

2019-20 SESSION

**SENATE
THIRD READING PACKET**

MONDAY, JUNE 29, 2020



JONAS AUSTIN
Director

OFFICE OF SENATE FLOOR ANALYSES
651-1520

SENATE THIRD READING PACKET

Attached are analyses of bills on the Daily File for Monday, June 29, 2020.

<u>Note</u>	<u>Measure</u>	<u>Author</u>	<u>Location</u>
	SB 417	Portantino	Unfinished Business
	SB 1383	Jackson	Senate Bills - Third Reading File
	SCR 59	Umberg	Senate Bills - Third Reading File
	SCR 61	Skinner	Senate Bills - Third Reading File
	AB 77	Committee on Budget	Assembly Bills - Third Reading File
RA	AB 240	Irwin	Assembly Bills - Third Reading File
+	AB 740	Burke	Assembly Bills - Third Reading File
	AB 1007	Jones-Sawyer	Assembly Bills - Third Reading File
	AB 1185	McCarty	Assembly Bills - Third Reading File
	AB 1561	Cristina Garcia	Assembly Bills - Third Reading File
+	AB 1652	Wicks	Assembly Bills - Third Reading File
	ACA 14	Gonzalez	Assembly Bills - Third Reading File
	ACR 115	Kamlager	Assembly Bills - Third Reading File

+ ADDS

RA Revised Analysis

* Analysis pending

UNFINISHED BUSINESS

Bill No: SB 417
Author: Portantino (D)
Amended: 5/26/20
Vote: 27 - Urgency

SENATE APPROPRIATIONS COMMITTEE: 5-2, 1/21/20
AYES: Portantino, Bradford, Durazo, Hill, Wieckowski
NOES: Bates, Jones

SENATE FLOOR: 29-5, 1/27/20
AYES: Allen, Archuleta, Atkins, Beall, Bradford, Caballero, Dodd, Durazo,
Galgiani, Lena Gonzalez, Hertzberg, Hill, Hueso, Hurtado, Jackson, Leyva,
McGuire, Mitchell, Monning, Moorlach, Pan, Portantino, Roth, Rubio, Skinner,
Stern, Umberg, Wieckowski, Wiener
NOES: Bates, Dahle, Jones, Morrell, Nielsen
NO VOTE RECORDED: Borgeas, Chang, Glazer, Grove, Wilk

ASSEMBLY FLOOR: 75-0, 6/15/20 - See last page for vote

SUBJECT: California Victim Compensation Board: claim

SOURCE: Author

DIGEST: This bill appropriates \$5,087,040 to the Executive Officer of the California Victims Compensation Board (Board) for the payment of specified erroneous conviction claims.

Assembly Amendments increase the appropriation amount to \$5,087,040 for the payment of six additional erroneous conviction claims approved by the Board.

ANALYSIS: 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.

This bill appropriates General Fund revenues to the Board for the payment of the following erroneous conviction claims:

- 1) *Moonshadow Naomi Taggart, \$136,780.* On April 11, 2014, the Kern County District Attorney (DA) charged Moonshadow Naomi Taggart with two counts related to the possession of methamphetamine, and alleged that she had served prior prison terms for possession of a controlled substance, for car theft, and for possession of a controlled substance for sale. Following her guilty plea, the trial court sentenced her to a four-year split sentence, with one year to be served in the Kern County Jail, and the remainder on mandatory supervision, but she was released from jail shortly after sentencing.

On September 10, 2014, Taggart was arrested and charged with possession of a stolen vehicle. After entering a guilty plea to buying and receiving a stolen vehicle, and admitting to two prison priors, she was sentenced to two years in prison. On March 31, 2015, Taggart was granted early release, conditioned upon her promise not to leave Kern County without permission from the Kern County Board of Parole. A parole officer made two attempts to contact Taggart at her residence of record without success, and on June 26, 2015, a warrant was issued for her arrest.

On August 17, 2015, Taggart was arrested out-of-state and transported to California, and the Kern County DA charged her with escape from the Kern County Sheriff's Parole Program while also alleging the initial prison priors. A jury convicted Taggart of escape and the trial court imposed an aggregate term of five years (three years for escape, plus two years for the two prison priors). The court also imposed a consecutive term of two years and eight months related to the previous case of possession of a stolen vehicle, as well as a concurrent term of four years for the previous case of drug possession. Taggart's total sentence was seven years and eight months.

Taggart appealed the escape conviction, claiming insufficient evidence, and she was discharged to post-release community supervision during the pendency of the appeal. She had been continuously confined for 977 days since the escape arrest. On January 23, 2019, the appellate court reversed Taggart's escape conviction, finding that sheriff's parole did not constitute "lawful custody" because she was only minimally constrained and not deprived of physical freedom as she was not confined to a residence or specific facility.

Accordingly, there was no custody from which she could escape. The appellate court did, however, find that Taggart's departure from Kern County constituted a parole violation for the other two cases, for which she may be returned to

custody to serve the remainder of those sentences. At the resentencing, the trial court imposed a four-year sentence for possessing a stolen vehicle and a concurrent four year sentence for drug possession, but deemed both sentences were already served in full as Taggart had accrued a total of 2,367 days credit, and terminated her post-release community supervision.

On June 28, 2019, Taggart applied to the Board seeking compensation for erroneous conviction related to the escape charge. The Attorney General (AG) responded and agreed that she was actually innocent of the escape conviction and entitled to \$136,780 for 977 days of imprisonment. The Board's Hearing Officer agreed that Taggart was actually innocent of escape, but recommended compensation for 449 days of incarceration because she had served 528 days for her valid convictions of drug possession and possession of a stolen vehicle. At the Board's meeting to consider the proposed decision, the AG opposed the reduction in compensation because the trial court would not have resentenced her to prison for the two valid convictions if she had not been erroneously convicted of escape. The Board ultimately agreed with the AG and determined, based on a preponderance of evidence, that Taggart's erroneous incarceration included the concurrent period she served for the valid convictions, and recommended compensation in the amount of \$136,780 for all 977 days of her incarceration.

- 2) *Lionel Omar Rubalcava, finding of factual innocence, \$874,440.* Lionel Omar Rubalcava was convicted for attempted murder and spent over 17 years in prison. On November 18, 2019, Rubalcava was declared factually innocent.

On April 2, 2002, Raymond Rodriguez was shot in a drive-by shooting in the city of San Jose. Rodriguez's brother was with him at the time of the shooting. Both Rodriguez, who survived the shooting, and his brother claim to have seen, at the time of the shooting, a small portion of the shooter's face through an open portion of a tinted window, though neither said they recognized the shooter. Soon after the shooting, police located the burned out remains of the shooter's vehicle. Two days after the shooting, an incident occurred in which Rubalcava appeared in his car in front of Rodriguez's house. Subsequently, police showed Rodriguez, who was recovering in hospital, a picture of Rubalcava, whom Rodriguez identified as the shooter, as did his brother.

Rubalcava was soon thereafter arrested for attempted murder and tried for the crime in the Santa Clara County Superior Court. There was no physical evidence linking Rubalcava to the crime, and Rubalcava presented compelling evidence of an alibi at the time of the shooting. Nonetheless, after a short trial,

the jury convicted Rubalcava of attempted murder. On January 23, 2006, the Court of Appeal confirmed Rubalcava's conviction.

On October 15, 2018, with the assistance of the Northern California Innocence Project (Innocence Project), Rubalcava filed a petition with the Santa Clara County Superior Court to have his conviction vacated. The petition included a statement from Rodriguez indicating he was uncertain about his identification of Rubalcava as the person who shot him. As a consequence, the Santa Clara County District Attorney conducted an investigation with the Innocence Project. The investigation revealed that, since being shot, Rodriguez had made considerable changes to his life. He was no longer addicted to drugs and he was no longer affiliated with a street gang. Rodriguez also admitted to investigators he was never entirely sure of his identification of Rubalcava as the person who shot him. Though Rodriguez's brother continued to identify Rubalcava as the person who shot his brother, the district attorney lost confidence in Rubalcava's conviction. On March 18, the district attorney joined Rubalcava's petition of the court to vacate his conviction.

On April 24, 2019, the Santa Clara Superior Court granted Rubalcava's petition and vacated the entire judgement against him. Rubalcava was released from prison on May 15, 2019, after serving 6,246 days imprisoned for a crime he did not commit. Rubalcava's entire term of imprisonment was solely attributable to the wrongful conviction.

On January 2, 2020, the Board granted Rubalcava's application for compensation for wrongful conviction and found that he is factually innocent. The Board concluded Rubalcava is entitled to \$874,440, or \$140 for each day of erroneous incarceration.

- 3) *Ruben Martinez, finding of factual innocence, \$635,600.* Starting in 2005 through 2007, an auto body shop in Los Angeles was robbed on five separate occasions, at gunpoint, purportedly by the same male perpetrator. The robber forcibly took money from the business safe and from customers and employees. The only physical evidence of the robberies was a palm print left during the first robbery, which occurred on December 25, 2005.

On June 1, 2007, Martinez was charged in Los Angeles County Superior Court with nine counts of second-degree robbery while armed with a firearm, each count associated with the five robberies of the auto body shop. Martinez's palm print did not match the palm print left at the scene of the first robbery. In addition, Martinez insisted upon his innocence of all of the robberies and presented alibi evidence from his wife, brother-in-law and two work supervisors

contending Martinez had been at work on the occasion of two of the robberies. The only evidence presented against Martinez was eyewitness identification of Martinez as the robber by five employees and customers of the body shop. A jury in Martinez's first trial did not reach a verdict; however, a second jury convicted him to a sentence of 47 years and 8 months.

Martinez requested the Los Angeles District Attorney's Office (LA DA) consider his case for factual evidence. The subsequent LA DA investigation uncovered additional alibi evidence that "unmistakably" demonstrated Martinez was working at a site remote from the body shop at the time of two of the robberies. Because the LA DA believed the same perpetrator "clearly" committed all five of the robberies, the LA DA lost confidence in all of Martinez's robbery convictions. On November 5, 2019, the LA DA motioned in Los Angeles Superior Court for the overturn of Martinez's conviction, at which point Martinez was released from prison on his own recognizance. Two days later, the LA DA moved to vacate Martinez's robbery convictions, dismiss with prejudice the underlying case and issue a factual finding of innocence. On November 12, 2019, the court ordered vacated all nine convictions, dismissed the entire case with prejudice in the interest of justice and expressly found "the defendant to be factually innocent" in each of all nine charges.

On January 15, 2020, Martinez submitted an application with the Board for compensation as an erroneously convicted person. On January 24, 2020, the Board granted Martinez's application for compensation, in amount of \$635,600, for his 4,540 days of erroneous incarceration.

- 4) *Michelle Marie Poulos, finding of factual innocence, \$60,340.* On June 28, 2001, Poulos pleaded guilty to a single count of criminal threats against June Patti, who was Poulos' former romantic partner. Patti was the only witness to the threats Poulos was to have made against her. In exchange for her plea, Poulos received a suspended two-year prison sentence and was placed on three-year probation.

A year later, Poulos admitted violating the terms of her probation for felony possession of methamphetamine in the Los Angeles County Superior Court. On September 19, 2002, the trial imposed the previously suspended two-year prison sentence for criminal threats against Patti and a concurrent term of two years for methamphetamine possession.

Poulos was released from prison on September 25, 2003 after having served 431 days, consisting of 59 days pre-sentencing and 372 days post-sentencing, as well as 372 concurrent days for methamphetamine possession.

Thirteen years later, on January 23, 2017, the Los Angeles Superior Court granted Poulos' motion to vacate and dismiss her criminal threat conviction, for which prosecution had "lost trust in the witness Patti." The court found Patti had "lied and fabricated information," which resulted in harm to Poulos. Prior to the motion to vacate Poulos' conviction, in 2014, the court found another individual, Susan Mellen, had been erroneously convicted for murder based on Patti's false testimony.

Poulos then challenged her conviction for methamphetamine possession, reasoning that she would have been ordered to participate in a drug rehabilitation program, not prison, were it not for her erroneous criminal threat conviction. Poulos noted she completed a drug treatment program while in prison. While the Los Angeles County Superior Court initially denied Poulos' motion, upon remand, the court, on May 24, 2019, granted the motion to vacate the conviction for methamphetamine possession in the interest of justice. The court chose not to find Poulos' factually innocent of methamphetamine possession.

As the court weighed her motion for relief from the methamphetamine conviction, Poulos submitted an application to the Board on January 17, 2019, for compensation for erroneous incarceration. At that time, the law required an application for compensation for erroneous incarceration be submitted within two years of acquittal, pardon or release from custody. However, legislation took effect on January 2, 2020, while Poulos' case was stayed, that expanded the deadline for submitting application to 10 years following dismissal of charges. (See SB 269 (Bradford), Chapter 473, Statutes of 2019.) In light of this change in the law, the Board deemed her application timely and requested a response letter from the Attorney General. On February 28, 2020, the Attorney General concluded Poulos was entitled to a recommendation for compensation for erroneous incarceration. On March 23, 2020, the Board granted Poulos' application for compensation, in the amount of \$60,340, for 431 days of erroneous incarceration.

- 5) *Lawrence M. Martin, finding of factual innocence, \$1,015,980.* On September 18, 1997, Martin was arrested by San Jose State University Police Officer Stoker for possession of a knife and a usable amount of marijuana. Martin was released from custody prior to November 4, 1997, awaiting trial. On May 11, 1998, a jury in Santa Clara County convicted Martin of possession of a concealed "dirk or dagger" and of less than 28.5 grams of marijuana. On May 12, 1998, the court found that a) Martin had four prior serious and violent felony convictions within the meaning of California's "Three Strikes Law" and

b) Martin had served three prior prison terms. On August 11, 1998, the court sentenced Martin to 25 years to life for possession of a concealed dirk or dagger with serious or violent felonies within the meaning of the Three Strikes Law and a consecutive term of three years for the prior prison terms.

Between his arrest and conviction, Martin was arrested on November 4, 1997, for tampering with a vehicle and again, on January 16, 1998. He was charged and convicted of a misdemeanor on May 12, 1998 and sentenced to 90 days concurrent with his sentence described above. On January 16, 1998, Martin was convicted of misdemeanor possession of controlled paraphernalia, for which he was sentenced to one day in county jail.

On December 15, 2017, The Santa Clara County Superior Court vacated Martin's conviction for possession of a dirk or dagger because, in fact, Martin was in possession of a common pocket knife. On December 18, Martin submitted a claim with the Board requesting compensation for erroneous conviction. The Attorney General, on February 14, 2020, declared Martin to be factually innocent and conceded Martin is entitled to compensation for wrongful conviction for the crime of possessing a dirk or dagger. On March 18, 2020, VCB granted Martin's claim for compensation, awarding him \$1,015,980 for 7,257 days of wrongful incarceration. The compensation does not include time Martin served for the crimes of tampering with a vehicle and possession of a controlled substance.

- 6) *Ricky Leo Davis, finding of factual innocence, \$490,280.* In 1985, Ricky Leo Davis was convicted and sentenced for the brutal murder of Jane Hylton in 1985. Hylton, along with her 13-year-old daughter, Angela, had moved back into Hylton's mother's house, following Hylton's separation from her husband. Also living in the house were Davis, at the time 20 years old, and his girlfriend, Constance Dahl.

Late on the night of July 6, Davis, Dahl, and Hylton's daughter Angela entered Hylton's mother's home together. Davis and Dahl reported they had returned from a party, while Angela maintained she had been out with three teenaged boys. Davis, Dahl and Angela entered the home and, together, found Hylton's body. Hylton had been stabbed to death, and also had a bite mark on her left shoulder.

Police investigated Hylton's murder. Davis insisted he and Dahl were at the party until 3:00 a.m. Since the police were unable to identify the teens whom Angela said she had been with, and DNA testing technology was not yet available, the case went cold.

Seventeen years later, in 2002, police subjected Dahl to repeated interrogation, and he eventually confessed she bit Hylton while Hylton and Davis fought. Davis was charged with Hylton's murder in El Dorado County Superior Court. On August 17, 2005, a jury found Davis guilty of murder. He was sentenced to 16 years to life in prison. Because he was at that time serving a federal sentence for a bank robbery, Davis began his sentence for Hylton's murder on July 14, 2008. While in prison, Davis was convicted for assault of another inmate and sentenced to a two-year term to run consecutive with his sentence for murder.

In 2012, El Dorado County Superior Court appointed the Northern California Innocence Project to investigate Davis' conviction and to file a motion for post-conviction DNA testing. The El Dorado District Attorney's Office agreed to testing. The DNA test revealed the presence of the same DNA in the bite mark on Hylton's shoulder and the DNA under her fingernails. Crucially, that DNA did not match Davis' DNA. Subsequently, investigators matched the DNA from Hylton's body with one of three formerly teenage boys who had been with Angela the night of the murder. One of those individuals, now a man in his fifties, became a suspect in the murder case.

On February 13, 2020, the El Dorado County District Attorney moved to dismiss the murder charge against Davis, reporting Dahl's confession was not trustworthy, since unequivocal DNA evidence demonstrated Davis innocence. Davis was immediately released from custody.

On March 30, 2020, Davis submitted an application for compensation for erroneous incarceration. On April 27, 2020, the Board granted Davis \$490,280 for 3,502, the number of days he spent incarcerated erroneously.

- 7) *Samuel Bonner, finding of factual innocence, \$1,873,620.* Samuel Bonner was incarcerated for over 36 years for a conviction of first-degree murder and robbery. On February 10, 2020, he was declared factually innocent of both charges.

On November 11, 1982, Bonner drove Watson Allison to Leonard Polk's residence, at 850 Orizaba Avenue. Polk was observed by witnesses, including a Long Beach Police Officer, speaking with Allison alongside Bonner's car. Bonner was never seen exiting in the vehicle. Witnesses saw Bonner's vehicle drive away, but shortly thereafter, neighbors and the police officers saw Allison make several trips from Polk's apartment, carrying Polk's television, stereo speakers and a large duffel bag, and placing the items in Polk's vehicle. The police officer saw Allison enter Polk's vehicle alone, and drive off in it.

Soon after, Polk's neighbors entered Polk's apartment and found him dead from a gunshot wound. Officers issued a search for Bonner's vehicle and found it that evening parked near Allison's home. On November 12, 1982, police arrested Bonner and searched his person, his vehicle and his home, but found none of Polk's property. During questioning, Bonner was not forthright with Allison's name and whereabouts, or his own whereabouts on the night of Polk's murder, and he was subsequently released.

On November 22, 1983, officers found Polk's property in Allison's garage. Officers found a partial palm print on a piece of Polk's stereo equipment, and located an automobile fuse on Bonner's person similar to one found in the street in front of Polk's residence. The fuse was next to a footprint and a cloth speaker cover from one Polk's stolen speakers. Officers arrested Bonner on November 22, 1982. He and Allison were each charged with two counts: one count of first-degree murder with a special circumstance, robbery, and the special allegation of personal use of a handgun in commission of the murder, and count two, robbery.

Bonner and Allison were tried separately. Evidence presented against Bonner included testimony of a "jailhouse informant" who stated that Bonner confessed to shooting Polk, and the partial palm print and automobile fuse indicating that Bonner was at the scene of the crime.

The jury found Bonner guilty of murder in the first degree with the special circumstance of robbery, and of robbery, but not of the special allegation, personal use of a handgun in the commission of a murder. On December 5, 1983, the court sentenced Bonner to 25 years to life without the possibility of parole.

Years later, Bonner filed a petition to vacate his murder conviction and to consider charging him with new counts based on a change in the felony murder law. The court vacated Bonner's convictions and chose not to resentence him, because: (1) the jury found Bonner was not the killer; (2) Bonner's conviction was based upon the theory of felony murder, and statute regarding felony murder had changed since Bonner's conviction; and (3) the prosecution did not turn over exculpatory evidence to Bonner, including the informant's full criminal record and evidence that the informant committed perjury.

Bonner was released on July 11, 2019. On April 24, 2020, the Board granted Bonner's application for compensation for erroneous incarceration and awarded him \$1,873,620 as compensation for his 13,383 days incarcerated.

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 (Senate 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.

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 Assembly Appropriations Committee:

- One-time General Fund appropriation to the Board in the amount of \$5,087,040 in 2020-21 for the payment of seven specified erroneous conviction claims.

SUPPORT: (Verified 6/17/20)

None received

OPPOSITION: (Verified 6/17/20)

None received

ASSEMBLY FLOOR: 75-0, 6/15/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Limón, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Obernolte, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Chen, Diep, Gray, Mathis

Prepared by: Mark McKenzie / APPR. / (916) 651-4101
6/17/20 16:55:02

**** END ****

THIRD READING

Bill No: SB 1383
Author: Jackson (D), et al.
Amended: 6/23/20
Vote: 21

PRIOR VOTES NOT RELEVANT

SENATE BUDGET & FISCAL REVIEW COMMITTEE: 10-8, 6/24/20
AYES: Mitchell, Beall, Durazo, Leyva, McGuire, Monning, Pan, Skinner, Stern,
Wieckowski
NOES: Nielsen, Caballero, Dahle, Hurtado, Melendez, Moorlach, Morrell, Roth

SUBJECT: Unlawful employment practice: family leave.

SOURCE: Author

DIGEST: This bill makes statutory changes to the California Family Rights Act, New Parent Leave Act, and Pregnancy Disability Leave.

ANALYSIS:

Existing law:

California Family Rights Act (CFRA)

- 1) Entitles, pursuant to the CFRA and the federal Family and Medical Leave Act (FMLA), required to be taken concurrently, eligible employees of covered employers *with 50 or more employees*, if the employee worked 1,250 hours in the prior 12 months, to:
 - a) Take up to *12 workweeks of unpaid, job-protected leave* during a 12-month period for specified family care and medical leave reasons.
 - b) Guaranteed reinstatement to the same or comparable position, as specified.

- c) Continued group health coverage during the duration of the leave.
(Government Code §12945.2)
- 2) Defines “family care and medical leave” as any of the following:
 - a) Leave for reason of the birth of a child of the employee, the placement of a child with an employee in connection with the adoption or foster care of the child by the employee, or the serious health condition of a child of the employee.
 - b) Leave to care for a seriously ill parent or spouse.
 - c) Leave because of an employee’s own serious health condition.
 - 3) Defines “child” as a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis who is either under 18 years of age or an adult dependent child.
 - 4) Defines “parent” as a biological, foster, or adoptive parent, a stepparent, a legal guardian, or other person who stood in loco parentis to the employee when the employee was a child.
 - 5) Stipulates that eligible employees must have at least 12 months of service with the employer, and at least 1,250 hours of service during those 12 months, to qualify for family care and medical leave under CFRA.
 - 6) Specifies that in any case in which both parents entitled to leave under CFRA are employed by the same employer, the employer shall not be required to grant leave in connection with the birth, adoption, or foster care of a child that would allow the parents family care and medical leave totaling more than the 12 workweeks. [Government Code §12945.2(q)]

New Parent Leave Act

- 7) Establishes the New Parent Leave Act which prohibits an employer with *20 or more employees* in a 75-mile radius to refuse to grant an employee request to take up to *12 weeks of unpaid leave to bond* with a new child within one year of the birth, adoption, or foster care placement of the child if the employee worked 1,250 hours in the prior 12 months. (Government Code §12945.6)
- 8) Requires the employer to provide a guarantee of employment in the same or comparable position upon return, as specified, and requires that the employer

maintain and pay for continued group health coverage for employees during the duration of the parental leave.

- 9) Specifies that in any case in which both parents entitled to leave are employed by the same employer, the employer is not required to grant leave allowing leave that totals more than the 12 weeks. The employer may, but is not required to, grant simultaneous leave to both employees.
- 10) Specifies that the New Parent Leave does not apply to an employee who is subject to both CFRA and FMLA (applicable to employers of 50 or more employees).

Paid Family Leave

- 11) Establishes the State Disability Insurance (SDI) program as a partial wage-replacement plan funded through employee payroll deductions that is available [through the Disability Insurance and PFL programs] to eligible individuals who are unable to work due to sickness or injury of the employee (including pregnancy), the sickness or injury of a family member, or the birth, adoption, or foster care placement of a new child.
- 12) States that PFL provides eligible employees with *up to six weeks of wage replacement benefits* to take time off work to care for a seriously ill child, spouse, parent, grandparent, grandchild, sibling, or domestic partner, to bond with a minor child within one year of the birth or placement of the child in connection with foster care or adoption, or (beginning on January 1, 2021) to participate in a qualifying exigency related to the covered active duty or call to covered active duty of the individual's spouse, domestic partner, child, or parent in the Armed Forces of the United States. (Unemployment Insurance Code §3301)

Effective July 1, 2020, PFL wage replacement benefits will increase from six weeks to eight weeks for all bonding and care-giving claims.

- 13) States that PFL provides wage replacement equal to one-seventh of the employee's weekly benefit amount for each full day during which the individual is unable to work, a wage replacement of approximately 60-70 percent depending on income. (Unemployment Insurance Codes §2655 and §3301)

- 14) States that PFL does not provide job protection or return to work rights *nor* does it require employers to provide continued health coverage during the leave.

Pregnancy Disability Leave

- 15) States that Pregnancy Disability Leave (PDL), under the Fair Employment and Housing Act, requires private employers with *five or more employees* and public employers to provide *up to four months of unpaid, job-protected leave* for pregnancy, childbirth or related conditions. (Government Code §12945)
 - a) Employees may use accrued vacation and paid sick leave during PDL.
 - b) Employees are entitled to reasonable accommodations and reinstatement to the job held before PDL began.
 - c) Employers are required to continue the employee's health coverage.

This bill makes the following changes to existing law, and will be effective on January 1, 2021:

California Family Rights Act (CFRA) Provisions

- 1) Expands the scope of the CFRA to prohibit employers with *one or more employees* to refuse to grant an employee request to take up to 12 weeks of unpaid leave for family care and medical leave if the employee had 180 days of service with the employer.
- 2) Expands the definition of “family care and medical leave” to include:
 - a) Leave to care for a grandparent, grandchild, sibling, or domestic partner who has a serious health condition.
 - b) Leave because of a qualifying exigency related to the covered active duty or call to covered active duty of an employee's spouse, domestic partner, child, or parent in the Armed Forces of the United States, as specified.
- 3) Expands the definition of “child” under CFRA to include a child of a domestic partner, or a person to whom the employee stands in loco parentis, however, eliminates the requirement that the child be under the age of 18 years of age or an adult dependent child.

- 4) Provides definitions for “sibling,” “parent-in-law,” “grandchild,” and “grandparent.”
- 5) Deletes from existing law a provision specifying that, if both parents are employed by the same employer and are entitled to leave, the employer is not required to grant leave in connection with the birth, adoption, or foster care of a child that would allow the parents leave to be greater than 12 weeks.
- 6) Deletes from existing law a provision that authorizes an employer to refuse reinstatement of an employee returning from leave to the same or comparable positions under specified conditions. This change thereby entitles an employee guaranteed reinstatement to the same or comparable position.

New Parent Leave Act

- 7) Repeals the entire provisions of the New Parent Leave Act enacted in 2017.

Pregnancy Disability Leave Provisions

- 8) Expands the scope of PDL to require employers with *one or more employees* to allow an employee disabled by pregnancy, childbirth or a related medical condition to take leave, to maintain and pay for health plan when the employee takes leave, and to provide reasonable accommodations.

Comments

As noted above, California has several medical leaves under which an employee may be able to take time off work to care for their personal illness, that of specified family members or for bonding with a new child. Below is a brief summary of some and their eligibility requirements.

	CFRA/FMLA (Job Protected)	PFL (No Job Protection)	PDL (Job Protected)	NPL (Job Protected)
Employers Covered	50 or more employees in 75 mile radius of worksite	One or more (employee pays, employee gets)	Five or more employees	20 or more employees
Employee Eligibility	Worked 1,250 hours in prior 12 months	Once employee earns \$300 in base period for fund contribution	Immediate as necessary	Worked 1,250 in prior 12 months
Reason for Leave	Employee serious health condition; seriously ill family member care; bond with newborn or newly placed adopted or foster child	Care for seriously ill family member; bond with a child within 1 year of birth, foster care or adoption placement; or participate in qualifying active duty exigency	Disability due to pregnancy, childbirth or related medical condition	Bond with a child w/in 1 year of birth, adoption or foster care placement
Length of Leave	12 weeks in 12-month period	6 weeks in 12-month period	Up to 4 months	Up to 12 weeks
Paid or Unpaid	Unpaid, may run concurrent with other paid leave	Partial wage replacement	Unpaid, may run concurrent with SDI for partial wage replacement	Unpaid, employee can use vacation, paid sick time
Continued Health Coverage	Yes	No	Yes	Yes

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

SUPPORT: (Verified 6/23/20)

None received

OPPOSITION: (Verified 6/23/20)

None received

Prepared by: Anita Lee / B. & F.R. / 916-651-4103
6/25/20 1:08:59

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

THIRD READING

Bill No: SCR 59
Author: Umberg (D), et al.
Amended: 6/12/20
Vote: 21

SUBJECT: Veterans of the Republic of Vietnam Armed Forces Day

SOURCE: Author

DIGEST: This resolution proclaim June 19, 2020, as Veterans of the Republic of Vietnam Armed Forces Day.

Senate Floor Amendments of 6/12/20 add a coauthor and make other technical and clarifying changes to the resolution.

ANALYSIS: This resolution makes the following legislative findings:

- 1) The Republic of Vietnam Military Forces, or South Vietnamese Armed Forces, were formally established on December 30, 1955, by Ngo Dinh Diem, the first President of South Vietnam.
- 2) 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.
- 3) 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.
- 4) 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.

- 5) After the Fall of Saigon on April 30, 1975, more than 250,000 members of the South Vietnamese Armed Forces were sent to prison camps, where many spent 18 years or more in captivity and more than 20,000 died before they were released.
- 6) The end of the Vietnam War left the South Vietnamese Armed Forces in disarray. Many military personnel and their family members fled Vietnam to escape tyrannical authoritarian rule and oppression, 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.
- 7) These veterans were fighting side by side with American soldiers against a common enemy and risked their lives to save many American lives. All veterans who risked their lives fighting for freedom should be honored for their distinguished service in the Vietnam War and for the contributions they provide to the United States as American citizens, and it is the intent of the State of California to honor the sacrifices, commitment, dedication, and courage of everyone who fought for the freedom of the Republic of Vietnam.

This resolution recognizes June 19, 2020, 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.

Related/Prior Legislation

SCR 86 (Nguyen, Resolution Chapter 127, Statutes of 2018) proclaimed June 19, 2018, as Veterans of the Republic of Vietnam Armed Forces Day.

SCR 61 (Nguyen, Resolution Chapter 98, Statutes of 2017) proclaimed June 19, 2017, as Veterans of the Republic of Vietnam Armed Forces Day.

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

SUPPORT: (Verified 6/12/20)

None received

OPPOSITION: (Verified 6/12/20)

None received

Prepared by: Karen Chow / SFA / (916) 651-1520
6/17/20 16:55:03

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

THIRD READING

Bill No: SCR 61
Author: Skinner (D), et al.
Amended: 1/8/20
Vote: 21

SUBJECT: Sister state relationships with Ethiopian regional states

SOURCE: EDGET at Silicon Valley

DIGEST: This resolution extends to the people of the regional states of Amhara, Oromia, Somali, the Southern Nations, Nationalities, and Peoples' Region, and Tigray an invitation to join with California in sister state relationships.

Senate Floor Amendments of 1/8/20 add a legislative finding to the resolution relating to the award of a Nobel Peace Prize to Prime Minister Abiy Ahmed Ali.

ANALYSIS: This resolution makes the following legislative findings:

- 1) The Ethiopian Embassy to the United States in Washington D.C. and the Ethiopian Consulate General in Los Angeles, which covers the western half of the United States, including California, as its consular district, have expressed interest in the creation of sister state relationships between the State of California and the Ethiopian regional states of Amhara, Oromia, Somali, the Southern Nations, Nationalities, and Peoples' Region, and Tigray.
- 2) Diplomatic relations between the United States and Ethiopia, dating back over a century to 1903, have grown from mere state-to-state relations to people-to-people relations with the presence of large Ethiopian diaspora communities in the United States, including in California.
- 3) The economic, political, and cultural relations between Ethiopia and the United States, driven by the excellent friendly relations between the two countries and the people-to-people relationships that continue to grow in leaps and bounds, need further consolidation through local government relationships in both countries.

- 4) California is one of the largest hosts of Ethiopian diaspora communities that can bridge and further consolidate the economic, political, and cultural relations between California and the aforementioned five Ethiopian regional states, particularly the regional state of the Southern Nations, Nationalities, and Peoples' Region and the regional state of Tigray.
- 5) The sister state relationships between California and key Ethiopian regional states will foster commerce, tourism, environmental protection and sustainable development, technological and educational advancement, and cultural and people-to-people relations that are the bedrock of the spirit of entrepreneurship and development of the two friendly nations.

This resolution extends to the people of the regional states of Amhara, Oromia, Somali, the Southern Nations, Nationalities, and Peoples' Region, and Tigray an invitation to join with California in sister state relationships in order to promote and assure mutually beneficial educational, economic, environmental, scientific, and cultural exchanges that will lead to a closer relationship between Californians and the citizens of these five key Ethiopian regional states.

Related/Prior Legislation

SR 90 (Pan, 2018) encouraged efforts to establish a sister state relationship between California and Baden-Württemberg. The resolution was adopted by the Senate.

SCR 3 (Lara, 2017-18) would have extended, on behalf of the people of the state, an invitation to the people of Cambodia to join California in a sister-state relationship. The resolution died on the Senate Inactive File.

SCR 81 (Lara, Resolution Chapter 185, Statutes of 2017) invited the State of Nayarit, Mexico, to join California in a sister state relationship.

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

SUPPORT: (Verified 1/9/20)

EDGET at Silicon Valley (source)
California Black Agriculture Working Group

OPPOSITION: (Verified 1/9/20)

None received

ARGUMENTS IN SUPPORT: The sponsor of this resolution, EDGET at Silicon Valley, writes, “SCR 61 recognizes the historical, cultural, and diplomatic relations between the United States and Ethiopia, especially the presence of large Ethiopian diaspora communities in California. SCR 61 will create sister state relationships between California and key regional states, fostering collaboration in tourism, commerce, environmental protection and sustainable development, deeper cultural relations, and technological protection and sustainable development.”

Prepared by: Karen Chow / SFA / (916) 651-1520
1/10/20 10:22:06

**** END ****

THIRD READING

Bill No: AB 77
Author: Committee on Budget
Amended: 6/23/20 in Senate
Vote: 21

PRIOR VOTES NOT RELEVANT

SENATE BUDGET & FISCAL REVIEW COMMITTEE: 13-5, 6/24/20
AYES: Mitchell, Beall, Caballero, Durazo, Hurtado, Leyva, McGuire, Monning,
Pan, Roth, Skinner, Stern, Wieckowski
NOES: Nielsen, Dahle, Melendez, Moorlach, Morrell

SUBJECT: Education finance: education omnibus budget trailer bill

SOURCE: Author

DIGEST: This bill provides for statutory changes necessary to enact the K-12 statutory provisions of the Budget Act of 2020.

ANALYSIS: This bill, as part of the 2020-21 Budget package, makes statutory changes to implement the 2020-21 Budget Act. Specifically, this bill:

K-12 Education

- 1) Extends the deadline for the Department of Education to develop a standardized English language teacher observation protocol for use by teachers in evaluating a pupil's English language proficiency from June 30, 2020, to December 31, 2021.
- 2) Amends various sections of Education Code to specify that amounts calculated for the Local Control Funding Formula and specified other calculations are considered final as of the certification of the second principal apportionment after five years.
- 3) Defers a total of \$11 billion in principal apportionment payments to local educational agencies (LEAs) from the 2020-21 fiscal year to the 2021-22

fiscal year in the amounts of \$1.5 billion from February to November of 2021, \$2.4 billion from March to October of 2021, \$2.4 billion from April to September of 2021, \$2.4 billion from May to August of 2021, and \$2.4 billion from June to July of 2021. This bill also defers \$1.9 billion in principal apportionment payments to LEAs from June 2020 to July 2021. If, pursuant to Control Section 8.28 of the Budget Act of 2020, the Director of Finance determines that there are sufficient federal funds provided to the state for the 2020-21 fiscal year that may be used to offset the deferral amounts, the Director of Finance shall reduce the deferral amounts starting with the deferrals occurring earliest in the 2020-21 fiscal year.

- 4) Allows for up to \$100 million in each of February, March, April, May, and June of 2020-21 of the warrants to be deferred in each of these months to instead be drawn in the month they were scheduled to be paid originally for LEAs that meet specified fiscal hardship exemption requirements.
- 5) Reverts \$300 million in available unspent funds from the full-day kindergarten facilities grant program to the General Fund, make future allocations from the program contingent upon appropriation by the legislature, and make other technical amendments.
- 6) Allows school districts to deposit proceeds from the sale or lease of surplus property into the general fund of the school district for one-time general fund purposes with specified conditions through the 2023-24 fiscal year.
- 7) Eliminates the requirement for the approval by the State Board of Education for school district joint occupancy agreements.
- 8) Limits appeals to the State Board of Education regarding school district territory transfers by prohibiting appeals when a county committee on school district reorganization disapproves a territory transfer.
- 9) Extends deadlines for local education agencies to provide for an audit, and for the related oversight and reporting requirements.
- 10) Suspends the statutory split of Proposition 98 funding between K-12 education and California Community Colleges in the 2020-21 fiscal year.
- 11) Provides a new multi-year payment obligation designed to supplement funding provided by Proposition 98. This new obligation would designate 1.5 percent of General Fund Revenues per year to K-14 education beginning in 2021-22 to provide \$12.4 billion over a multi-year period. This funding would accelerate the recovery of the Proposition 98 Guarantee from reductions due

to the impact of COVID-19 and increase the Proposition 98 share of General Fund from 38 to 40 percent in a Test 1 year by 2023-24.

- 12) Extends the timeline for the Fiscal Crisis and Management Assistance Team to complete the required written status report for school districts who have received emergency loans from every six months, to an annual report. This bill makes technical amendments to the process by which school district budgets are reviewed and technical clean-up to update the activities of the Fiscal Crisis and Management Assistance Team in statute with actual practice. This bill also makes technical amendments to the process for audit exceptions for local educational agencies.
- 13) Exempts specified employees of the Fiscal Crisis Management and Assistance Team and the California School Information Services, from the merit system.
- 14) Amends provisions of AB 1505 (O'Donnell, Chapter 486, Statutes of 2019) and provisions of AB 1507 (Smith, Chapter 487, Statutes of 2019), relating to charter schools to specify how fiscal apportionments are made to charter schools that were required to make changes under those statutes. This bill also includes clarifying amendments to grandfather in existing charter schools operated by or located on tribal land from AB 1507 location requirements.
- 15) Allows school districts, for the 2020-21 and 2021-22 fiscal years if the state enacts deferrals of payments owed to school districts, to use inter-fund borrowing of up to 85 percent between funds for payment of obligations to help mitigate any necessary cash deferrals related to the economic impacts of the COVID-19 pandemic. Districts exercising this option would be required to hold a public hearing prior to considering a resolution authorizing the temporary transfer.
- 16) Specifies the following related to instruction, attendance, and calculation of apportionments in the 2020-21 fiscal year:
 - a) A hold-harmless is provided for the purpose of calculating apportionment in the 2020-21 fiscal year; the Department of Education shall use the average daily attendance in the 2019-20 fiscal year reported from July 1, 2019, to February 29, 2020, as specified in this bill, except for new charter schools commencing instruction in 2020-21.
 - b) LEAs shall offer in-person instruction to the greatest extent possible and may offer distance learning, as defined.

- c) LEAs are required to meet instructional day requirements through a combination of in-person and distance learning instruction, however, LEAs are allowed to only meet minimum-day instructional minute requirements and are exempted from minimum instructional minute requirements for physical education.
 - d) Instructional minutes shall be determined for in-person instruction as time under the immediate physical supervision of a certificated employee of the LEA and for distance learning based on the time value of assignments as determined and certified by a certificated employee of the LEA, or a combination of both instruction types.
 - e) LEAs that offer distance learning must comply with specified requirements. Distance learning may be provided on a LEA-wide or schoolwide basis pursuant to an order or guidance from a state or local public health officer, and for pupils who are medically fragile, at-risk from in-person instruction, or quarantining due to exposure to COVID-19. Instructional requirements are defined specific to the access and content of instruction, supports for students with exceptional needs, English learner students, students in foster care, experiencing homelessness or in need of mental health supports. Daily interaction with students in distance learning is defined, and LEAs are required to provide access to nutrition programs.
 - f) For purposes of attendance, an LEA must document daily student participation, as defined, when providing distance learning, and keep weekly engagement records. LEAs shall continue to report absences, as defined, for purposes of reporting chronic absenteeism. LEAs shall developed tiered re-engagement strategies for students who do not participate, and shall regularly engage with parents or guardians regarding academic progress. Requirements shall be included in the audit guide.
 - g) Fiscal penalties are defined for LEAs that do not meet the instructional day requirements or the attendance related requirements.
 - h) Charter schools offering distance learning pursuant to this section of this bill are not required to request a material revision to the charter. Classroom based charter schools that offer distance learning pursuant to this section will not be considered a non-classroom based charter in the 2020-21 fiscal year if they provide distance learning.
- 17) Requires that, in place of the Local Control Accountability Plan previously required on December 15, 2020 pursuant to Executive Order N-56-20, an

LEA is required to adopt a Learning Continuity and Attendance Plan (2020-21 LCAP) by September 30, 2020. The local control funding formula budget overview for parents shall be required to be adopted by December 15, 2020, with the first interim budget report. In adopting the 2020-21 LCAP pursuant to this section, the governing body of the LEA shall consult with stakeholders, as specified, including the parent advisory committee and the English learner parent advisory committee, solicit stakeholder input and hold two public hearing to present the 2020-21 LCAP and for the adoption of the 2020-21 LCAP. Schools districts shall submit the 2020-21 LCAP to the county superintendent of schools, county offices of education shall submit the 2020-21 LCAP to the Superintendent of Public Instruction, and charter schools shall submit the 2020-21 LCAP to their chartering authority within five days after adoption. The County Superintendent of Schools and the Superintendent of Public Instruction may review and comment on the 2020-21 LCAPs by October 30, 2020. The template for the 2020-21 LCAP shall be developed by the Superintendent of Public Instruction, in consultation with the executive director of the State Board of Education, by August 1, 2020, that includes, but is not limited to the following:

- a) A description of how the LEA will provide continuity of learning and address the impacts of COVID-19 on pupils, staff, and the community in the following areas and the specific expenditure the LEA anticipates taking to support its ability to address the impacts of COVID-19:
 - i) Distance Learning
 - ii) Learning Loss
 - iii) Mental Health / Social Emotional Well-being of students and staff
 - iv) Professional Development
 - v) Pupil Engagement and Outreach
 - vi) School Nutrition
- b) For each area, the 2020-21 LCAP shall describe how state and federal funds (including funds provided for the Learning Loss Block Grant) are anticipated to be used to support the efforts described in the 2020-21 LCAP. If the actions and expenditures described in the 2020-21 LCAP are not included in the LEA's budget, the plan shall describe how they will be included in the first interim budget report.

- c) The 2020-21 LCAP shall also include a description of how the LEA is increasing or improving services in proportion to funds generated on the basis of the number and concentration of English learner, foster youth, and low income students pursuant to the Local Control Funding Formula, and in compliance with regulations adopted by the State Board of Education.
 - d) The 2021-22 Annual Update to the Local Control and Accountability Plan shall include the actions and expenditures included in the 2020-21 LCAP.
- 18) Specifies the amount to be withheld from the Local Control Funding Formula entitlement for a county office of education that operates a special day class or classes and does not offer the required minimum number of instructional days or instructional minutes.
 - 19) Extends by one year the deadline that requires transitional kindergarten teachers to obtain 24 units of early childhood education as part of their education requirements.
 - 20) Provides the Superintendent of Public Instruction with the authority to determine alternative criteria for students to meet the State Seal of Biliteracy requirements due to COVID-19 constraints.
 - 21) Amends requirements for the Student Performance and Stakeholder Engagement section of the Local Control and Accountability Plan template to be adopted by the State Board of Education by January 31, 2022
 - 22) Makes technical edits to the operations of the California Collaborative for stakeholder engagement.
 - 23) Extends by one year, the grant period for the Bilingual Teacher Professional Development Grant.
 - 24) Provides for various flexibilities for the Migrant Education Program. Specifically this bill suspends requirements for 2020 parent advisory council nominations and elections until September 2020, decreases the required number of regional parent advisory council meetings in 2020 from six to three meetings, decreases the required number of State Parent Advisory Council meetings in 2020 from six to three meetings, suspends the requirement that the State Superintendent of Public Instruction sponsor a biennial State Parent Advisory Council Conference in 2020, allows summer school programs to be offered through distance learning for the 2020 calendar year, waives the instructional minute requirements for summer school instruction in 2020, but

encourages local educational agencies to offer the minimum instructional minutes to the extent practicable for the 2020 calendar year.

- 25) Suspends the requirement that school districts, county offices of education, and community college districts make facilities available for Migrant Education Summer School programs in 2020 if facilities are closed due to the COVID-19 pandemic.
- 26) Provides a moratorium from establishing new single district Special Education Local Plan Areas (SELPAs) for the 2020-21 through the 2023-24 fiscal year.
- 27) Provides a two-year extension to the date by the Department of Education must develop and the date by which a SELPA must include, an annual assurances support plan in the local plan for education of all individuals with exceptional needs.
- 28) Provides for a one-year extension, to October 1, 2021, for when recommendations are provided from a workgroup related to improving the transitions of three-year olds to LEAs from regional centers, and improving access to and coordination of LEA Medi-CAL billing and other programs. This bill also requires the workgroup to provide a progress report by October 1, 2020, and extends the availability of funding for this purpose.
- 29) Creates a new special education funding formula, commencing with the 2020-21 fiscal year, that provides SELPAs with the greater of \$625 per average daily attendance or the per ADA rate the SELPA received in 2019-20, and applies COLA in future years to the statewide base rate. COLA is not provided in the 2020-21 fiscal year. This bill repeals statutes related to the current Special Education funding program, freezes funding at the 2019-20 levels for most add-on adjustments, and makes various other related technical amendments.
- 30) Extends through the 2020-21 fiscal year the existing funding allocation method for the Out-of-Home Care program for foster students with exceptional needs.
- 31) Requires an Individualized Education Plan to include a description of how services will be provided to students in an emergency situation, in the development of a new IEP or at the next regularly scheduled review of an existing IEP.
- 32) Provides a backfill for special education programs for 2020-21 to the extent that property tax revenues from Redevelopment Agency dissolution are not

sufficient to cover the appropriation in the 2020 Budget Acts for Special Education

- 33) Specifies that an LEA may claim apportionment for extended school year services for pupils with disabilities offered through distance learning in the summer of 2020 that meets specified requirements.
- 34) Expands the allowable use of Educationally-Related Mental Health Services funds to include mental health services for all students beginning in the 2020-21 fiscal year. Currently funds are restricted to education-related mental health services that are included in individualized education plans.
- 35) Extends the reporting date for Multi-tiered System of Support (SUMS Project) from June 2020 to June 30, 2021 because the project cannot collect the necessary data from participants due to COVID-19 school closures.
- 36) Prevents school districts, charter schools, and county offices of education from expending funds Proposition 98 funds for courses or instruction offered by private or public colleges or universities beyond what is required in pursuit of a high school diploma, except for courses or instruction in which students are enrolled in prior to July 1, 2020.
- 37) Removes the Academic Performance Index from the Mandate Block Grant, as it is no longer calculated.
- 38) Requires the State Controller's Office, in consultation with the Department of Finance, to develop guidance by December 31, 2020 for the allocation of K-12 Educational Revenue Anticipation Fund (ERAF) by County Auditor Controllers commencing with calculations for the 2019-20 fiscal year.
- 39) Establishes the California Newcomer Education and Well-Being (CalNEW) program to be administered by the Department of Social Services to funding to school districts to support refugee children, unaccompanied minors, and English learner students.
- 40) Includes amendments to reduce Item 6100-158-0001 of the Budget Act of 2019 (Chapter 23, 55, 80, and 363 of the Statutes of 2019) by \$9,765,000 Proposition 98 General Fund to reflect savings related to the unexpended balance of the Adults in Correctional Facilities Program.
- 41) Clarifies the provisions of Executive Order N-26-2020 and SB 117 (Committee on Budget and Fiscal Review, Chapter 3, Statutes of 2020) on July 1, 2020 and makes other technical amendments.

- 42) Includes legislative intent language to evaluate the use of police officers and other law enforcement on school campus, consider other alternatives to ensure student safety, and consider encouraging LEAs to use school resources currently allocated to law enforcement for other student support services.
- 43) Prevents school districts from terminating certificated employees from July 1, 2020, to July 1, 2021, with the exception of those employees in positions that require administrative or supervisory credentials.
- 44) Prevents the governing boards of school districts, community college districts, county offices of education, or joint powers authorities from terminating classified employees for lack of funds or lack of work if they hold classifications or are in positions in nutrition, transportation, or custodial services from July 1, 2020, to July 1, 2021. Includes legislative intent language that school districts, community college districts, joint powers authorities, and county offices of education retain all classified employees in the 2020-21 fiscal year.
- 45) Allows the Superintendent of Public Instruction to waive various requirements of the Afterschool Education and Safety program as needed to provide flexibility for the 2020-21 school year and to prorate funding rates for programs offering more than three hours a day and up to six hours a day.
- 46) Specifies the process for the state to recoup an overpayment of funds provided to the Guerneville Elementary School District through a multi-year repayment plan.
- 47) Requires the State Controller's Office to recapture Local Control Funding Formula state aid overpayments from the second principal apportionment to LEAs for deposit into the Educational Protection Account and provide the fourth quarter Educational Protection Account payment still owed to LEAs by August 15, 2020.
- 48) Waives the requirement that the Fiscal Crisis and Management Assistance Team complete a comprehensive review of Inglewood Unified School District in 2019-20 due to COVID-19 constraints.
- 49) Extends the testing window for the English Language Proficiency Assessment for California (ELPAC) into the fall of 2020 to be used for the reclassification of pupils from English learner to English proficient.
- 50) Specifies that the State Board of Education shall not publish the California School Dashboard (Dashboard) in December 2020, specifies that valid and

reliable data shall be published on the DataQuest website or through other means and specifies that LEAs identified for technical assistance or intervention pursuant to the 2019 Dashboard remain identified until the release of the 2021 Dashboard.

- 51) Allows a charter school that is scheduled to open or add a grade level for the 2020-21 school year to delay opening or adding a grade for one year without submitting a material revision to its chartering authorizer.
- 52) Appropriates \$60 million in one-time Proposition 98 General Fund for the Classified Employee Summer Assistance Program for the 2021-22 program cohort. Specifies that the remaining balance funds made available in the 2018 Budget Act for the Classified School Employee Assistance program, shall be available for purposes increasing rates for the 2020-21 cohort of program participants, as included in the April 30, 2020 notification by the Department of Education.
- 53) Appropriates \$1 million in one-time Proposition 98 General Fund for the Southern California Regional Occupational Center for instructional and operational costs.
- 54) Appropriates a total of \$5.3 billion in one-time funding (\$4.4 billion federal Coronavirus Relief Fund, \$355.2 million federal Governor's Emergency Education Relief Fund and \$540 million Proposition 98 General Fund) to address learning loss and other impacts of COVID-19. Of this total, \$1.5 billion is allocated to LEAs, with the exception of non-classroom based charter schools, on the basis of the enrollment of students with exceptional needs (ages 3-22), \$2.9 billion is allocated to LEAs, with the exception of non-classroom based charter schools, on the basis of the proportion of Supplemental and Concentration grant funding each LEA receives of the total statewide Supplemental and Concentration grant funding, and \$980 million is provided to all LEAs in proportion to the amount of Local Control Funding Formula funding each LEA receives. Federal funds must be expended within specified federal time frames and funding must be used to directly support pupil academic achievement and mitigate learning loss related to COVID-19 school closures, including academic programs, services, and supports to address learning loss, extended instructional minutes and services, additional materials, including devices or internet connectivity, and other supports related to health, mental health, professional development, and school meals among others.

- 55) Appropriates \$50 million in one-time Proposition 98 funding to the Department of Education for the Early Literacy Support Block Grant to provide grants (over a three-year period) to LEAs with the 75 schools with the highest percentage of pupils in grade three scoring at the lowest standard achievement level on the English Language Arts assessment. LEAs receiving grants shall conduct a root-cause analysis, create a literacy action plan, and provide for supplementary activities for children in grades Kindergarten through three. The Department of Education may retain \$3 million of the total for the costs of administering the program.
- 56) Appropriates \$3 million in one-time Proposition 98 funding to establish an expert lead in literacy within the statewide system of support.
- 57) Appropriates \$450,000 in one-time Proposition 98 funding to support the alignment and integration of the online platforms for the California School Dashboard, the Local Control and Accountability Plan electronic template system, and the School Accountability Report Card.
- 58) Appropriates \$45 million in one-time Federal Elementary and Secondary Schools Emergency Relief Funds for a California Community Schools Partnership Program. Grants for this program are to be awarded on a competitive basis to LEAs, including county offices of education to support and expand existing community schools. Funds are available over a four year period.
- 59) Appropriates \$112.2 million in one-time Federal Elementary and Secondary Schools Emergency Relief Funds for LEA school meal reimbursements during summer break and COVID school closures, at a rate of up to 75 cents per meal. Allows state reimbursement funds from 2019-20 to be used for disaster relief for LEAs who did or attempted to serve student meals during the school closure period.
- 60) Appropriates \$4.2 million in one-time Proposition 98 General Fund for the Standardized Account Code Structure System replacement project.
- 61) Appropriates \$750,000 in one-time Proposition 98 General Fund for the development of draft distance learning curriculum and instructional guidance in English language arts and mathematics to be developed by the Sacramento County Office of Education, to be adopted by the State Board of Education by May 31, 2021.

- 62) Appropriates \$4 million in one-time Proposition 98 General Fund create the California Dyslexia Initiative to be allocated to a county office of education to increase statewide resources for early interventions, and supports for addressing specific learning disabilities, such as dyslexia.
- 63) Includes amendments to grant local educational agencies the authority to exclude the consideration of all state pension payments on behalf of local educational agencies from general fund expenditures for the purposes of the Routine Restricted Maintenance Account calculation.
- 64) Appropriates \$200,000 in one-time General Fund to the Department of Education for a Young People's Task Force that will develop guidance to promote culturally competent interactions between young people and school resource officers on school campuses, contingent upon future legislation in the 2019-20 Regular Session.

Early Education and Development

- 65) Adds the Early Childhood Development Act to transfer all child care programs, with the exception of the California State Preschool Program from the Department of Education to the Department of Social Services, commencing July 1, 2021. Establishes the position of Deputy Director of Child Development within the Department of Social Services, to be appointed by the Governor and confirmed by the Senate. The Department of Social Services, in consultation with the Department of Education is required to provide a report detailing the transition and planning efforts by March 31, 2021 and quarterly updates from October 1, 2020, to December 31, 2024.
- 66) Amends the growth adjustment for child care programs, including state preschool, based on population growth of children ages zero to four, to be applied only when the adjustment is greater than zero.
- 67) Provides a hold harmless for child care providers operating contracts with the Department of Education (California State Preschool Programs, General Child Care Programs, Family Childcare Home Education Networks, Migrant Child Care and Development Programs, and Programs for children with Special Needs) for the 2020-21 fiscal year. Specifically, for those providers who remain open or re-open within a specified time frame, or are closed by a local or state public health order, reimbursement shall be at 100 percent of the maximum contract amount or 100 percent of enrollment, whichever is greater. This bill further requires child care programs that remain closed due to a health order to provide distance learning services.

- 68) Specifies that commencing July 1, 2020, alternative payment programs shall provide notice, including the effective date, of any changes to rates, care schedules, fees, or terminations to childcare providers on the same day a notice of action is issued to a family.
- 69) Requires alternative payment agencies to provide specified data about childcare caseload in the alternative payment program to the Department of Education on a monthly basis.
- 70) Specifies that unspent General Funds provided for the Early Learning and Care Infrastructure Grant Program and the Early Learning and Care Workforce Development Grants Program shall revert to the General Fund on June 30, 2020.
- 71) Eliminates 10,000 full-day non-LEA state preschool slots provided in the 2019 Budget Act and reverts \$31.4 million to the General Fund. This bill also decreases funding for the LEA State Preschool Program in the 2019 Budget Act by \$110.4 million Proposition 98 General Fund to reflect savings related to the unexpended program balance.
- 72) Allocates \$152.3 million Federal Trust Fund Child Care and Development Block Grant Supplemental Fund in fiscal year 2019-20 for transfer to the General Fund to offset \$152.3 million in costs associated with the states response to mitigating the COVID-19 impact on child care programs. The state costs incurred provided assistance and relief to child care providers and families in 2019-20 in immediate response to the COVID-19 pandemic as follows: \$50 million allocated for child care services provided to workers deemed essential during the response to COVID-19 and at-risk children and \$50 million to child care providers for the purposes of cleaning, sanitation, and other activities necessary to maintain or resume the operation of programs pursuant to SB 89 (Committee on Budget and Fiscal Review, Chapter 2, Statutes of 2020), and \$44.3 million (including \$3.3million for CalWORKS Stage 1 family fee suspension) for continued payments and assistance to child care providers and families as a result of decreased enrollment or closures related to COVID-19, and \$8 million to be provided for a 30-day extension of the family fee waiver for child care programs, consistent with Executive Order N-66-20.
- 73) Appropriates \$198 million Federal Trust Fund Child Care and Development Block Grant Supplemental Fund for the following:

- a) \$62.5 million to support alternative payment programs to reimburse providers at families' certified need, regardless of attendance, until June 30, 2021, or until funds are exhausted.
 - b) \$62.5 million in flat rate, per child stipends for alternative payment programs based on the number of subsidized children enrolled and the average cost of care.
 - c) \$73 million to extend child care for children of essential workers and at-risk children who received care with the \$50 million provided for care under SB 89 (Committee on Budget and Fiscal Review, Chapter 2, Statutes of 2020), for at least 90 days. Further extends any unspent funds from the \$50 million provided for care under SB 89 (Committee on Budget and Fiscal Review, Chapter 2, Statutes of 2020) for the same purpose of extending care for families. Prioritizes these children for permanent enrollment in available capacity within the alternative payment program if they meet program requirements.
- 74) Specifies that if additional federal funds are received for these purposes in the 2020-21 fiscal year, the Department of Education shall prioritize funds as follows:
- a) Up to \$100 million for alternative payment providers to extend access to child care for children of essential workers, at risk children, and other eligible children as specified, in order of priority.
 - b) Up to \$50 million to increase capacity for up to two years for general child care programs and state preschool programs.
 - c) Up to \$25 million in stipends to assist child care providers with the costs of re-opening.
 - d) Up to \$125 million in stipends to assist all subsidized child care providers.

Commission on Teacher Credentialing

- 75) Extends for one year the time of validity of exam scores used to satisfy a requirement for the issuance of a teaching credential, certificate, permit, or waiver for scores between March 19, 2020, and June 30, 2021.
- 76) Extends to 120 days the time of validity of fees submitted to the Commission on Teacher Credentialing with paper applications for teaching credentials not available for online renewal or recommendation.

77) Reduces the requirement for the field practice assignment for a pupil services credential to take place in only one school setting from March 19, 2020, to June 30, 2021, instead of two or more school settings.

78) Makes various other technical changes.

FISCAL EFFECT: Appropriation: Yes Fiscal Com.: Yes Local: Yes

According to the Senate Budget and Fiscal Review Committee, the funding related to the changes in this bill is contained in the 2020-21 Budget Act. In addition, this bill appropriates funding for K-14 education programs, totaling approximately \$5.8 billion.

SUPPORT: (Verified 6/23/20)

None received

OPPOSITION: (Verified 6/23/20)

None received

Prepared by: Elisa Wynne / B. & F.R. / 916-651-4103
6/25/20 0:46:54

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

THIRD READING

Bill No: AB 240
Author: Irwin (D), et al.
Amended: 5/26/20 in Senate
Vote: 21

SENATE VETERANS AFFAIRS COMMITTEE: 7-0, 6/11/19
AYES: Archuleta, Grove, Hurtado, Nielsen, Roth, Umberg, Wilk

SENATE GOVERNMENTAL ORG. COMMITTEE: 15-0, 7/9/19
AYES: Dodd, Wilk, Allen, Archuleta, Bradford, Chang, Galgiani, Glazer, Hill,
Hueso, Jones, Nielsen, Portantino, Rubio, Wiener
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 5/2/19 (Consent) - See last page for vote

SUBJECT: Veterans' homes: lease of property

SOURCE: Author

DIGEST: This bill limits the term of a lease of real property at a California Department of Veterans Affairs (CalVet) Veterans' Home to five years, except under specified conditions; and requires that any use of property by a third party at a Veterans' Home meet specified criteria.

Senate Floor Amendments of 5/26/20 remove the authorization for the Director of the Department of General Services (DGS), with the consent of the Secretary, to enter into leases of any real property held by the department for a home, and not needed for any immediate purpose of the home, with any party for the development of housing, including affordable or mixed-income housing.

Senate Floor Amendments of 9/3/19 remove references to "long-term care facility."

ANALYSIS:

Existing law:

- 1) Establishes the Veterans' Home of California system for the operation of Veterans' Homes at various sites throughout the state.
- 2) Sets forth the duties of the CalVet regarding the administration and regulation of Veterans' Homes.
- 3) Authorizes the Director of DGS to lease or let any real property held by the department for a home, as specified, to any entity or person upon terms and conditions determined to be in the best interests of the home.
- 4) Authorizes the Director of DGS, as specified, to let for any period of time any real property or interest in real property which belongs to the state, when the director deems the letting serves a beneficial public purpose limited to the development of housing, including emergency shelters, or park and recreation facilities

This bill:

- 1) Prohibits a lease of a real property held by CalVet for a home from exceeding a term of five years, unless:
 - a) The lessee is a town, city, county, or city and county, or a political subdivision thereof, where the home is located.
 - b) The lessee is a nonprofit organization that provides services exclusively for veterans of the Armed Forces of the United States and their families.
 - c) The contract for the lease with CalVet or DGS was executed before January 1, 2021.
- 2) Authorizes a lease that was executed before January 1, 2021, to be renegotiated, however, any terms regarding the duration of the renewal of the contract shall not be extended.
- 3) Provides that a lease contract with any other party may be granted for a term greater than five years only with the approval of the Legislature.

- 4) Requires that any use, other than an easement, of real property held by CalVet for a home by a person or entity, as specified, must meet all of the following, as determined by the secretary:
 - a) Provide substantial and direct benefits to the home and its members.
 - b) Be appropriate and compatible with the nature of the home.
 - c) Compensate CalVet in an amount that approximates fair market value, taking into consideration the value of the benefit provided to the home's members and the investment by the lessee in the property development of the home.
 - d) That where the use contemplated carries a reasonable risk of injury or loss to the state, the home, or the members of the home, the use is appropriately insured by the lessee to cover those risks and to insure home residents, the department, and the State against liability.
- 5) Requires that any use, other than an easement, of real property held by CalVet for a home by a person or entity, as specified, be governed by a written agreement between CalVet or DGS and the person or entity using the real property, as specified.
- 6) States that the act is not intended to override or interfere with Section 14671.2 of the Government Code.
- 7) Defines "Member" as a veteran or nonveteran spouse or domestic partner who has been admitted by the department to reside at a home or receives services from the department at a home.

Background

CalVet oversees eight veterans' homes across the state. The homes provide rehabilitative, residential and medical services to the veterans who reside there. Any veteran who is disabled or over 55 years of age and a resident of California is eligible to apply for admission to the homes. Each home provides different levels of care, including skilled nursing care and memory care. The homes also range in size. The Lancaster home can house 60 residents on a 20 acre site while the largest home, the Yountville home (Yountville) in Napa County, can house up to 1,000 residents on a site that covers several hundred acres.

DGS has general authority to lease state owned real property, including veterans' home properties, with the consent of the agency responsible for the property. DGS has specific authority to lease veterans' home property as long as the property is

not needed for any direct or immediate purpose and the terms and conditions of the lease are in the best interests of the home.

In January 2019, the California State Auditor released an audit of CalVet and DGS subtitled “The Departments’ Mismanagement of the Veterans Home Properties Has Not Served the Veterans’ Best Interests and Has Been Detrimental to the State.” The Auditor recommended to the legislature that “to prevent future leases of veterans home property that obligate the property to third parties for unnecessarily extended periods of time, the Legislature should amend state law to clarify that leases of veterans home property may not exceed five years unless a statutory exception applies.”

The Yountville home has entered into long-term arrangements with the County of Napa and the Town of Yountville that involve mutual provision of services, investment of public funds and operation of facilities that do provide benefits to the home and its members. Specifically, the Town of Yountville has made an investment of more than \$2 million in the update and maintenance of the pool as part of a long-term arrangement with the home that has now been rendered void because the contract was executed without the approval of DGS. In negotiation over a new lease, the Town has balked at the imposition of the five-year limit, stating that its investment and the operating deficit of the pool does not make sense for them to take on with such short terms.

Some lessees hold leases that will not expire for decades. Additionally, their terms are extremely unfavorable to the state, as the auditor has detailed. CalVet is attempting to renegotiate some of these leases, but the lessees have virtually no incentive to agree to remuneration terms more favorable to the state at the same time that they are also required to cut decades from their existing arrangements. These leases, of the museum and the golf course, for example, also involve substantial investment by the leasing parties to develop the properties they are now using. This bill will clarify the law with regard to the five-year limit, but also provide flexibility to CalVet to restructure some of its least favorable, longest-term contracts.

[NOTE: See the Senate Veterans Affairs Committee analysis for detailed background of this bill.]

Comments

According to the author, “The property upon which the Yountville Veterans Home now stands was deeded under the state under clear terms: ‘...the support, maintenance and well-being of aged and infirm United States ex-soldiers, sailors

and Marines.’ And yet repeated audits of the Yountville Home have found that it is almost inexorably put to uses that not only have nothing to do with veterans, but run counter to the interests of the home and the people who live there. By resolving the ambiguity in current law about lease terms, while also providing flexibility under specific conditions, this bill provides a better foundation for ensuring the homes are chiefly operated for the benefit of their members, as well as the communities to which these homes belong, without compromising the interests of California veterans or the well-being of the home’s members.”

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

SUPPORT: (Verified 6/2/20)

AMVETS-Department of California
California Association of County Veterans Service Officers
Military Officers Association of America

OPPOSITION: (Verified 6/2/20)

None received

ASSEMBLY FLOOR: 76-0, 5/2/19

AYES: Aguiar-Curry, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Dahle, Daly, Diep, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager-Dove, Kiley, Lackey, Levine, Limón, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Melendez, Muratsuchi, Nazarian, Obernolte, O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Arambula, Grayson, Mullin, Quirk

Prepared by: Veronica Badillo / V.A. / (916) 651-1503
6/2/20 9:09:16

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

THIRD READING

Bill No: AB 740
Author: Burke (D), et al.
Amended: 7/2/19 in Senate
Vote: 27 - Urgency

PRIOR VOTES NOT RELEVANT

SENATE INSURANCE COMMITTEE: 11-0, 7/10/19

AYES: Rubio, Jones, Archuleta, Bates, Dodd, Galgiani, Glazer, Hueso, Mitchell,
Moorlach, Roth

NO VOTE RECORDED: Borgeas, Portantino

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Property insurance: fire hazard severity zones

SOURCE: Author

DIGEST: This bill expands, significantly, the areas of the state in which insurers that voluntarily write basic property insurance may receive a credit against participation in the Fair Access to Insurance Requirements (FAIR) Plan by including areas that are designated high and very high hazard severity zones, as determined by Department of Forestry and Fire Protection (Cal Fire).

ANALYSIS:

Existing law:

- 1) Establishes the FAIR Plan, a privately organized industry placement facility and joint reinsurance association, to equitably distribute among admitted insurers the responsibility of providing basic property insurance when it cannot be obtained by California homeowners through the normal market. (Ins. Code § 10090)

- 2) Requires an insurer offering homeowner's insurance in California to be a member of the FAIR Plan. (Ins. Code § 10094)
- 3) Provides that rates for the FAIR Plan shall not be excessive, inadequate, or unfairly discriminatory, and shall be actuarially sound so that premiums are adequate to cover expected losses, expenses and taxes, and shall reflect investment income of the plan. (Ins. Code § 10100.2)
- 4) Requires insurers admitted to sell property insurance in the state to provide the FAIR Plan contact information to an applicant for insurance who is denied coverage, or a policyholder whose policy is canceled or non-renewed. (Ins. Code § 10095(h))
- 5) Requires the FAIR Plan to provide a method whereby insurers who voluntarily write basic property insurance on risks located in areas designated as “brush hazard areas” by the Insurance Services Office (ISO) will be proportionately relieved of the liability to participate in the FAIR Plan, known as the brush “write out credit.” (Ins. Code § 10094.2)
- 6) Requires the FAIR Plan to provide a method whereby insurers who voluntarily write basic property insurance on risks located in areas designated as inner-city by the commissioner will be proportionately relieved of liability to participate in the FAIR Plan. (Ins. Code § 10094.2)
- 7) Requires the Director of Cal Fire to classify lands within state responsibility areas into fire hazard severity zones, based on fuel loading, slope, fire weather, winds, and other relevant factors, and assign each zone a rating. Requires the Director to periodically review and revise the zones. (Pub. Res. Code §§ 4202-04)
- 8) Requires the Director of Cal Fire to identify areas in the state as very high fire hazard severity zones, as determined by statewide criteria that account for fuel loading, slope, fire weather, winds, among other relevant factors. (Gov. Code § 51178)

This bill creates a FAIR Plan write out credit for insurers that voluntarily write property coverage in high or very high fire hazard severity zones as determined and mapped by Cal Fire.

Background

According to the author, “AB 740 (Burke) has been amended to expand the eligible areas for write out credits within the FAIR Plan for admitted homeowner insurers. This bill will add high and very high hazard severity zones, as

determined and mapped by CAL FIRE, to the existing ISO brush hazard areas that qualify insurers for credits. The current ISO brush hazard areas are very limited and focused on more urban areas. Broadening the eligible areas to include those at greater risk for wildfire can increase the accessibility for homeowners to obtain insurance policies. The goal of AB 740 is to incentivize insurers to write policies in more high risk fire zones in an effort to increase availability of homeowners insurance in these areas.”

The Senate Committee on Insurance has been monitoring homeowners’ access to affordable coverage on the homeowners insurance market for several years. Testimony provided during informational hearings held in 2016 and early 2018 indicated that despite anecdotal evidence that consumers were having difficulty finding coverage, consumers still had access. Since then, record-breaking fires have raised further concerns about access and affordability as the 2017 and 2018 fires burned more acres, destroyed more buildings, took more lives than any before, and resulted in the first wildfire related insurer insolvency in decades.

Last year, the California Department of Insurance (CDI) warned that some insurers are withdrawing from certain markets and significantly increasing premiums in high-risk areas. Complaints on renewal issues and premium increases rose statewide from 2010 to 2016. Complaints from ZIP Codes designated by Cal Fire as having the greatest risk of wildfire made up more than 60% of these complaints, even though the population in these ZIP Codes is only 38% of the overall state population. CDI has seen and approved cases where homeowners who were paying an annual premium of \$800-\$1,000 saw increases to as high as \$2,500-\$5,000 upon renewal.

An insurer that issues coverage in a moderate risk area might only find out that the fire risk had increased significantly when a large portion of a town burns down. To help insurers keep up with the end cost effects of surprise losses, the Legislature attempted last session to decrease the amount of underinsurance in the market by mandating biennial replacement cost estimates. (AB 1797, Levine, Chapter 205, Statutes of 2018). Alternatively, insurers may build an inflation escalator into their policies. AB 1797 went into effect July 1, 2019, and the effect that this rule will have on underinsurance in California is not yet known.

FAIR, the plan of last resort. The Legislature created the FAIR Plan in 1968 following brush fires and riots in the 1960s that led many insurers to exit urban areas or neighborhoods as too risky to insure. The FAIR Plan assures that homeowners and some businesses have access to basic property insurance, and is often referred to as homeowners’ “insurer of last resort.” The FAIR Plan is not a

state agency and no taxpayer funds are involved; it is a private association comprised of all insurers licensed to write property insurance in California.

The FAIR Plan normally operates its program on its own revenues. The members share profits and losses in proportion to market share (by direct written premium) or, “participation”. In the event losses pose an existential threat to the FAIR Plan, the Plan may levy an assessment on its members, subject to commissioner approval, to allow continued operation. In this way, the FAIR Plan operates like its own guarantee association.

Write out credits. Calculation of participation rates for the current pool year is based on companies’ premiums written for the second preceding calendar year. For example, for the 2012 pool year (October 1 to September 30), the FAIR Plan will use companies’ 2010 written premiums to calculate their share of the financial results. All written premium data receive a 100% credit except homeowner’s premiums, which receives a 64% credit in order to represent only the property portion of the premiums. Insurers can reduce their participation rate by submitting brush and inner city credits. This bill allows insurers to submit credits for their premium written in Cal Fire High and Very High Fire Hazard Severity Zones.

Risk management, concentration, and consumer affordability. When an insurer receives new information that indicates a particular risk is greater than once thought (like after a wildfire or when risk maps are updated), it can request a rate increase, restrict underwriting, or both. Under California law, and in order for insurance to be fair and equitable, the rate charged must accurately reflect the risk. Insurers have claimed that rates have been suppressed due at least in part to Proposition 103, meaning restricting underwriting, or non-renewing certain customers to decrease concentration of risk, is a common tool when managing risk.

Since the market is dominated by a small number of large players, it only takes a few insurers restricting underwriting in high risk areas for the larger region to feel the ripple effects of insurers reshuffling risks. Smaller insurers offer far fewer policies, have a much smaller presence in each community, and may offer coverage when their larger counterparts refuse to issue or renew policies because they typically have less concentrated risk (the now insolvent Merced Property and Casualty Company is an obvious exception).

New FAIR Plan data suggests the Camp Fire was a wake up call to insurers about their overconcentration of risk in certain parts of the state, and has caused insurers to reassess its risk profile. This is demonstrated by a significant surge in FAIR Plan new business that is likely caused by a spike in insurer non-renewals. Notable areas of increased FAIR Plan activity include rural San Diego County and San

Bernardino County mountain communities, but the FAIR Plan has been especially active in Nevada, Placer, El Dorado, Amador, Calaveras, and Tuolumne Counties for the last seven months. According to current Cal Fire maps, large portions of these counties are in a high or very high fire risk area and would qualify insurers for a credit under this bill.

Related/Prior Legislation

AB 1875 (Wood, Chapter 629, Statutes of 2018) required CDI to develop a homeowners insurance finder tool by July 1, 2020.

SB 1302 (McGuire, Chapter 543, Statutes of 2016) required insurers admitted to sell property insurance in the state to provide the FAIR Plan Internet Web site address and statewide toll-free telephone number to an applicant for insurance who is denied coverage, or a policyholder whose policy is canceled or non-renewed; and required an insurance agent or broker transacting basic property insurance to assist a person in making an application for insurance through the FAIR Plan, another insurer offering coverage, or provide the person with the FAIR Plan Web site and phone number.

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

SUPPORT: (Verified 6/26/20)

American Property Casualty Insurance Association
California Association of Realtors
California FAIR Plan

OPPOSITION: (Verified 6/26/20)

None received

ARGUMENTS IN SUPPORT: The California FAIR Plan writes, “AB 740 is a step in the right direction in addressing the availability of homeowners’ insurance in the Wildland Urban Interface (WUI). As amended, AB 740 enlarges the areas in which admitted homeowner insurers can receive write out credit for writing coverage in a WUI. It should be noted that many states, including California, currently allow the credit approach.

“However, the areas in which California currently permits this credit are extremely limited and are ineffective for the purpose for which they were designed. We believe an expansion of the areas of the state where the credits are available will

provide needed incentive to admitted insurance carriers to write homeowners policies in broader areas as proposed in AB 740.”

Prepared by: Brian Flemmer / INS. / (916) 651-4110
6/26/20 16:13:35

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

THIRD READING

Bill No: AB 1007
Author: Jones-Sawyer (D)
Amended: 6/25/19 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 6/19/19
AYES: Hill, Jackson, Mitchell, Pan
NOES: Morrell

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/30/19
AYES: Portantino, Bradford, Durazo, Hill, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 54-18, 5/28/19 - See last page for vote

SUBJECT: State Civil Service Act: adverse action: notice

SOURCE: California Correctional Supervisors Organization, Inc.

DIGEST: This bill amends the state civil service adverse action process by requiring a state employer to provide notice of an adverse action to a state employee within one year of the discovery of the employee's alleged misconduct for the adverse action to be valid, except as specified.

ANALYSIS:

Existing law:

- 1) Defines "adverse action" for purposes of state employment as dismissal, demotion, suspension or other disciplinary action (Government Code §19570).
- 2) Authorizes an appointing power (i.e., the state employer) to take adverse action against a state employee for specified causes of discipline and establishes

administrative procedures for review of an adverse action by the State Personnel Board (GC §19571 et seq.).

- 3) Requires the state employer to serve notice of an adverse action, as specified, against a state employee for any cause for discipline within three years of the cause for discipline, i.e. from its *occurrence* not the discovery of the occurrence (GC §§19574 and 19635).
- 4) Specifies that in cases of fraud, embezzlement, or falsification of records, the state employer has three years after the *discovery* of the activity to serve notice to the state employee (GC §19635).
- 5) Provides additional protections from adverse action to state firefighters and peace officers and by prohibiting the state employer from taking any punitive action against the employee from any investigation of any misconduct if the employer does not complete the investigation within one year of *discovery* of the misconduct (GC §§3254 and 3304).

This bill:

- 1) Prohibits any adverse action against a state employee for a civil service cause for discipline discovered on or after January 1, 2020, unless the employer serves notice of the adverse action *within one year* after the first occurrence of the cause for discipline (i.e., regardless of when the misconduct was discovered) except for specified misconduct (see below).
- 2) Maintains the existing distinct requirement that a state employer provide notice of the adverse action to the employee within three years of *discovery* of the misconduct for cases of fraud, embezzlement, or falsification of records.
- 3) Adds the following misconduct to cases for which the state employer must provide the employee notice of adverse action within three years of discovery of the misconduct:
 - a) Sexual assault; and
 - b) A cause for discipline that is the subject of a criminal investigation or criminal prosecution for a felony.

Related/Prior Legislation

SB 646 (Galgiani, 2017) would have prohibited an adverse action based on a cause for discipline discovered on or after January 1, 2018, from being valid against any state employee for any cause for discipline based on any civil service law of California, unless the employer served notice of the adverse action within one year after the cause for discipline, excluding actions of fraud, embezzlement or falsification of records. This bill died on the Assembly Inactive File.

AB 769 (Jones Sawyer, 2015) would have required that any adverse action taken against a state employee for any cause for discipline, other than for fraud, embezzlement, or the falsification of records, or the unauthorized accessing or disclosure of confidential tax information be served, and the investigation completed, within one year after the cause of discipline arose. Governor Brown vetoed the bill and stated that:

I am unwilling to reduce longstanding civil service adverse action timeframes because it may take state agencies longer than a year to investigate and serve adverse actions in complex cases involving employee misconduct or unsatisfactory work performance. Further, this bill hinders the progressive discipline process which is intended to give employees a reasonable amount of time to correct problems at an early stage. As such, this bill makes it more difficult for the state to manage and ensure the integrity of its workforce.

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

According to the Senate Appropriations Committee, the bill could result in unknown, potentially significant costs, to state departments related to accelerating the adverse action process (General and special funds).

SUPPORT: (Verified 6/12/20)

California Correctional Supervisors Organization, Inc. (source)
Association of California State Supervisors
California Association of Psychiatric Technicians
Professional Engineers in California Government

OPPOSITION: (Verified 6/12/20)

None received

ARGUMENTS IN SUPPORT: According to the California Correctional Supervisors Organization, Inc., “Under current law, there is an unreasonable large window of time – three years – for state agencies to take action against an employee after the alleged wrongdoing has been initially discovered. This long time-frame raises serious due process issues and makes it difficult for an employee to defend their actions, since witnesses who might support their position may be no longer available after such an extended period of time has elapsed.”

ASSEMBLY FLOOR: 54-18, 5/28/19

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Chu, Cooper, Friedman, Gabriel, Cristina Garcia, Gipson, Gloria, Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager-Dove, Levine, Limón, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Weber, Wicks, Wood, Rendon

NOES: Bigelow, Brough, Chen, Choi, Cunningham, Dahle, Diep, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Mayes, Melendez, Obernolte, Patterson, Voepel

NO VOTE RECORDED: Cooley, Daly, Eggman, Frazier, Eduardo Garcia, Gray, Ting, Waldron

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
6/12/20 13:27:43

**** END ****

THIRD READING

Bill No: AB 1185
Author: McCarty (D)
Introduced: 2/21/19
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 6-1, 7/2/19
AYES: Skinner, Moorlach, Bradford, Jackson, Mitchell, Wiener
NOES: Morrell

ASSEMBLY FLOOR: 43-23, 5/29/19 - See last page for vote

SUBJECT: Officer oversight: sheriff oversight board

SOURCE: Author

DIGEST: This bill authorizes counties to establish sheriff oversight boards, either by action of the board of supervisors or through a vote of county residents. This bill authorizes a sheriff oversight board to issue a subpoena when deemed necessary to investigate a matter within the jurisdiction of the board. This bill authorizes a county to establish an office of the inspector general to assist the board with its supervisory duties.

ANALYSIS:

Existing law:

- 1) Grants the Attorney General direct supervision over every district attorney and sheriff and over such other law enforcement officers as may be designated by law, in all matters pertaining to the duties of their respective offices, and may require any of said officers to make reports concerning the investigation, detection, prosecution, and punishment of crime in their respective jurisdictions as to the Attorney General may seem advisable. (Cal. Const. Art. V, § 13.)

- 2) States that the Legislature shall provide for county powers, an elected county sheriff, an elected district attorney, an elected assessor, and an elected governing body in each county. (Cal. Const., Art. XI, § 1, subd. (b).)
- 3) States that for its own government, a county or city may adopt a charter by majority vote of its electors voting on the question. The provisions of a charter are the law of the State and have the force and effect of legislative enactments. (Cal. Const., Art. XI, § 3, subd. (a).)
- 4) States that county charters shall provide for a governing body of five or more members, elected (1) by district or, (2) at large, or (3) at large, with a requirement that they reside in a district. (Cal. Const., Art. XI, § 4, subd. (a).)
- 5) States that county charters shall provide for an elected sheriff, an elected district attorney, an elected assessor, other officers, their election or appointment, compensation, terms and removal. (Cal. Const., Art. XI, § 4, subd. (c).)
- 6) States that county charters shall provide for the powers and duties of governing bodies and all other county officers, and for consolidation and segregation of county officers, and for the manner of filling all vacancies occurring therein. (Cal. Const., Art. XI, § 4, subd. (e).)
- 7) Provides that the board of supervisors shall supervise the official conduct of all county officers, and officers of all districts and other subdivisions of the county, but that in doing so, the board of supervisors shall not obstruct the investigative function of the sheriff of the county nor shall it obstruct the investigative and prosecutorial function of the district attorney of a county. (Gov. Code, § 25303.)
- 8) Provides that whenever a county board of supervisors deems it necessary or important to examine any person as a witness upon any subject or matter within the jurisdiction of the board, or a document in the possession or under the control of the person or officer relating to the affairs or interests of the county, the chairman of the board shall issue a subpoena, commanding the person or officer to appear before it, at a time and place therein specified, to be examined as a witness. (Gov. Code, § 25170.)
- 9) Defines a subpoena as a writ or order directed to a person and requiring the person's attendance at a particular time and place to testify as a witness. It may also require a witness to bring any books, documents, electronically stored information, or other things under the witness's control which the witness is bound by law to produce in evidence. (Code Civ. Proc., § 1985, subd. (a).)

- 10) Establishes procedures for the issuance of subpoenas and subpoenas duces tecum. Code Civ. Proc., §§ 1985 – 1985.8.)
- 11) Grants the power to issue subpoenas to civil service commissions. (Gov. Code § 31110.2.)
- 12) Grants the power to issue subpoenas to the coroner. (Gov. Code § 27498.)
- 13) Grants the power to issue subpoenas to retirement boards. (Gov. Code §31535.)

This bill:

- 1) States that a county may create a sheriff oversight board, either by action of the board of supervisors or through a vote of county residents, comprised of civilians to assist in the board's supervisory duties over the sheriff.
- 2) Provides that the members of the sheriff oversight board shall be appointed by the board of supervisors. The board of supervisors shall designate one member to serve as the chairperson of the sheriff oversight board.
- 3) States that the chair of the sheriff oversight board shall issue a subpoena or subpoena whenever the board deems it necessary or important to examine the following:
 - a) Any person as a witness upon any subject matter within the jurisdiction of the board.
 - b) Any officer of the county in relation to the discharge of their official duties on behalf of the sheriff's department.
 - c) Any books, papers, or documents in the possession of or under the control of a person or officer relating to the affairs of the sheriff's department.
- 4) Provides that if a witness fails to attend, or in the case of a subpoena, if an item is not produced as set forth therein, the chair or the chair authorized deputy issuing the subpoena upon proof of service thereof may certify the facts to the superior court in the county of the board.
- 5) Provides that the court shall thereupon issue an order directing the person to appear before the court and show cause why they should not be ordered to comply with the subpoena. The order and a copy of the certified statement shall

be served on the person and the court shall have jurisdiction of the matter.

- 6) Specifies the same proceedings shall be had, the same penalties imposed, and the person charged may purge themselves of the contempt in the same way as in a case of a person who has committed a contempt in the trial of a civil action before a superior court.
- 7) States that a county, through action of the board of supervisors or vote by county residents, may establish an office of the inspector general, appointed by the board of supervisors, to assist the board of supervisors with its supervisory duties over the sheriff.
- 8) Specifies the inspector general shall have the independent authority to issue subpoenas.
- 9) Provides that the exercise of powers under this section or other investigative functions performed by a board of supervisors, sheriff oversight board, or inspector general vested with oversight responsibility for the sheriff shall not be considered to obstruct the investigative functions of the sheriff.
- 10) Makes the following findings and declarations:
 - a) County sheriffs lead agencies of law enforcement officers that are vested with extraordinary authority, and the powers to detain, search, arrest, and use deadly force. These officers are also responsible for the safety and welfare of the more than 75,000 incarcerated individuals in California's jail system. Misuse of these authorities can lead to grave constitutional violations, harms to liberty and the inherent sanctity of human life, and significant public unrest.
 - b) While sheriffs are independently elected officials, boards of supervisors have the authority to supervise these officials and investigate the performance of their duties and have an obligation to ensure sheriffs and their departments uphold and respect people's constitutional rights.
 - c) Meaningful independent oversight and monitoring of sheriffs' departments increases government accountability and transparency, enhances public safety, and builds community trust in law enforcement. Such oversight must have the authority and independence necessary to conduct credible and thorough investigations.

- d) It is the intent of the Legislature in adding this section to the Government Code to ensure that every county in the state may adopt effective independent oversight of the sheriff of that county, and this section is not intended to limit the powers of any independent oversight entity.

Background

There are two types of counties in California. There are “charter counties,” which have adopted a charter for the governance of their county pursuant to a procedure laid out in the California Constitution. On the other hand, there are “general law counties” which have not adopted a charter and instead rely on the general law of the state for governance.

General law counties adhere to state law as to the number and duties of county elected officials. Charter counties have a limited degree of "home rule" authority that may provide for the election, compensation, terms, removal and salary of the governing board; for the election or appointment (except the sheriff, district attorney, and assessor who must be elected), compensation, terms and removal of all county officers; for the powers and duties of all officers; and for consolidation and segregation of county offices. A charter does not give county officials extra authority over local regulations, revenue-raising abilities, budgetary decisions or intergovernmental relations.

A county may adopt, amend or repeal a charter with majority voter approval. Once a charter has been properly enacted, the provisions of a charter are the law of the state and have the force and effect of legislative enactments. There are currently 14 charter counties in California: Alameda, Butte, El Dorado, Fresno, Los Angeles, Orange, Placer, Sacramento, San Bernardino, San Diego, San Francisco, San Mateo, Santa Clara, and Tehama. The other 44 counties are general law counties.

A subpoena is a writ used to summon witnesses before a court or other deliberative body. A subpoena “duces tecum” is a specific type of subpoena that is used to require a witness to present documents and records to the deliberative body. In 1994, the Supreme Court of California weighed in on the authority of a county to establish civilian, law-enforcement oversight boards and bestow such boards with subpoena power. (*Dibb v. County of San Diego*, (1994) 8 Cal. 4th 1200.) The *Dibb* case dealt specifically with the County of San Diego, a charter county, and looked to the California Constitution, statutory law, as well as the county charter itself before determining that San Diego County could lawfully establish such an

oversight board and also grant that board the power of subpoena. (*Id.*)

In *Dibb*, the Court quickly determined that the California Constitution grants to the counties the authority to create a civilian law-enforcement review board, irrespective of whether it is a charter county or a general law county. (*Id.*, at 1207-08.) The Court then looked at whether the County could also grant the law-enforcement oversight board the ability to issue a subpoena. In making that determination, the Court first looked to see whether the Legislature had granted counties the authority to vest oversight boards with subpoena power statutorily. (*Id.* at 1210.) The Court found that, at the time, that there was no such statutory authority. Regardless, the court ruled in favor of San Diego County, finding that the county charter could establish such subpoena power, even in the absence of statutory authority.

The clear implication of the Court's decision is that the Legislature can in fact grant such subpoena power to oversight boards through the county. In fact, the Court cited to a variety of instances in which Legislature has granted subpoena power to county entities. (*Id.*) This bill codifies *Dibb* to the extent that it applies to charter counties, providing statutory authority for that which a county is already able to do under its own charter. In addition, this bill clarifies that general law counties have the statutory authority to create sheriff-specific oversight boards and inspector general offices that both have statutory subpoena power.

In 2017, Sacramento Sheriff Deputies shot and killed Mikel McIntyre, following a 911 call. According to local reporting, there were discrepancies in the accounts given by the sheriffs. Deputies who responded to the call and McIntyre's mother, who was with her son at the time of the shooting.

As a result of those incidents, the county authorized an inspector general to perform an independent report and investigation of the shooting. Local reporting describes a disagreement between the Sacramento County Sheriff, Scott Jones, and the, now former, County Inspector General, Rick Braziel. As a result of Inspector General Braziel's report, Sheriff Jones prohibited the inspector general from access to sheriff facilities and records and called for his ouster. The disagreement between Jones and Braziel has continued into 2019, and appears to be ongoing.

It is a fundamental principle of good government in the United States of America that checks and balances are important in order to provide effectiveness and transparency. This bill seeks to add additional checks and

balances to counties in California. This bill permits the legislative body of a county, a board of supervisors, to investigate the activities of an executive body of the county, the county sheriff. Additionally, the board of supervisors could appoint an inspector general for that purpose.

This bill provides statutory authority to general law counties that wish to establish sheriff oversight boards and inspector general offices, and give general law counties the ability to equip those entities with subpoena power.

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

SUPPORT: (Verified 6/12/20)

American Civil Liberties Union of California
California Attorneys for Criminal Justice
California Civil Liberties Advocacy
California Immigrant Policy Center
California League of Women Voters
California Public Defenders Association
National Association of Social Workers-California
Oakland Privacy
Together We Will-Contra Costa

OPPOSITION: (Verified 6/12/20)

California State Sheriffs' Association
Riverside County Sheriff's Department

ARGUMENTS IN SUPPORT: According to the American Civil Liberties Union of California:

“County sheriffs lead agencies of law enforcement officers that are vested with extraordinary authority, and the powers to detain, search, arrest, and use deadly force. These officers are also responsible for the safety and welfare of the more than 75,000 incarcerated individuals in California’s jail system. Misuse of these authorities can lead to grave constitutional violations, harms to liberty and the inherent sanctity of human life, and significant public unrest.

“Meaningful independent oversight and monitoring of sheriffs’ departments increases government accountability and transparency, enhances public safety, and builds community trust in law enforcement. Such oversight must

have the authority and independence necessary to conduct credible and thorough investigations.

“California law clearly states that boards of supervisors “shall supervise the official conduct of all county officers” and “shall see that they faithfully perform their duties, direct prosecutions for delinquencies, and when necessary, require them to renew their official bond, make reports and present their books and accounts for inspection.” (Gov. Code § 25303). Case law further establishes that this supervisory authority is not limited to fiscal matters; rather, the “operations... and the conduct of employees of those departments... are a legitimate concern of the board of supervisors,” as is “the performance of the sheriff’s department, including the conduct of its officers when investigating crime.” Furthermore, it is clear that charter counties can grant subpoena powers to civilian review boards, even recognizing that supervisors “shall not obstruct the investigative function of the sheriff” (Gov. Code § 25303).

“Nevertheless, in some counties, there is a lack of clarity over whether Boards of Supervisors and the entities they appoint to oversee sheriff’s departments, including inspectors general and civilian review boards, are empowered to actually hold them accountable. Some counties have wrongfully interpreted parallel investigations into sheriff’s departments as “obstruction” or made the assumption that they do not have the authority to subpoena the sheriff.”

ARGUMENTS IN OPPOSITION: According to the California State Sheriffs’ Association:

“This bill is unnecessary. Despite the fact that this bill appears based on the faulty premise that sheriffs are subject to the direct supervision of the board of supervisors, the opportunity to establish civilian oversight over the Office of the Sheriff has been exercised by several jurisdictions. Counties across the state have created civilian oversight boards and at least one inspector general office without this measure or specific authorization.

“Further, county counsels and grand juries already hold subpoena powers. Compelling the production of information, testimony, or documents from a wide array of sources can already occur through existing avenues.
“Specifying this authority in statute will create undue pressure within county governments to create an adversarial relationship with another county office.

AB 1185 also potentially codifies language that creates constitutional separation of powers issues.”

ASSEMBLY FLOOR: 43-23, 5/29/19

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Chu, Eggman, Friedman, Gabriel, Cristina Garcia, Gipson, Gloria, Gonzalez, Holden, Jones-Sawyer, Kalra, Kamlager-Dove, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Quirk, Reyes, Luz Rivas, Santiago, Mark Stone, Ting, Weber, Wicks, Rendon

NOES: Bigelow, Chen, Choi, Cunningham, Dahle, Diep, Flora, Fong, Frazier, Gallagher, Irwin, Kiley, Lackey, Mathis, Mayes, Melendez, Obernolte, Patterson, Petrie-Norris, Ramos, Salas, Voepel, Waldron

NO VOTE RECORDED: Brough, Cooley, Cooper, Daly, Eduardo Garcia, Gray, Grayson, Limón, Quirk-Silva, Robert Rivas, Rodriguez, Blanca Rubio, Smith, Wood

Prepared by: Gabe Caswell / PUB. S. /
6/12/20 11:22:18

**** END ****

THIRD READING

Bill No: AB 1561
Author: Cristina Garcia (D)
Amended: 6/23/20 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 8-0, 6/18/19
AYES: Wiener, Caballero, Durazo, McGuire, Roth, Skinner, Umberg,
Wieckowski
NO VOTE RECORDED: Morrell, Bates, Moorlach

SENATE JUDICIARY COMMITTEE: 7-0, 7/2/19
AYES: Jackson, Durazo, Lena Gonzalez, Monning, Stern, Umberg, Wieckowski
NO VOTE RECORDED: Borgeas, Jones

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 74-0, 5/16/19 (Consent) - See last page for vote

SUBJECT: Planning and zoning: housing element

SOURCE: California Building Industry Association

DIGEST: This bill requires a local government's housing element to include an analysis of governmental constraints upon housing for individuals identified under the Unruh Civil Rights Act to be members of a protected class.

ANALYSIS:

Existing law:

- 1) Provides, in the Unruh Civil Rights Act, that all persons within the jurisdiction of this state are free and equal, and not matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or

immigration status are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind.

- 2) Prohibits, pursuant to the California Fair Employment and Housing Act (FEHA), discrimination through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, genetic information, national origin, source of income, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law that make housing opportunities unavailable.
- 3) Defines “affirmatively furthering fair housing” (AFFH) as taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, AFFH means taking meaningful actions that together address segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to AFFH extends to all of a public agency’s activities and programs relating to housing and community development.
- 4) Requires a city’s or county’s housing element to promote AFFH opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the Fair Employment and Housing Act and any other state and federal fair housing and planning law.
- 5) Requires a city’s or county’s housing element, in promoting AFFH opportunities, to include an assessment of fair housing in the jurisdiction that shall include all of the following components:
 - a) A summary of fair housing issues in the jurisdiction and an assessment of the jurisdiction’s fair housing enforcement and fair housing outreach capacity.
 - b) An analysis of available federal, state, and local data and knowledge to identify integration and segregation patterns and trends, racially or ethnically

- concentrated areas of poverty, disparities in access to opportunity, and disproportionate housing needs within the jurisdiction, including displacement risk.
- c) An assessment of the contributing factors for the fair housing issues identified under (b).
 - d) An identification of the jurisdiction's fair housing priorities and goals, giving highest priority to those factors identified in (c) that limit or deny fair housing choice or access to opportunity, or negatively impact fair housing or civil rights compliance, and identifying the metrics and milestones for determining what fair housing results will be achieved.
 - e) Strategies and actions to implement those priorities and goals, which may include but are not limited to, enhancing mobility strategies and encouraging development of new affordable housing in areas of opportunity, as well as place-based strategies to encourage community revitalization, including preservation of existing affordable housing, and protecting existing residents from displacement.
- 6) Provides, under the Housing Accountability Act, that a local agency shall not disapprove a housing project containing units affordable to very low-, low-, or moderate income renters, or conditioning the approval in a manner that renders the housing project infeasible, unless it makes findings as specified.
- 7) Requires every city and county to prepare and adopt a general plan containing seven mandatory elements, including a housing element. Requires a jurisdiction's housing element to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development.

This bill requires a local government's housing element to include an analysis of governmental constraints upon housing for individuals identified under the Unruh Civil Rights Act to be members of a protected class.

Background

Every city and county is required to prepare and adopt a housing element to help plan how to address its share of the regional need for housing. Existing law requires a housing element to include a program that sets forth a schedule of actions during the planning period to provide for the housing needs of all economic

segments of the community. This program must meet a number of requirements, including: identifying an inventory of adequate sites on which to provide housing; developing a plan to meet the needs of extremely low-, very low-, low-, and moderate-income households; removing constraints to housing for special needs populations; preserving existing affordable housing stock; promoting and affirmatively furthering fair housing opportunities; and preserving assisted housing developments for low-income households.

This bill adds a requirement to analyze any government constraints on individuals identified under the Unruh Civil Rights Act to be members of a protected class. Existing law defines constraints as including land use controls, building codes and their enforcement, site improvements, development and impact fees, local processing and permit procedures, and any locally adopted ordinances that directly impact the cost and supply of residential development.

Comments

- 1) *Purpose of the bill.* The author states that California's historic zoning laws and regulations have oppressed and marginalized minority communities. The current plight of minority communities in California is the product of many decades of institutional racism, perpetuated by urban planning bureaucrats, among others, in the 1960s who destroyed minority communities in pursuit of redevelopment. Over time, new or modified regulations, rules, policies, actions, ordinances, and other planning and zoning requirements by cities and counties have led to increased housing costs. These costs have had a disproportionate impact on communities of color. To allow the continuance of these actions only serves to exacerbate the problem and its impact on minorities. This bill is an effort to ensure that cities and counties consider the impact of their decisions on communities of color.
- 2) *California FEHA.* California's FEHA prohibits employment and housing discrimination based on the protected classes and further provides that it is a civil right to be able to pursue and maintain housing or employment without facing discrimination. FEHA prohibits discrimination through public or private land use practices, decisions, and authorizations because of membership in a protected class. Discrimination includes restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law that make housing opportunities unavailable.

- 3) *Affirmatively furthering fair housing*. In addition to California FEHA, legislation passed last year (AB 686, Santiago, Chapter 958, Statutes of 2018) required all public agencies to “affirmatively further fair housing.” AB 686 specifically requires a city’s or county’s housing element to promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by FEHA and any other state and federal fair housing and planning law. AB 686 outlined a specific program that must be included in the housing element to assess fair housing in the jurisdiction, including components such as an assessment of the jurisdiction’s fair housing enforcement and outreach capacity, an analysis of integration and segregation patterns, fair housing priorities and goals, and strategies to implement those goals.
- 4) *Housing Accountability Act (HAA)*. The HAA, also known as the “Anti-NIMBY Act,” aims to limit the ability of local agencies to reject housing elements, or make them infeasible, without a thorough analysis of the economic, social, and environmental effects of the action. The HAA provides for a judicial remedy that allows a court to issue an order to compel a city to take action on a development project. The 2017 legislative housing package included three bills making significant changes to the HAA. Under identical measures, AB 678 (Bocanegra, Chapter 373, Statutes of 2017) and SB 167 (Skinner, Chapter 368, Statutes of 2017), the HAA was strengthened to increase the burden on local jurisdictions when denying a housing project, imposing fines for a violation of the HAA, and expanding judicial remedies for HAA violations. AB 1515 (Daly, Chapter 378, Statutes of 2017) changed the standard the court must use in reviewing the denial of a housing development by providing that a project is consistent with local planning and zoning laws if there is substantial evidence that would allow a reasonable person to find it consistent, expanding the number of housing developments that are afforded the protections of the HAA. Last year, AB 3194 (Daly, Chapter 243, Statutes of 2018) strengthened the HAA even further by requiring approval of certain projects that are inconsistent with zoning if the jurisdiction has not brought its zoning ordinance into compliance with the general plan.

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

SUPPORT: (Verified 6/25/20)

California Building Industry Association (source)
California Apartment Association
California Association of Realtors
California Community Builders
California YIMBY

OPPOSITION: (Verified 6/25/20)

None received

ARGUMENTS IN SUPPORT: The California Building Industry Association (CBIA) states that over time, new or modified regulations, rules, policies, actions, ordinances, and other planning and zoning requirements by cities and counties have led to increased housing costs. These increased costs have had a disproportionate impact on communities of color. This bill is an effort to ensure that cities and counties consider the impact of their decisions upon communities of color.

ASSEMBLY FLOOR: 74-0, 5/16/19

AYES: Aguiar-Curry, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Chu, Cooper, Cunningham, Dahle, Daly, Diep, Eggman, Flora, Fong, Frazier, Gabriel, Gallagher, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager-Dove, Kiley, Lackey, Levine, Limón, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Melendez, Mullin, Muratsuchi, Nazarian, Obernolte, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Voepel, Waldron, Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Arambula, Burke, Cooley, Friedman, Cristina Garcia, Ting

Prepared by: Erin Riches / HOUSING / (916) 651-4124
6/25/20 11:04:32

**** END ****

THIRD READING

Bill No: AB 1652
Author: Wicks (D)
Amended: 3/21/19 in Assembly
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 6-0, 6/18/19
AYES: Skinner, Moorlach, Bradford, Jackson, Mitchell, Wiener
NO VOTE RECORDED: Morrell

ASSEMBLY FLOOR: 63-10, 5/6/19 - See last page for vote

SUBJECT: Crimes: littering

SOURCE: Author

DIGEST: This bill authorizes a court, in cases of illegal dumping in waterways, to order a defendant to perform other types of community service, in lieu of picking up litter, as a condition of probation.

ANALYSIS:

Existing law:

- 1) Makes it a misdemeanor to litter, cause to be littered, dump, or cause to be dumped, waste into specified bodies of water. (Pen. Code § 347.7 (a).)
- 2) Establishes graduated fines for convictions of littering a body of water, as follows:
 - a) A mandatory fine between \$250 and \$1,000 upon a first conviction.
 - b) A mandatory fine between \$500 and \$1,500 upon a second conviction.
 - c) A mandatory fine between \$750 and \$3,000 upon a third or subsequent conviction. (Pen. Code § 347.7 (b).)

- 3) Authorizes the court to require a person convicted of this offense and granted probation to perform eight hours of community service consisting of picking up litter as a condition of probation. (Pen. Code § 347.7 (c).)
- 4) Provides that a person giving information leading to the arrest and conviction of a person for specified dumping violations is entitled to an award which shall be 50% of the fine levied against and collected from the perpetrator. (Pen. Code § 374 (a).)

This bill authorizes the court to require as a condition of probation, in addition to any other condition of probation, in addition to any fine imposed, that any person convicted of this offense perform not less than eight hours of community service, including, but not limited to, picking up litter at a time and place within the jurisdiction of the court.

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

SUPPORT: (Verified 6/26/20)

None received

OPPOSITION: (Verified 6/26/20)

None received

ASSEMBLY FLOOR: 63-10, 5/6/19

AYES: Aguiar-Curry, Bauer-Kahan, Berman, Bloom, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Chu, Cooley, Cooper, Cunningham, Daly, Diep, Eggman, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager-Dove, Kiley, Levine, Limón, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Smith, Mark Stone, Ting, Waldron, Weber, Wicks, Wood, Rendon

NOES: Bigelow, Choi, Dahle, Flora, Fong, Lackey, Mathis, Melendez, Obernolte, Voepel

NO VOTE RECORDED: Arambula, Boerner Horvath, Chen, Gallagher, Mayes, Patterson, Salas

Prepared by: Mary Kennedy / PUB. S. /
6/26/20 17:04:45

**** END ****

THIRD READING

Bill No: ACA 14
Author: Gonzalez (D), et al.
Amended: 8/30/19 in Senate
Vote: 27

SENATE EDUCATION COMMITTEE: 6-0, 7/10/19
AYES: Leyva, Wilk, Chang, Durazo, McGuire, Pan
NO VOTE RECORDED: Glazer

SENATE ELECTIONS & C.A. COMMITTEE: 4-1, 8/20/19
AYES: Umberg, Hertzberg, Leyva, Stern
NOES: Nielsen

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/30/19
AYES: Portantino, Bradford, Durazo, Hill, Wieckowski
NOES: Bates, Jones

SENATE FLOOR: 23-12, 9/13/19 (FAIL)
AYES: Archuleta, Atkins, Beall, Bradford, Caballero, Chang, Durazo, Galgiani,
Lena Gonzalez, Hill, Hueso, Hurtado, Leyva, McGuire, Mitchell, Pan,
Portantino, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NOES: Bates, Borgeas, Dahle, Dodd, Glazer, Grove, Hertzberg, Jones, Moorlach,
Morrell, Nielsen, Stone
NO VOTE RECORDED: Allen, Jackson, Monning, Roth, Rubio

ASSEMBLY FLOOR: 57-12, 6/24/19 - See last page for vote

SUBJECT: University of California: support services: equal employment
opportunity standards

SOURCE: AFSCME Local 3299

DIGEST: This constitutional amendment proposes to amend Article IX of the State Constitution by adding Section 9.5, the University of California (UC) Equal Employment Opportunity Standards Act, requiring the Regents of the UC to ensure that all contract workers who are paid to perform support services are afforded the same equal employment opportunity standards as university employees performing similar services.

ANALYSIS:

Existing constitutional law:

- 1) Establishes the UC as a public trust under the administration of the Regents.
- 2) Grants to the Regents all the powers necessary or convenient for the effective administration of this public trust.
- 3) Provides that the Regents are subject only to such legislative control as may be necessary to insure the security of its funds and compliance with the terms of the endowments of the university and such competitive bidding procedures as may be made applicable to the university by statute for the letting of construction contracts, sales of real property, and purchasing of materials, goods, and services.
- 4) Provides that the Regents are comprised of seven ex officio members, as specified, 18 appointive members appointed by the Governor and approved by the Senate, a majority of the membership concurring, and permits a student representative if appointed by the Regents.

This constitutional amendment:

- 1) Enacts the UC Equal Employment Opportunity Standards Act to require that the Regents ensure that all contract workers who are paid to perform support services, as defined, for students, faculty, patients, or the general public at any campus, dining hall, medical center, clinic, research facility, laboratory, or other university location, are subject to and afforded the same equal employment opportunity standards, as defined, as university employees performing similar services.
- 2) Defines support services as including but not necessarily limited to, all of the following: cleaning or custodial services; food services; groundskeeping; building maintenance; transportation; security services; billing and coding

services; sterile processing; hospital or nursing assistant services; medical imaging or respiratory therapy technician services; and other patient care technical and service bargaining unit work, as defined.

- 3) Provides that the Regents, or any campus or other entity of the UC, may contract for labor to perform support services only if authorized to do so by statute, and only for limited exceptions that include, among other things, a bona fide emergency circumstance or unanticipated special event, as specified, a student housing development, as specified, or to provide licensed, clinically trained workers.
- 4) Requires that any contractual arrangement for a person, firm, or other entity to supply the university with contract labor for one of the exceptions specified above shall not cause or facilitate the displacement of university employees, as defined.
- 5) Provides that nothing precludes the UC from using per diem university employees to complement career or limited term university employees when necessary for staffing levels for temporary or emergency periods.
- 6) Requires that each proposal and the resulting contractual arrangement, and documentation, as specified, shall be, at all times, available to the public.
- 7) Requires that such documentation shall specify that all persons who perform support services under the contractual arrangement shall be compensated in an amount equivalent to the hourly wage rate and the value of benefits provided to university employees who perform the same or similar work or duties on a full-time basis.

Comments

- 1) *Need for the constitutional amendment.* According to the author, “In recent years, the UC has increasingly replaced employees that provide critical support services for the university and its medical centers, with an estimated 7,000 support jobs outsourced by the UC. In response to critiques of UC outsourcing practices, the university established two separate, but interacting, policies that relate to 1) UC outsourcing and employee displacement and 2) minimum wage standards for outsourced workers, known as ‘Fair Wage/Fair Work Plan’.

“As a result of the outsourcing practices of the UC, the economic disparities faced by outsourced, low-wage workers become especially clear. Despite UC policies that aim to mitigate negative impacts, the UC continues to show disregard for its own policies and institutes policies that have significant deficiencies.”

- 2) *Related Study.* According to a 2012 study by the UC Berkeley Labor Center, *Temporary Workers in California are Twice as Likely as Non-Temps to Live in Poverty: Problems with Temporary and Subcontracted Work in California*, almost one-quarter of a million people worked in the temporary help services industry in California in 2010. These workers were slightly younger, more likely to be female, less likely to be white non-Hispanic, and less likely to have a high school diploma or GED than the average non-temp worker. These workers were also more susceptible to workplace illness and injury, earned less than their non-temp counterparts, and were less likely to get benefits. The report notes that lowered wages mean that these workers rely more on the state safety net than their direct-hire counterparts and that these employment arrangements undermine worker protections by allowing employers to avoid certain provisions of worker protection and making it difficult to enforce other protections. The report also notes that these employment relationships create downward pressure on wages.
- 3) *Related audit.* The Joint Legislative Audit Committee has previously investigated specified employment contracts at the UC. The audit, report number 2016-125.1, titled “The University of California Office of the President - It Has Not Adequately Ensured Compliance With Its Employee Displacement and Services Contract Policies,” was completed in August 2017, and found in its review of 31 service contracts at six university locations all of the following:
 - The university’s decentralized approach to contract management has resulted in its inability to report even the most basic contract information in the aggregate without a manual review of all of its contracts. Staff notes that the UC began implementation of its new software in July 2017.
 - The university has not fully followed its policy for justifying its decisions to displace university employees with service contract workers.
 - Two of the reviewed service contracts contained documentation that university employees were displaced.

- The two university locations administering these contracts did not fully adhere to the displacement guidelines in either contract.
- The Office of the President has not enforced compliance with the displacement guidelines and weaknesses in the guidelines may undermine their effectiveness.
- Low-wage service contract workers received hourly wages that were \$3.86 lower than comparable university employees received.
- The university generally adhered to the Office of the President's contract policy, but it could make improvements, such as ensuring the standard terms and conditions are included in services contracts.
- Some university locations avoided competitive bidding by repeatedly amending contracts and through sole-source exceptions.
- The Office of the President lacks a systemwide database that would allow it to track contracts at all university locations and report basic contract data.
- The Office of the President could not substantiate \$109 million in benefits it claimed as resulting from its systemwide procurement program.

The report recommends that the Legislature revise state law to specify the conditions under which the university may amend contracts without competition and more narrowly define the professional and personal services that the university may exempt from competitive bidding.

- 4) *UC's Fair Wage/Fair Work plan.* In July 2015, the UC adopted a Fair Wage/Fair Work Plan. Under the Plan, the UC has established a minimum level of pay for employees to ensure that all UC workers are provided a fair wage with a goal of reaching a minimum wage of \$15 per hour on October 1, 2017. In addition, the UC reports that it is implementing annual compensation audits and interim audits, paid for by the contractor, to monitor wage and working conditions as well as compliance with federal, state, and UC workplace laws and policies for contracted employees working pursuant to contracts entered into or renewed after October 2015. The UC has also established a phone hotline and central online system to report complaints directly to the Office of the President.

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

According to the Senate Appropriations Committee:

- The UC estimates systemwide costs of \$172.6 million as a result of this measure. This estimate assumes that UC would have to increase the wage and benefit levels by 25 percent and 30 percent, respectively, to bring the work in-house or perform the functions going forward with UC employees.
- The UC also estimates that campuses and hospitals would incur additional costs, potentially in the range of several million each year, resulting from the need to hire additional supervisory staff, purchase specialized equipment and curtail clinical procedures due to lack of necessary staffing.
- This constitutional amendment would result in one-time General Fund costs to the Secretary of State in the range of \$400,000 to \$550,000 for printing and mailing costs to place the measure on the ballot in a statewide election. This estimate reflects the addition of 6-8 pages in the Voter Information Guide. However, actual costs may be higher or lower, depending on the length of required elements and the overall size of the ballot.

SUPPORT: (Verified 8/30/19)

AFSCME Local 3299 (source)

American Federation of State, County and Municipal Employees

California Federation of Teachers

California Labor Federation

Health Access California

University Council-American Federation of Teachers

OPPOSITION: (Verified 8/30/19)

California Association of Public Hospitals & Health Systems

California Chamber of Commerce

California Hospital Association

Carlsbad Chamber of Commerce

Chamber Newport Beach

City of Laguna Niguel

Fontana Chamber of Commerce

Greater Irvine Chamber of Commerce

Greater Riverside Chamber of Commerce

Oceanside Chamber of Commerce

Orange County Business Council

Oxnard Chamber of Commerce

Palm Desert Area Chamber of Commerce
Pleasanton Chamber of Commerce
Rancho Cordova Chamber of Commerce
Redondo Beach Chamber of Commerce
San Diego Regional Chamber of Commerce
Santa Maria Valley Chamber of Commerce
Simi Valley Chamber of Commerce
South Bay Association of Chambers of Commerce
Southwest California Legislative Council
University of California

ARGUMENTS IN SUPPORT: The AFSCME, Local 3299, sponsor of this constitutional amendment, states in support, “ACA 14 (Gonzalez) will protect support service workers from those in control of the University of California. These support service workers clean toilets, cut grass, pick up trash, cook food, and clean bedpans. While Article IX of the California Constitution prevents the Legislature and the Governor from correcting these realities at UC, Article II empowers the voters to do so.”

ARGUMENTS IN OPPOSITION: The UC states in opposition, “There are a variety of situations where it makes business sense for the University to utilize contract workers for short term assignments that are not needed throughout the year, a practice that would be prohibited under ACA 14. Examples include cleaning of dormitory rooms at the end of the school year, or additional security services needed occasionally for large events such as concerts or commencements.”

They continue, “Within the setting of the University’s hospitals, the needs for flexible staffing to respond to changes in patient census and condition severity are critically important – often times changing on a daily or even shift-by-shift basis. UC hospitals treat higher percentages of very sick patients –and have longer average lengths of stay compared to other California acute care hospitals. The restrictions established by ACA 14 would prevent UC hospitals from being able to obtain the staff they need on short notice and could force UC hospitals to divert ambulances away from University emergency rooms and trauma centers, cancel and reschedule important medical procedures and transfer patients to facilities outside of the community.”

ASSEMBLY FLOOR: 57-12, 6/24/19

AYES: Aguiar-Curry, Arambula, Berman, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Chu, Cooper, Daly, Eggman,

Frazier, Friedman, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Jones-Sawyer, Kalra, Kamlager-Dove, Lackey, Limón, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Weber, Wicks, Wood, Rendon

NOES: Bigelow, Brough, Choi, Cooley, Cunningham, Fong, Kiley, Levine, Mathis, Melendez, Obernolte, Waldron

NO VOTE RECORDED: Bauer-Kahan, Chen, Diep, Flora, Gabriel, Gallagher, Irwin, Mayes, Patterson, Voepel

Prepared by: Ian Johnson / ED. /
9/18/19 15:37:46

**** END ****

THIRD READING

Bill No: ACR 115
Author: Kamlager (D), et al.
Amended: 3/9/20 in Senate
Vote: 21

SENATE BANKING & F.I. COMMITTEE: 4-1, 1/15/20
AYES: Bradford, Caballero, Durazo, Portantino
NOES: Chang
NO VOTE RECORDED: Dahle, Hueso

ASSEMBLY FLOOR: 50-18, 8/26/19 - See last page for vote

SUBJECT: Lending to gun-related businesses

SOURCE: Author

DIGEST: This resolution urges banks with which the State of California has a business relationship to evaluate their relationships with gun manufacturers and consider the repercussions of gun violence, and urges all banks to discuss their lending practices with their shareholders, adopt lending practices that mirror the people of California's values of protecting citizens before profit, and commit to strengthening their gun policies or exiting the gun sector.

Senate Floor Amendments of 3/9/20 urge banks to discuss their lending practices with their shareholders.

ANALYSIS:

This resolution:

- 1) Lists six banking subsidiaries with which the State of California has deposit accounts: Bank of America Corporation, Citigroup, JPMorgan Chase, Union Bank, U.S. Bancorp, and Wells Fargo.

- 2) Observes that four of the nation's largest gun manufacturers (Remington Outdoor Company; Smith & Wesson; Sturm, Ruger, & Co.; and Vista Outdoors) manufactured weapons used in mass shootings and are customers of banks with which the State of California has, or has had, a business relationship.
- 3) Cites activities in which two banks (Bank of America and Citibank) have engaged related to their business customers that manufacture firearms. Bank of America limited the number of its business customers that manufacture assault weapons for nonmilitary use; Citibank adopted a policy prohibiting the sale of firearms by its business customers to individuals who have not passed a background check or are younger than 21 years of age.
- 4) Observes that the California State Teachers' Retirement System (CalSTRS) divested from Remington Outdoor Company in 2015, and that the California Public Employees' Retirement System, CalSTRS, State Street Global Advisors, the San Francisco Employees' Retirement System, and nine other investors and financial managers with assets equal to \$4.8 trillion have come together to ask the civilian firearms industry to comply with five principles. These principles include safer and more traceable technology, adoption of responsible dealer practices, establishment of complete background checks, and education and training of employees at distributors.
- 5) Resolves that the Legislature urge each bank with which the State of California has a business relationship to evaluate its relationship with gun manufacturers and consider the repercussions of gun violence.
- 6) Resolves that the Legislature urge all banks to discuss their lending practices with their shareholders, adopt lending practices that mirror the people of California's values of protecting citizens before profit, and commit to strengthening gun policies or exiting the gun sector.

Comments

This resolution is sponsored by the author to encourage banks to reconsider their relationships with gun manufacturers who are their business customers.

In recent years, news reports of civilian mass shootings in the United States have become a common occurrence. Although California has passed numerous laws intended to outlaw assault-style weapons and high-capacity magazines and to require background checks before retailers may sell firearms and ammunition,

civilian mass shootings continue. The debate over how best to counter gun violence against innocent civilians remains unresolved.

This resolution adopts the viewpoint that the state should use its business relationships with banks to encourage those depositories to consider the repercussions of gun violence and evaluate their relationships with gun manufacturers. This resolution also urges the state to use its bully pulpit to encourage all banks to consider commit to strengthening their gun policies or exiting the gun sector. Senate Floor amendments encourage banks to discuss their lending practices with their shareholders to help ensure that shareholders are consulted about any changes in lending practices that banks adopt to help reduce gun violence.

Related/Prior Legislation

AJR 5 (Jones-Sawyer, Resolution Chapter 127, Statutes of 2019) urged the federal government to use California as an example for firearm safety and to pass legislation providing universal firearm safety regulation throughout the United States.

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

SUPPORT: (Verified 3/9/20)

State Treasurer Fiona Ma
Bay Area Student Activists
Brady California United Against Gun Violence
Jewish Center for Justice
NeverAgainCA
San Diegans for Gun Violence Prevention
Youth ALIVE!

OPPOSITION: (Verified 3/9/20)

National Shooting Sports Foundation

ARGUMENTS IN SUPPORT: Several organizations that advocate against gun violence sent nearly identical letters of support, stating “A key player in the gun violence crisis taking place in the United States lies in the hands of gun manufacturers producing anything from a handgun to a military style assault weapon. These manufacturers play a major role in the supply of firearms available to Americans...California banks with the same financial institutions that lend to

gun manufacturers which play a critical role in the gun violence crisis and numerous mass shootings.”

ARGUMENTS IN OPPOSITION: The National Shooting Sports Foundation writes that ACR 115 appears to assume business relationships between banks and gun manufacturers result in negative repercussions for the people of California “and that businesses which realize a profit from commerce in their products are undesirable. While the firearms industry respects the right of financial institutions and other service providers to make business decisions based on objective criteria, it is unacceptable to discriminate against businesses simply because they are engaged in the lawful commerce of firearms, a heavily regulated activity protected by the Second Amendment.”

ASSEMBLY FLOOR: 50-18, 8/26/19

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Chu, Daly, Eggman, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Grayson, Holden, Jones-Sawyer, Kalra, Kamlager-Dove, Levine, Limón, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Santiago, Mark Stone, Ting, Wicks, Wood, Rendon

NOES: Bigelow, Brough, Choi, Flora, Fong, Frazier, Gallagher, Gray, Kiley, Lackey, Mathis, Mayes, Melendez, Obernolte, Patterson, Salas, Voepel, Waldron

NO VOTE RECORDED: Chen, Cooley, Cooper, Cunningham, Diep, Irwin, Petrie-Norris, Rodriguez, Blanca Rubio, Smith, Weber

Prepared by: Eileen Newhall / B. & F.I. /
3/11/20 11:48:57

**** END ****