my stomach when I hear that another one of my friends or family members was shot and killed, and it is important that strides continue with a goal that, one day, no one will have to deal with such tragic news ever again.

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

**SUPPORT:** (Verified 6/14/21)

None received

**OPPOSITION:** (Verified 6/14/21)

None received

Prepared by: Jonas Austin / SFA / (916) 651-1520
6/16/21 14:54:19

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

**SENATE RULES COMMITTEE** ACR 90
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 90
Author: Mathis (R), et al.
Amended: 6/17/21 in Senate
Vote: 21

ASSEMBLY FLOOR: 73-0, 6/10/21 (Consent) - See last page for vote

**SUBJECT:** USS Liberty Remembrance Day

**SOURCE:** Author

**DIGEST:** This resolution proclaims June 8, 2021, as USS Liberty Remembrance Day.

**ANALYSIS:** This resolution makes the following legislative findings:

1) The USS Liberty was a United States Navy technical research ship, known colloquially as a "spy ship," that was attacked by Israeli Air Force jet fighter aircraft and Israeli Navy motor torpedo boats on June 8, 1967, in international waters north of the Sinai Peninsula during the Six-Day War.

2) Despite the United States' declaration of neutrality during the Six-Day War, the USS Liberty was subject to the attack as a result of Israeli armed forces' error in designating the ship as an enemy vessel.

3) In the days preceding the start of the Six-Day War, the USS Liberty was ordered to travel east across the Mediterranean Sea to perform a signals intelligence collection mission in international waters off the coast of Sinai, Egypt.

4) As the war unfolded, several instances of miscommunication, confusion, and misidentification among American and Israeli forces culminated in the mistaken attack on the USS Liberty.

5) Although significant controversy and disputes continue to obscure the motives of the attack on the USS Liberty, the heroism and bravery of all those aboard the ship must not be forgotten.

This resolution proclaims June 8, 2021, as USS Liberty Remembrance Day.

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

**SUPPORT:** (Verified 6/21/21)

None received

**OPPOSITION:** (Verified 6/21/21)

None received

ASSEMBLY FLOOR: 73-0, 6/10/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Chen, Davies, Flora, Lee, Quirk-Silva, Ramos

Prepared by: Karen Chow / SFA / (916) 651-1520
6/23/21 15:17:22

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

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THIRD READING

Bill No: AJR 2
Author: O'Donnell (D), et al.
Introduced: 12/7/20
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 7-0, 6/14/21
AYES: Allen, Bates, Dahle, Gonzalez, Skinner, Stern, Wieckowski

ASSEMBLY FLOOR: 75-0, 4/29/21 - See last page for vote

**SUBJECT:** Coastal and marine waters: Santa Catalina Island: dichloro-diphenyl-trichloroethane

**SOURCE:** Author

**DIGEST:** This resolution requests that the Congress of the United States and the United States Environmental Protection Agency (US EPA) take all measures necessary to prevent further damage to California's citizens, wildlife, and natural resources by the dichloro-diphenyl-trichloroethane (DDT) waste dumped in the waters near Santa Catalina Island.

**ANALYSIS:**

Existing federal law:

1) Prohibits, under the Marine Protection, Research, and Sanctuaries Act (MPRSA, also known as the Ocean Dumping Act), the dumping of material into the ocean that would unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities. (16 United States Code (U.S.C.) §1431 et seq. and 33 U.S.C. §1401 et seq.)

2) Provides, under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA, also known as the federal Superfund law), the US EPA with authority over the remediation of uncontrolled or abandoned

hazardous-waste sites as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment. (42 U.S.C. §9601 et seq.)

Existing state law, under the Marine Life Protection Act, directs the state to redesign California's system of marine protected areas (MPAs) to function as a network in order to: increase coherence and effectiveness in protecting the state's marine life and habitats, marine ecosystems, and marine natural heritage, as well as to improve recreational, educational and study opportunities provided by marine ecosystems subject to minimal human disturbance. (Fish and Game Code (FGC) §2850 et seq.)

This resolution:

1) Recognizes that California's coastal waters are precious resources and their conservation is essential to the preservation of marine wildlife and the state's ocean economy and that Santa Catalina Island is a key part of Southern California's ocean tourism economy.

2) Finds that, despite protections provided by the federal Marine Protection, Research, and Sanctuaries Act of 1972, the dumping of hazardous material in ocean waters before the implementation of that act continues to threaten the health of California’s citizens and wildlife.

3) States that the rediscovered DDT waste dumping site off the north coast of Santa Catalina Island represents a significant threat to the health of marine life in those waters, animals dependent on the food chain on that marine life, as well as to the ecosystems on and around Santa Catalina Island and the economy of the Island and California.

4) Declares that it is incumbent upon both state and federal government to ensure that natural resources are protected for future generations and from further damage by past ecological mistakes.

5) Resolves, on behalf of the Senate and the Assembly of the State of California, jointly, that the Legislature requests that the Congress of the United States and US EPA take all measures necessary to prevent further damage to California’s citizens, wildlife, and natural resources by the DDT waste dumped in the waters near Santa Catalina Island.

6) Resolves that the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, to the Majority Leader of the United

States Senate, to each Senator and Representative from California in the Congress of the United States, and to the author for appropriate distribution.

**Background**

1) *DDT.* Dichloro-diphenyl-trichloroethane, commonly known as DDT, is a colorless, tasteless, and almost odorless insecticide that was in use in the United States from the 1940's until it was banned in 1972. The US EPA issued a cancellation order for DDT based on its adverse impacts to the environment, such as those to wildlife, as well as its potential impacts to human health.

   DDT is a bioaccumulating chemical, meaning that it is stored in the fatty tissue of animals, and concentrations increase farther up the food chain. It is toxic to fish and aquatic invertebrates and threatens the reproduction of predatory birds by causing eggshell thinning and is considered a major factor in the decline of several bird species, including the bald eagle. Human health effects of DDT at low levels in the environment are unknown according to the Centers for Disease Control and Prevention (CDC), however DDT is listed as a possible human carcinogen. A growing number of studies have also linked it to endocrine disrupting effects like increased incidences of obesity and early onset of menstruation.

   During its more than 30 years of use, an estimated 675,000 tons of DDT were applied domestically. DDT is persistent in the environment, absorbing into soils and sediments. In aquatic environments it has a half-life of 150 years, meaning that it will take hundreds of years to break down fully and remains a relevant environmental and health concern today.

2) *Santa Catalina Island*. Santa Catalina Island is a 75 square mile island home to over 4,000 people located off the coast of Southern California, 29 miles southwest of Long Beach. It is known for its ocean tourism, drawing more than one million people per year and generating over $160 million in economic activity, as of 2016. The Island and its surrounding waters provide habitats for a variety of marine creatures, including mantis shrimp, horn and leopard sharks, moray eels, and several species of sea birds. Most of the island is managed by the Catalina Island Conservancy, a private nonprofit focused on conservation, education, and recreation, responsible for stewarding 88% of the land and 62 miles of shoreline on the island.

3) *A Legacy of DDT Dumping off the Southern California Coast*. The Montrose Chemical Corporation, formerly located in Torrance, California, was the largest producer of DDT in the United States from 1947 until it stopped production in

1982. Even though DDT was banned for use in the United States after 1972, production continued in order to export DDT to other countries. Between the late 1950s and the early 1970s, the company was responsible for discharging an estimated 870-1450 tons of DDT into the ocean via the county's sewer system, which contaminated sediment on the ocean floor off the coast of Los Angeles on the Palos Verdes Shelf.

In 2011 and 2013, 60 sunken barrels of DDT were discovered by University of California Santa Barbara researchers 3,000 feet deep on the ocean floor between the California Coast and the North Coast of Santa Catalina Island. Since then, a team of scientists have detected more than 27,000 barrels over a 56 square mile area, with potentially hundreds of thousands more still to be discovered. Shipping logs from Montrose confirmed that thousands of barrels of acid waste from the DDT manufacturing process were transported monthly and discarded in the sea, with some dumped considerably closer to the coast than the designated deep sea site. Many of the barrels were also punctured to ensure that they would sink.

a) *Government Action.* The former Montrose Chemical site was designated Superfund site by the US EPA in 1989. Both the United States and California filed lawsuits against Montrose Chemical and three other companies and by 2000, the companies settled for a total of up to $140 million to fund restoration of the Palos Verdes Shelf Marine Environment.

   In a letter to the agency penned on March 12, California Senator Dianne Feinstein requested that the US EPA "prioritize urgent and meaningful action to remediate this serious threat to human and environmental health."

b) *A Lasting Impact*. The DDT from the barrels have leaked over time and concentrations around the barrels have been measured to be up to 40 times higher than those at the Superfund site. Since 1985, fish consumption advisories and health warnings have been posted in Southern California because of elevated levels of DDT and other contaminants. Until as recently as 2007, bald eagles on Santa Catalina Island were unable to reproduce. Marine mammals in the area have some of the highest concentrations of DDT in the world and California sea lions have also experienced high rates of cancer as a result of DDT exposure.

**Comments**

1) *Purpose of Bill.* According to the author, “California’s coastal and marine waters are among the state’s most precious resources and their conservation is

essential to the preservation of both marine wildlife and California's thriving ocean economy. While numerous actions have been taken to limit the dumping of hazardous waste in the waters off the California coast, waste sites created prior to modern environmental protections continue to pose a threat to oceanic wildlife and human health. The recently rediscovered DDT waste dumping site near Santa Catalina Island has likely done significant damage to our ocean's ecosystem and will continue to do so unless further action is taken. AJR 2 calls upon the Environmental Protection Agency and the United States Congress to take the necessary actions to protect our environment and the public health."

2) *Further Investigation*. While elevated levels of DDT have been detected near some of the barrels, additional testing and exploration is needed to understand the extensiveness of the dumping grounds and to verify the contents and origin of the barrels. Shipping logs show that multiple industrial companies in southern California used the basin as a dumping ground until 1972 when the Ocean Dumping Act was enacted.

**Related/Prior Legislation**

AB 78 (O'Donnell, 2021) expands the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy to include the Dominguez Channel watershed and Santa Catalina Island. AB 78 is pending in the Senate Natural Resources and Water Committee.

AB 1511 (Bloom, 2019) would have replaced the State Water Resources Control Board with the State Coastal Conservancy as the state agency that provides administrative services for the Santa Monica Bay Restoration Commission (Commission) and would have established the purposes of the Commission to promote, support, and achieve the restoration and enhancement of the Santa Monica Bay and its watershed. AB 1511 was vetoed by the Governor.

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

**SUPPORT:** (Verified 6/14/21)

City of Rancho Palos Verdes
Los Angeles County Board of Supervisors

**OPPOSITION:** (Verified 6/14/21)

None received

ASSEMBLY FLOOR: 75-0, 4/29/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Jones-Sawyer, Kiley, Luz Rivas

Prepared by: Rylie Ellison / E.Q. / (916) 651-4108
6/16/21 16:04:46

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

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THIRD READING

Bill No: AJR 4
Author: Cristina Garcia (D), et al.
Introduced: 1/12/21
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-0, 6/14/21
AYES: Allen, Gonzalez, Skinner, Stern, Wieckowski
NO VOTE RECORDED: Bates, Dahle

ASSEMBLY FLOOR: 60-0, 4/5/21 - See last page for vote

**SUBJECT:** Basel Convention: ratification

**SOURCE:** Author

**DIGEST:** This resolution urges the United States' ratification of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel Convention) at the earliest opportunity and requests that the Biden Administration accomplish the ratification as a matter of urgency.

**ANALYSIS:** Existing law establishes, under the Integrated Waste Management Act of 1989 (IWMA), a state recycling goal of 75% of solid waste generated to be diverted from landfill disposal through source reduction, recycling, and composting by 2020. Requires each state agency and each large state facility to divert at least 50% of all solid waste through source reduction, recycling, and composting activities. (Public Resources Code § 41780.01, 42921, 42924.5)

This resolution:

1) Acknowledges that the United States is one of the few countries that has failed to ratify the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, which protects developing countries from the dumping of wastes from rich industrialized countries.

2) Emphasizes the importance of doing so now that China banned the import of plastic waste and the Basel Convention was amended to include mixed and contaminated plastic waste.

3) States that California, which leads the nation in exports of plastic wastes to developing countries, does not wish to be a part of the problem and must avoid being complicit in trafficking of plastic waste.

4) Asserts that California and the United States should prevent the use of single-use plastics and better recycle their own plastic waste and create sustainable industries and jobs.

5) Resolves that the State Assembly and Senate supports the goals of the Basel Convention and is in favor of the United Sates' ratification of the Basel Convention as a matter of urgency.

**Background**

1) *The Basel Convention*. The Basel Convention is an international treaty, opened for signature in 1989, which limits the international transfer of hazardous waste in response to the discovery that toxic wastes were being exported to less developed countries. For the 188 parties of the Convention (to which the United States and Haiti are the sole absentees), there are obligations to, among other specifications, prohibit both the import and export of hazardous waste without prior informed consent, to reduce and appropriately dispose domestic hazardous waste, to consider and appropriately enforce non-compliant hazardous waste trafficking as illegal, and to make other efforts to ensure waste is disposed only in environmentally sound ways.

   In May of 2019, it was amended to include most plastic scrap (i.e., recycled plastic) destined for recycling or disposal beginning January 1, 2021. The specific types of plastic material covered by the amendment are: plastic scrap and waste that is contaminated (e.g., with food residue or other non-hazardous waste); plastic scrap and waste mixed with other types of scrap and waste; and, plastic scrap and waste containing halogenated polymers; mixed plastic scrap and waste, with the exception of shipments consisting of polyethylene (PE), polypropylene, and polyethylene terephthalate (PET) that meet specified criteria. Generally, plastic scrap that is “almost exclusively” limited to one polymer or resin type, as specified, are not subject to the Basel Convention.

Although the United States signed the treaty in 1989, the necessary legislative actions needed to ratify the Convention were never taken.

2) *California's Waste Problem.* For three decades, the Department of Resources Recycling and Recovery (CalRecycle) has been tasked with reducing disposal of municipal solid waste and promoting recycling in California through IWMA. Under IWMA, the state established a statewide 75% source reduction, recycling, and composting goal by 2020 and over the years the Legislature has enacted various laws relating to increasing the amount of waste that is diverted from landfills. According to the latest *State of Disposal and Recycling* report for 2019 published by CalRecycle, of the 77.5 million tons of waste produced in California, almost half was sent to landfill, meaning that California did not meet its 2020 goal. Approximately 37% was recycled or diverted, down from a peak of 50% in 2014 as recycling markets have been diminished. Despite that, seaborne exports of recyclable materials were still the largest destination for statewide recycling. Currently, recycling infrastructure for plastics is severely lacking in California and in the United States in general. The only types of plastic that are consistently recycled are beverage containers and other PET and HDPE (high-density polyethylene) bottles and jugs.

3) *Recycling Market Challenges*. One major driver of recycling efforts is the broader market for recyclable materials. In order for material to be recycled and not end up in a landfill, either domestically or abroad, or in the environment, the cost of processing and using the recycled material must be less than that of virgin material. Prices for materials can fluctuate wildly over both the short term and the long term, leading to instability in recycling markets.

   Historically the United States, including California, has exported most of its recycling. The Basel Convention Amendment follows several years of increasing efforts to manage the flood of plastic waste exported from countries like the United States. China, a Basel Convention member and historically the largest importer of recycled plastic, enacted Operation Green Fence in 2013, under which it increased inspections of imported bales of recyclables and returned bales that did not meet specified requirements at the exporters' expense. In 2017, China established Operation National Sword, which included additional inspections of imported recycled materials and a filing with the World Trade Organization indicating its intent to ban the import of 24 types of scrap, including mixed paper and paperboard, PET, PE, polyvinyl chloride, and polystyrene beginning January 1, 2018. In November 2017, China announced that imports of recycled materials that are not banned would be required to

include no more than 0.5% contamination. In January 2019, China announced that it would be expanding its ban even further – to encompass 32 types of scraps for recycling and reuse, including post-consumer plastics such as shampoo and soda bottles.

Following China's actions, other Southeast Asian countries have enacted policies limiting or banning the importation of recycled materials, primarily plastic and mixed paper. Last year, Malaysia and Vietnam implemented import restrictions. Last year, India also announced that it would ban scrap plastic imports. Thailand has announced a ban that will go into effect this year. These policies create serious challenges for recyclers. Recycling requires markets for recycled materials to create new products and close the loop.

4) *The Impacts of Exporting Plastic Waste.* The Center for International Environmental Law published several reports on the negative impacts of plastics on the environment, climate, and human health. While there are impacts throughout the lifecycle of plastics, the end-of-life impacts of disposal disproportionately affect the countries where a large fraction of the world's plastic waste is exported, primarily in Asia. Waste management techniques, including incineration, co-incineration, gasification, and pyrolysis result in the release of toxic metals and compounds into the air, water, and soil and exposure to these chemicals in nearby communities. Incineration is also more common in less developed countries, which leads to greater emissions of greenhouse gases and toxic fumes. Plastics that aren't burned or recycled get broken down over time into fragments and microplastics, which end up in the environment and in the food chain when they are ingested by fish and animals. Other chemicals additives can leach out as well, which may be harmful to humans and other organisms.

A significant fraction of plastic waste ends up in the environment, primarily in the ocean. Plastics are estimated to comprise 60-80% of all marine debris and 90% of all floating debris. According to the California Coastal Commission, the primary source of marine debris is urban runoff (i.e., litter). By 2050, by weight there will be more plastic than fish in the ocean if we keep producing (and failing to properly manage) plastics at predicted rates, according to *The New Plastics Economy: Rethinking the Future of Plastics*, a January 2016 report by the World Economic Forum.

**Comments**

1) *Purpose of Resolution.* According to the author, "Right now, floating in the Pacific Ocean is a patch of plastic trash twice the size of the state of Texas. The effects of that plastic patch negatively impact ocean life and island and mainland communities from Japan, to the Philippines, to Australia, to Peru, to the United States–no one is spared. That's the chilling reality of the state of plastics management on our planet. Ratifying the Basel Agreement will show the United States takes responsibility for our role in this crisis and that we are willing to work toward solutions."

**Related/Prior Legislation**

SB 54 (Allen, 2021) prohibits producers of single-use, disposable packaging or single-use, disposal food service ware producers from offering for sale, selling, distributing, or importing in or into the state those products manufactured after January 1, 2032, unless it is recyclable or compostable. SB 54 has been moved to the Senate Inactive File.

SR 47 (Wieckowski, 2019) stated how California's efforts to achieve solid waste reduction goals may be advanced by the United States ratifying the Basel Convention, and resolved that the State Senate urge the United States Congress to take the needed actions to ratify the Convention. SR 47 was adopted by the Senate and enrolled on July 8, 2019, with the Secretary of Senate.

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

**SUPPORT:** (Verified 6/14/21)

350 Bay Area Action
350 Silicon Valley
7th Generation Advisors
Active San Gabriel Valley
Alliance of Mission-based Recyclers
American Chemistry Council
Ban SUP (Single Use Plastic)
Beyond Plastics
Breast Cancer Prevention Partners
California Product Stewardship Council
California Public Interest Research Group
Californians Against Waste

Center for Biological Diversity
Center for Oceanic Awareness, Research, & Education
Chicago Recycling Coalition
City of Sunnyvale
Clean Water Action
Colorado Medical Waste, Inc.
Container Recycling Institute
Contra Costa County
Detroiters Working for Environmental Justice
Ecology Center, Berkeley
Elders Climate Action, NorCal and SoCal Chapters
Environment California
Environmental Working Group
Full Circle Environmental
Heal the Bay
Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force
Marin Sanitary Service
Merced County Regional Waste Management Authority
Ming's Resource East Bay Corp
Monterey Bay Aquarium Foundation
National Stewardship Action Council
Natracare
Northern California Recycling Association
Plastic Oceans International
Plastic Pollution Coalition
PreZero US, Inc.
Resource Recovery Coalition of California
RethinkWaste
Santa Barbara Standing Rock Coalition
Save Our Shores
Save the Albatross Coalition
Sea Hugger
Southwest Detroit Environmental Vision
StopWaste
Surfrider Foundation
The 5 Gyres Institute
The Last Plastic Straw
The Nature Conservancy
Tomra Systems ASA

Tri-CED Community Recycling
Upcyclers Network
Upstream
Wishtoyo Chumash Foundation
Zanker Recycling
Zero Waste Capital District
Zero Waste Sonoma
Zero Waste Strategies LLC
Zero Waste USA

**OPPOSITION:** (Verified 6/14/21)

None received

ASSEMBLY FLOOR: 60-0, 4/5/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Cooley, Cooper, Cunningham, Davies, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, O'Donnell, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Voepel, Ward, Wood, Rendon
NO VOTE RECORDED: Bigelow, Choi, Megan Dahle, Daly, Flora, Fong, Gallagher, Grayson, Kiley, Lackey, Mullin, Nguyen, Patterson, Petrie-Norris, Seyarto, Smith, Waldron, Wicks

Prepared by: Rylie Ellison / E.Q. / (916) 651-4108
6/16/21 14:52:10

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

**SENATE RULES COMMITTEE** AJR 14
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AJR 14
Author: Boerner Horvath (D), et al.
Introduced: 4/22/21
Vote: 21

ASSEMBLY FLOOR: 69-0, 6/14/21 - See last page for vote

**SUBJECT:** Title IX: 49th anniversary

**SOURCE:** Author

**DIGEST:** This resolution commemorates the 49th anniversary of the enactment of Title IX and urges Californians to continue to work together to achieve the goals set by Title IX.

**ANALYSIS:** This resolution makes the following legislative findings:

1) Title IX of the Education Amendments of 1972 is a federal law that specifically states that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.

2) All public and private elementary schools and secondary schools, school districts, colleges, and universities receiving any federal funding must comply with Title IX.

3) Title IX requires equal access in recruitment, admissions, counseling, financial assistance, discipline, employment, and athletics; protection from sex-based harassment; and equitable treatment of pregnant and parenting students.

4) Prior to the enactment of Title IX, many women and girls faced discrimination and limited opportunities in athletics, academics, and extracurricular activities.

5) Discrimination on the basis of sex can include sexual harassment or sexual violence, including rape, sexual assault, sexual battery, and sexual coercion.

6) Title IX has been used as a basis in a number of complaints alleging sexual violence on college campuses, as sexual violence interferes with a student's right to receive education free from discrimination.

7) California colleges and universities are currently under investigation by the United States Department of Education for their handling of sexual violence cases.

8) Title IX, which governs educational equity generally, is widely known for ensuring equal access to women and girl athletes.

9) Nearly all of the members of the United States Women's National Soccer Team, which is ranked #1 in the world and continues to make our nation proud, played collegiate level soccer and had Title IX protections.

10) As of 2017, the girls' high school athletics participation rate is greater than 10 times what it was when Title IX passed, an increase of more than 1,000%.

11) Title IX regulations require that pregnant and parenting students have equal access to schools and activities, and that all separate programs for pregnant or parenting students be completely voluntary.

12) Title IX has been the basis for California laws that protect graduate students from discrimination on the basis of pregnancy in research projects in California universities, laws requiring affirmative consent, and laws requiring lactation accommodations in California schools.

13) The educational equity guaranteed in Title IX does not solely apply to women. It protects everyone from sex-based discrimination, regardless of real or perceived sex, gender identity, or gender expression.

14) Although Title IX has increased opportunities for girls and women in academics, sports, and other educational activities, it has not yet achieved the goal of full equality.

This resolution commemorates the 49th anniversary of the enactment of Title IX and urges Californians to continue to work together to achieve the goals set by Title IX.

**Comments**

According to the author, “In the 49 years since Title IX became law, women and young girls have been able to thrive in an educational environment by having equal

access to higher education and athletic opportunities. For decades, this law has taken down barriers and has allowed countless women and young girls to succeed in areas once considered beyond their reach. While there is still more work to be done, it is important to recognize and celebrate the profound victory for equality that we have achieved so far since the passage of Title IX. AJR 14 gives Title IX the recognition that it deserves, and urges us to continue the fight for equality."

**Related/Prior Legislation**

SR 40 (Leyva, 2021) commemorates, on June 23, 2021, the 49th anniversary of Title IX, and commends the national movement toward increased equality and fair treatment of all students. The resolution was adopted by a vote of 39-0.

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

**SUPPORT:** (Verified 6/23/21)

None received

**OPPOSITION:** (Verified 6/23/21)

None received

ASSEMBLY FLOOR: 69-0, 6/14/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Cooley, Cooper, Cunningham, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Choi, Megan Dahle, Gallagher, Kiley, O'Donnell, Patterson, Seyarto, Smith, Voepel

Prepared by: Jonas Austin / SFA / (916) 651-1520
6/23/21 15:17:23

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