2021-22 SESSION

SENATE
THIRD READING PACKET

THURSDAY, AUGUST 11, 2022

JONAS AUSTIN
Director

OFFICE OF SENATE FLOOR ANALYSES
651-1520

SENATE THIRD READING PACKET

Attached are analyses of bills on the Daily File for Thursday, August 11, 2022.

Note	Measure	Author	Location
	SB 731	Durazo	Unfinished Business
+	SB 922	Wiener	Unfinished Business
+	SB 940	Laird	Unfinished Business
	SB 981	Glazer	Unfinished Business
RA	SB 988	Hueso	Unfinished Business
+	SB 1106	Wiener	Unfinished Business
	SB 1120	Jones	Unfinished Business
	SB 1182	Eggman	Unfinished Business
+	SB 1280	Hueso	Unfinished Business
+	SB 1452	Dahle	Unfinished Business
+	SCR 53	McGuire	Unfinished Business
+	SCR 61	Dahle	Unfinished Business
	SCR 77	Umberg	Senate Bills - Third Reading File
	SCR 84	Umberg	Senate Bills - Third Reading File
+	SCR 119	Dodd	Senate Bills - Third Reading File
+	SCR 120	Ochoa Bogh	Senate Bills - Third Reading File
+	SCR 121	Hurtado	Senate Bills - Third Reading File
	SJR 5	Wilk	Unfinished Business
+	SJR 9	Limón	Unfinished Business
	SR 97	Caballero	Senate Bills - Third Reading File
+	SR 99	Pan	Senate Bills - Third Reading File
+	SR 100	Pan	Senate Bills - Third Reading File
+	SR 101	Grove	Senate Bills - Third Reading File
+	SR 103	Kamlager	Senate Bills - Third Reading File
+	AB 13	Holden	Assembly Bills - Third Reading File
RA	AB 98	Kalra	Assembly Bills - Third Reading File
	AB 154	Ting	Assembly Bills - Third Reading File
	AB 252	Mia Bonta	Assembly Bills - Third Reading File
	AB 288	Calderon	Assembly Bills - Third Reading File
	AB 316	Cooper	Assembly Bills - Third Reading File
+	AB 334	Mullin	Assembly Bills - Third Reading File
+	AB 498	Quirk-Silva	Assembly Bills - Third Reading File
	AB 499	Blanca Rubio	Assembly Bills - Third Reading File
+	AB 503	Stone	Assembly Bills - Third Reading File
	AB 522	Fong	Assembly Bills - Third Reading File
	AB 524	Rodriguez	Assembly Bills - Third Reading File
	AB 551	Rodriguez	Assembly Bills - Third Reading File
+	AB 558	Nazarian	Assembly Bills - Third Reading File
	AB 631	Bloom	Assembly Bills - Third Reading File
	AB 649	Bennett	Assembly Bills - Third Reading File
+	AB 657	Cooper	Assembly Bills - Third Reading File
	AB 682	Bloom	Assembly Bills - Third Reading File
+	AB 738	Nguyen	Assembly Bills - Third Reading File
	AB 777	McCarty	Assembly Bills - Third Reading File
	AB 826	Irwin	Assembly Bills - Third Reading File
	AB 847	Quirk	Assembly Bills - Third Reading File

\+ ADDS
RA Revised Analysis
* Analysis pending

Note	Measure	Author	Location
	AB 895	Holden	Assembly Bills - Third Reading File
	AB 916	Salas	Assembly Bills - Third Reading File
+	AB 960	Ting	Assembly Bills - Third Reading File
	AB 972	Berman	Assembly Bills - Third Reading File
	AB 975	Luz Rivas	Assembly Bills - Third Reading File
	AB 984	Wilson	Assembly Bills - Third Reading File
+	AB 1041	Wicks	Assembly Bills - Third Reading File
	AB 1078	Patterson	Assembly Bills - Third Reading File
	AB 1120	Irwin	Assembly Bills - Third Reading File
	AB 1164	Flora	Assembly Bills - Third Reading File
	AB 1195	Cristina Garcia	Assembly Bills - Third Reading File
	AB 1290	Lee	Assembly Bills - Third Reading File
+	AB 1314	Ramos	Assembly Bills - Third Reading File
	AB 1330	Mayes	Assembly Bills - Third Reading File
	AB 1384	Gabriel	Assembly Bills - Third Reading File
	AB 1410	Rodriguez	Assembly Bills - Third Reading File
	AB 1432	Low	Assembly Bills - Third Reading File
	AB 1467	Cervantes	Assembly Bills - Third Reading File
+	AB 1515	Santiago	Assembly Bills - Third Reading File
RA	AB 1551	Santiago	Assembly Bills - Third Reading File
	AB 1628	Ramos	Assembly Bills - Third Reading File
+	AB 1632	Akilah Weber	Assembly Bills - Third Reading File
	AB 1636	Akilah Weber	Assembly Bills - Third Reading File
	AB 1637	Cooper	Assembly Bills - Third Reading File
	AB 1642	Salas	Assembly Bills - Third Reading File
+	AB 1646	Chen	Assembly Bills - Third Reading File
	AB 1656	Aguiar-Curry	Assembly Bills - Third Reading File
+	AB 1658	Nguyen	Assembly Bills - Third Reading File
	AB 1680	Lee	Assembly Bills - Third Reading File
	AB 1687	Seyarto	Assembly Bills - Third Reading File
+	AB 1695	Santiago	Assembly Bills - Third Reading File
RA	AB 1711	Seyarto	Assembly Bills - Third Reading File
	AB 1712	Medina	Assembly Bills - Third Reading File
	AB 1713	Boerner Horvath	Assembly Bills - Third Reading File
	AB 1715	Muratsuchi	Assembly Bills - Third Reading File
	AB 1720	Holden	Assembly Bills - Third Reading File
RA	AB 1726	Aguiar-Curry	Assembly Bills - Third Reading File
+	AB 1734	Bennett	Consent Calendar Second Legislative Day
	AB 1743	McKinnor	Assembly Bills - Third Reading File
	AB 1744	Levine	Assembly Bills - Third Reading File
	AB 1747	Quirk	Assembly Bills - Third Reading File
RA	AB 1749	Cristina Garcia	Assembly Bills - Third Reading File
	AB 1758	Aguiar-Curry	Assembly Bills - Third Reading File
	AB 1759	Aguiar-Curry	Assembly Bills - Third Reading File
	AB 1765	Nazarian	Assembly Bills - Third Reading File
	AB 1780	Chen	Assembly Bills - Third Reading File
	AB 1782	Jones-Sawyer	Assembly Bills - Third Reading File
	AB 1796	Choi	Assembly Bills - Third Reading File
	AB 1798	Bryan	Assembly Bills - Third Reading File
	AB 1810	Levine	Assembly Bills - Third Reading File

+ ADDS
RA Revised Analysis
* Analysis pending

Note	Measure	Author	Location
	AB 1817	Ting	Assembly Bills - Third Reading File
+	AB 1823	Bryan	Assembly Bills - Third Reading File
+	AB 1824	Committee on Public Employment and Retirement	Consent Calendar Second Legislative Day
	AB 1832	Luz Rivas	Assembly Bills - Third Reading File
	AB 1845	Calderon	Assembly Bills - Third Reading File
	AB 1848	Bryan	Assembly Bills - Third Reading File
+	AB 1855	Nazarian	Consent Calendar Second Legislative Day
	AB 1863	Irwin	Assembly Bills - Third Reading File
	AB 1871	Calderon	Assembly Bills - Third Reading File
	AB 1879	Mathis	Assembly Bills - Third Reading File
	AB 1881	Santiago	Assembly Bills - Third Reading File
+	AB 1882	Robert Rivas	Assembly Bills - Third Reading File
	AB 1886	Cooper	Assembly Bills - Third Reading File
	AB 1894	Luz Rivas	Assembly Bills - Third Reading File
	AB 1901	Nazarian	Assembly Bills - Third Reading File
RA	AB 1902	Aguiar-Curry	Assembly Bills - Third Reading File
RA	AB 1907	Bauer-Kahan	Assembly Bills - Third Reading File
RA	AB 1909	Friedman	Assembly Bills - Third Reading File
RA	AB 1912	Mia Bonta	Assembly Bills - Third Reading File
	AB 1914	Davies	Assembly Bills - Third Reading File
	AB 1925	Santiago	Assembly Bills - Third Reading File
	AB 1932	Daly	Assembly Bills - Third Reading File
+	AB 1938	Friedman	Assembly Bills - Third Reading File
	AB 1954	Quirk	Assembly Bills - Third Reading File
+	AB 1959	Committee on Agriculture	Consent Calendar Second Legislative Day
+	AB 1974	Chen	Assembly Bills - Third Reading File
RA	AB 1991	Gabriel	Assembly Bills - Third Reading File
	AB 1997	Gipson	Assembly Bills - Third Reading File
	AB 2031	Lee	Assembly Bills - Third Reading File
	AB 2038	Gipson	Assembly Bills - Third Reading File
	AB 2045	Jones-Sawyer	Assembly Bills - Third Reading File
	AB 2048	Santiago	Assembly Bills - Third Reading File
RA	AB 2075	Ting	Assembly Bills - Third Reading File
	AB 2081	Eduardo Garcia	Assembly Bills - Third Reading File
	AB 2083	Bauer-Kahan	Assembly Bills - Third Reading File
	AB 2085	Holden	Assembly Bills - Third Reading File
+	AB 2089	Bauer-Kahan	Assembly Bills - Third Reading File
+	AB 2091	Mia Bonta	Assembly Bills - Third Reading File
+	AB 2096	Mullin	Consent Calendar Second Legislative Day
+	AB 2122	Choi	Consent Calendar Second Legislative Day
	AB 2133	Medina	Assembly Bills - Third Reading File
	AB 2154	Cooley	Assembly Bills - Third Reading File
	AB 2159	Bryan	Assembly Bills - Third Reading File
+	AB 2160	Bennett	Assembly Bills - Third Reading File
	AB 2163	Blanca Rubio	Assembly Bills - Third Reading File
+	AB 2164	Lee	Assembly Bills - Third Reading File
	AB 2167	Kalra	Assembly Bills - Third Reading File
	AB 2178	Bloom	Assembly Bills - Third Reading File
	AB 2193	Gabriel	Assembly Bills - Third Reading File
RA	AB 2194	Ward	Assembly Bills - Third Reading File

+ ADDS
RA Revised Analysis
* Analysis pending

Note	Measure	Author	Location
	AB 2195	Jones-Sawyer	Assembly Bills - Third Reading File
	AB 2196	Maienschein	Assembly Bills - Third Reading File
	AB 2205	Carrillo	Assembly Bills - Third Reading File
+	AB 2206	Lee	Assembly Bills - Third Reading File
	AB 2208	Kalra	Assembly Bills - Third Reading File
	AB 2210	Quirk	Assembly Bills - Third Reading File
+	AB 2221	Quirk-Silva	Assembly Bills - Third Reading File
+	AB 2229	Luz Rivas	Assembly Bills - Third Reading File
+	AB 2256	Quirk-Silva	Assembly Bills - Third Reading File
	AB 2270	Seyarto	Assembly Bills - Third Reading File
	AB 2271	Gipson	Assembly Bills - Third Reading File
+	AB 2295	Bloom	Assembly Bills - Third Reading File
	AB 2301	Wood	Assembly Bills - Third Reading File
	AB 2303	Aguiar-Curry	Assembly Bills - Third Reading File
	AB 2307	Berman	Assembly Bills - Third Reading File
	AB 2311	Maienschein	Assembly Bills - Third Reading File
	AB 2315	Arambula	Assembly Bills - Third Reading File
	AB 2319	Mia Bonta	Assembly Bills - Third Reading File
	AB 2322	Wood	Assembly Bills - Third Reading File
RA	AB 2326	Reyes	Assembly Bills - Third Reading File
	AB 2327	Committee on Environmental Safety and Toxic Materials	Assembly Bills - Third Reading File
	AB 2329	Carrillo	Assembly Bills - Third Reading File
+	AB 2334	Wicks	Assembly Bills - Third Reading File
	AB 2338	Gipson	Assembly Bills - Third Reading File
	AB 2339	Bloom	Assembly Bills - Third Reading File
	AB 2342	Cervantes	Assembly Bills - Third Reading File
	AB 2359	Gipson	Assembly Bills - Third Reading File
	AB 2361	Mia Bonta	Assembly Bills - Third Reading File
	AB 2369	Salas	Assembly Bills - Third Reading File
	AB 2374	Bauer-Kahan	Assembly Bills - Third Reading File
	AB 2380	Maienschein	Assembly Bills - Third Reading File
	AB 2392	Irwin	Assembly Bills - Third Reading File
	AB 2406	Aguiar-Curry	Assembly Bills - Third Reading File
	AB 2431	Committee on Banking and Finance	Assembly Bills - Third Reading File
	AB 2441	Kalra	Assembly Bills - Third Reading File
+	AB 2442	Robert Rivas	Assembly Bills - Third Reading File
RA	AB 2449	Blanca Rubio	Assembly Bills - Third Reading File
+	AB 2452	Chen	Assembly Bills - Third Reading File
	AB 2453	Bennett	Assembly Bills - Third Reading File
+	AB 2463	Lee	Consent Calendar Second Legislative Day
	AB 2466	Cervantes	Assembly Bills - Third Reading File
+	AB 2473	Nazarian	Consent Calendar Second Legislative Day
	AB 2481	Smith	Assembly Bills - Third Reading File
	AB 2482	Calderon	Assembly Bills - Third Reading File
	AB 2487	Gray	Assembly Bills - Third Reading File
	AB 2493	Chen	Assembly Bills - Third Reading File
+	AB 2503	Cristina Garcia	Assembly Bills - Third Reading File
	AB 2521	Santiago	Assembly Bills - Third Reading File
	AB 2552	McCarty	Assembly Bills - Third Reading File

+ ADDS
RA Revised Analysis
* Analysis pending

Note	Measure	Author	Location
	AB 2559	Ward	Assembly Bills - Third Reading File
	AB 2568	Cooley	Assembly Bills - Third Reading File
	AB 2574	Salas	Assembly Bills - Third Reading File
	AB 2582	Bennett	Assembly Bills - Third Reading File
+	AB 2594	Ting	Assembly Bills - Third Reading File
	AB 2595	Jones-Sawyer	Assembly Bills - Third Reading File
RA	AB 2604	Calderon	Assembly Bills - Third Reading File
	AB 2608	Berman	Assembly Bills - Third Reading File
+	AB 2626	Calderon	Assembly Bills - Third Reading File
	AB 2629	Santiago	Assembly Bills - Third Reading File
	AB 2640	Valladares	Assembly Bills - Third Reading File
+	AB 2647	Levine	Assembly Bills - Third Reading File
	AB 2655	Blanca Rubio	Assembly Bills - Third Reading File
+	AB 2657	Stone	Assembly Bills - Third Reading File
	AB 2669	Nazarian	Assembly Bills - Third Reading File
	AB 2693	Reyes	Assembly Bills - Third Reading File
+	AB 2711	Calderon	Assembly Bills - Third Reading File
	AB 2716	Grayson	Assembly Bills - Third Reading File
	AB 2721	Lee	Assembly Bills - Third Reading File
+	AB 2723	Holden	Assembly Bills - Third Reading File
	AB 2727	Wood	Assembly Bills - Third Reading File
	AB 2736	Santiago	Assembly Bills - Third Reading File
+	AB 2752	Wood	Assembly Bills - Third Reading File
	AB 2763	Kalra	Assembly Bills - Third Reading File
	AB 2766	Maienschein	Assembly Bills - Third Reading File
	AB 2771	Friedman	Assembly Bills - Third Reading File
	AB 2780	Arambula	Assembly Bills - Third Reading File
	AB 2798	Fong	Assembly Bills - Third Reading File
RA	AB 2799	Jones-Sawyer	Assembly Bills - Third Reading File
	AB 2848	Santiago	Assembly Bills - Third Reading File
RA	AB 2872	Akilah Weber	Assembly Bills - Third Reading File
	AB 2895	Arambula	Assembly Bills - Third Reading File
	AB 2912	Berman	Assembly Bills - Third Reading File
+	AB 2916	McCarty	Assembly Bills - Third Reading File
	AB 2917	Mike Fong	Assembly Bills - Third Reading File
	AB 2931	Bloom	Assembly Bills - Third Reading File
+	AB 2949	Lee	Assembly Bills - Third Reading File
	AB 2955	Committee on Labor and Employment	Assembly Bills - Third Reading File
RA	AB 2956	Committee on Transportation	Assembly Bills - Third Reading File
	AB 2958	Committee on Judiciary	Assembly Bills - Third Reading File
	AB 2959	Committee on Judiciary	Assembly Bills - Third Reading File
+	AB 2960	Committee on Judiciary	Assembly Bills - Third Reading File
	AB 2969	Committee on Governmental Organization	Assembly Bills - Third Reading File
RA	AB 2971	Committee on Governmental Organization	Assembly Bills - Third Reading File
	AB 2972	Committee on Jobs, Economic Development, and the Economy	Assembly Bills - Third Reading File
	AB 2973	Committee on Higher Education	Assembly Bills - Third Reading File
	ACA 3	Kamlager	Assembly Bills - Third Reading File

+ ADDS
RA Revised Analysis
* Analysis pending

Note	Measure	Author	Location
	ACR 92	Petrie-Norris	Special Consent Calendar No.27
	ACR 95	Cunningham	Assembly Bills - Third Reading File
	ACR 121	Seyarto	Special Consent Calendar No.27
	ACR 122	Seyarto	Special Consent Calendar No.27
	ACR 135	Seyarto	Special Consent Calendar No.27
	ACR 154	Seyarto	Special Consent Calendar No.27
	ACR 176	Luz Rivas	Assembly Bills - Third Reading File
	ACR 179	O'Donnell	Assembly Bills - Third Reading File
	ACR 200	Low	Special Consent Calendar No.27
	ACR 205	Wilson	Special Consent Calendar No.27
	ACR 207	Wilson	Special Consent Calendar No.27
	AJR 22	Gabriel	Assembly Bills - Third Reading File
	AJR 23	Boerner Horvath	Assembly Bills - Third Reading File
	AJR 26	Medina	Assembly Bills - Third Reading File

+ ADDS
RA Revised Analysis
* Analysis pending

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

UNFINISHED BUSINESS

Bill No: SB 731
Author: Durazo (D) and Bradford (D), et al.
Amended: 6/23/22
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 4/13/21
AYES: Bradford, Kamlager, Skinner, Wiener
NOES: Ochoa Bogh

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

SENATE FLOOR: 30-7, 6/2/21
AYES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Bates, Borgeas, Dahle, Grove, Jones, Ochoa Bogh, Wilk
NO VOTE RECORDED: Hurtado, Melendez, Nielsen

ASSEMBLY FLOOR: 35-28, 9/10/21 (FAIL) - See last page for vote

ASSEMBLY FLOOR: 46-22, 6/29/22 - See last page for vote

SUBJECT: Criminal records: relief

SOURCE: California for Safety and Justice

DIGEST: This bill permits additional relief by way of withdrawing a plea and deleting arrest records for the purpose of most criminal background checks.

Assembly Amendments:

1) Provide that relief granted by this bill does not release a defendant from unexpired criminal protective orders.

2) Clarify that these provisions do not limit people from seeking relief under any other provisions.

3) Provide that a person denied relief continues to be eligible to relief in other provisions.

4) Clarify that the provision stating that the order does not relieve them from an obligation to disclose the conviction to any direct question contained in an application for public office or licensure by a state or federal agency to also include applications or licensure by a federally recognized tribe.

5) Clarify that Department of Social Services can take action based on records that have been granted relief.

6) Change the effective date to July 1, 2023.

7) Remove California Department of Corrections and Parole from procedures related to both the petition based relief and automated relief.

8) Limit the expanded availability of this relief, excluding someone who would benefit from the changes in the bill (*ie* was sentenced to prison for a felony) in cases where that felony resulted in a requirement to register as a sex offender.

9) Require the Department of Justice to provide background information to school districts, county offices of education, charter schools, private schools, state special schools for the blind and deaf, or any other entity required to have a background check because of a contract with any of those entities.

10) State that conviction record relief does not affect the authority to receive, or take adverse action based on, criminal history information for purposes of teacher credentialing or employment in public education.

ANALYSIS:

Existing law:

1) Provides that on a monthly basis the Department of Justice (DOJ) shall review the records in the statewide criminal databases and shall identify persons with records of arrest that are eligible for arrest record relief, with no requirement

that the person file a motion seeking relief. A person is eligible for relief if the arrest occurred on or after January 1, 2021, and meets any of the following conditions:

a) The arrest was for a misdemeanor and the charge dismissed.
b) The arrest was for a misdemeanor and no criminal proceedings have been initiated one year from the date of the arrest.
c) If the arrest was for a jail felony, punishable by eight or more years and no proceedings have been initiated three years after the date of the arrest, and no conviction occurred, or the arrestee was a acquitted of the charges.
d) If the person successfully completed a specified diversion program.

2) Subjects the relief granted to the following conditions:

a) It does not relieve a person of an obligation to disclose an arrest in an application for employment as a peace officer.
b) It does not limit the ability of a criminal justice agency to access the arrest information.
c) It does not limit the ability of a district attorney to prosecute for the offense if it is within the statute of limitations.
d) It does not impact a person's authorization to own or possess a firearm
e) It does not impact any prohibition on holding public office.
f) It does not impact licensing for foster homes and similar facilities.
g) It does not limit other motions for relief. (Penal Code Section 851.93)

3) Provides that if a person is sentenced to a jail felony, the court, in its discretion, in the interest of judgement may allow a person to withdraw their guilty plea and enter a plea of not guilty and the court shall set aside the verdict and dismiss the accusations or information against the defendant when specified conditions are met. The relief shall be not be granted unless the prosecuting attorney has been given 15 days' notice of the petition for relief. (Penal Code Section 1203.41)

4) Provides that commencing July 1, 2022, and subject to a Budget appropriation, on a monthly basis, the DOJ shall review records in the statewide criminal justice databases and shall identify person with convictions that meet specified criterial and are eligible for automatic conviction relief. A person is eligible for relief if they meet all of the following conditions:

a) The person is not required to register as a Sex Offender.
b) The person does not have an active record for local, state, or federal supervision in the Supervised Release file.

c) Based on the information available, it does not appear the person is currently serving a sentence for an offense and there is no indication of pending criminal charges.
d) There is no indication that the conviction resulted in a sentence of incarceration in state prison.
e) The conviction occurred on or after January 1, 2021, and the defendant either was sentenced to probation and appears to have completed their term of probation without revocation or, the defendant was convicted of an infraction or misdemeanor, was not granted probation, and at least one calendar year has passed since the date of judgement. (Penal Code Section 1203.425(a)(1))

5) Provides that automatic conviction record relief is subject to the following conditions:

a) It does not relieve a person of the obligation to disclose a conviction when applying to be a peace officer.
b) It does not relieve a person of the obligation to disclose the conviction in response to a direct question contained in a questionnaire for public office or for contracting with the California State Lottery Commission
c) It does not affect a person's authorization to own, possess, etc. a firearm.
d) It does not affect a prohibition from holding public office that would otherwise apply as a result of the conviction.
e) It does not affect the authority to receive, or take action based on, criminal history information including the authority to receive certified court records.
f) It does not make eligible a person otherwise ineligible to provide in-home supportive services.
g) It may still act as a prior for future arrests and convictions. (Penal Code Section 1203.425(a)(3))

This bill:

1) Makes an arrest for a felony and there is no indication that the criminal proceeding has been initiated at least three years after the arrest eligible for relief and amends existing law to provide that if the arrest was for a jail or prison felony with a sentence of eight or more yeas shall be eligible for relief when no criminal proceedings have happened six years after the arrest.

2) Makes Penal Code Section 1203.41 apply to all felonies not just jail felonies and provides that if the defendant was on mandatory supervision, the parole officer shall notify the prosecuting attorney when a petition is filed.

3) Deletes the prohibition on granting relief if the person was incarcerated in the state prison.

4) Provides, in addition, that relief granted does not release the defendant from the terms and conditions of any unexpired criminal protective orders.

5) Adds an additional criteria for relief providing for relief if the conviction occurred on or after January 1, 2005, the defendant was convicted of a felony other than one for which the defendant completed probation without revocation, and based on the disposition date and the sentence specified in DOJ's records, appears to have completed all terms of incarceration, probation, mandatory supervision, postrelease supervision, and parole and a period of four years has eleapsed since the date on which the defendant completed probation or supervision for that conviction during which the person was not convicted of a new felony. This does not apply to a serious or violent felony as defined in the Penal Code or an offense for which a person must register as a sex offender.

6) Provides that existing conviction relief does not limit the ability of an entity to get the information for the purposes of teacher credentialing.

7) Contains an effective date of July 1, 2023.

Comments

According to the author:

> Nationally, an estimated 70 million people (nearly one in three adults, and 8 million people in California alone) have a past arrest or conviction on their record.1 The vast majority of people with convictions have long finished their sentence in prison, jail, parole or probation and exited the 'deepest end' of the justice system.

Despite the data on recidivism, California still maintains these records until the person reaches 100 years of age. Due to the widespread usage of background checks in today's society, the availability of these records activate thousands of barriers for one quarter of the state's population resulting in chronic housing insecurities, long-term unemployment, and widespread lack of civic participation. These collateral consequences disproportionately affect Black and Latino communities and have become one of the leading drivers of multi-generational poverty.

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

According to the Assembly Appropriations Committee:

1) One-time costs (Fingerprint Fees Account) of $946,000 to the DOJ to update existing technological infrastructure designed to identify an expanded universe of arrest and conviction records for relief. Costs to implement the initial review of arrests and convictions occurring on or after January 1, 2021, was approximately $3 million. This bill increases costs to DOJ for expanded review of arrests and convictions.

2) Costs (General Fund (GF)) of approximately $189,000 annually to the Department of Social Services (DSS) in federal reimbursements for In-Home Supportive Services (IHSS) providers that receive relief for crimes not considered exempt by the federal government. Additional costs, possibly in the millions of dollars annually, to DSS in Title IV-E compliances issues and subsequent loss in funding that would shift to the GF. Possible additional costs of approximately $25 million annually because of a decline in the federal discount rate calculation.

3) Cost pressures (Trial Court Trust Fund) in the hundreds of thousands of dollars annually for courts to hear additional felony expungement motions pursuant to Penal Code Section 1203.41. One hour of court time costs approximately $1,000. If courts are required to hear 20 additional motions for felony expungement statewide requiring an average of 12 hours of court time each, the cost to the courts would be $240,000. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund and staff workload may create a need for increased funding for courts from the GF to perform existing duties. This is particularly true, given that courts have delayed hundreds of trials and civil motions during the COVID-19 pandemic resulting in a serious backlog that must be resolved. The Budget Act of 2021 allocates $118.3 million from the GF to backfill continued reduction in fine and fee revenue for trial court operations and $72 million in ongoing GF revenue for trial courts to continue addressing the backlog of cases caused by the pandemic.

SUPPORT: (Verified 6/29/22)

California for Safety and Justice (source)
A New Way of Life Re-Entry Project
All of Us or None Los Angeles
All of Us or None Riverside
Alliance of Californians for Community Empowerment Action

American Civil Liberties Union/Northern California/Southern California/San Diego and Imperial Counties
Anti-Recidivism Coalition
Arts for Healing and Justice Network
Asian Americans Advancing Justice - California
Asian Solidarity Collective
Bend the Arc: Jewish Action
Black Los Angeles Young Democrats
Blameless and Forever Free Ministries
Building Opportunities for Self-Sufficiency
California Attorneys for Criminal Justice
California Calls
California Catholic Conference
California Immigrant Policy Center
California Labor Federation, AFL-CIO
California Public Defenders Association
California Religious Action Center of Reform Judaism
California State Council of Laborers
Californians Coalition for Women Prisoners
Californians United for a Responsible Budget
Cat Clark Consulting Services LLC
Center of Hope LA
Chrysalis Center
Code for America
Communities United for Restorative Youth Justice
Community Advocates for Just and Moral Governance
Community Legal Services in East Palo Alto
Community Works
County of Los Angeles Board of Supervisors
Courage California
Cure California
Defy Ventures
Dignity and Power Now
Drug Policy Alliance
Ella Baker Center for Human Right
Faith in Action Bay Area
Faith in Action East Bay
Family Reunification Equity & Empowerment
Felony Murder Elimination Project
Forward Impact Dba Represent Justice

Fresno Barrios Unidos
Friends Committee on Legislation of California
Homeboy Industries
Initiate Justice
Inland Empire Fair Chance Coalition
Inland Equity Partnership
Kehilla Community Synagogue
LA Voice
Last Prisoner Project
Law Enforcement Action Partnership
Legal Aid at Work
Legal Services for Prisoners with Children
Livefree California
Los Angeles County Democratic Party
Los Angeles Regional Reentry Partnership
Michelson Center for Public Policy
National Association of Social Workers, California Chapter
People Objective LLC
Phenomenal Angels of the Community
Pico California
Pillars of the Community
Re:Store Justice
Riverside Community College District
Root & Rebound
Rubicon Programs
San Bernardino Free Them All
San Francisco Public Defender
Santa Cruz Barrios Unidos Inc.
Shields for Families
Showing Up for Racial Justice Bay Area
Showing Up for Racial Justice North County
Showing Up for Racial Justice San Diego
Smart Justice California
Social & Environmental Justice Committee of the Universalist Unitarian Church of Riverside
Social Justice Research Partnership
Starting Over, Inc.
Team Justice
The Dream Corps
The Experience Christian Ministries

The Reverence Project
Think Dignity
Time for Change Foundation
Timelist Group
Transitions Clinic Network
Uncommon Law
Underground Grit
Underground Scholars Initiative at UC Riverside
Underground Scholars Initiative Berkeley
Underground Scholars Initiative, University of California Davis
UNITE-LA, Inc.
We the People - San Diego
Young Women's Freedom Center

OPPOSITION: (Verified 6/29/22)

Alliance for Constitutional Sex Offense Laws
California Association of Licensed Investigators
California Board of Psychology
California District Attorneys Association
California Statewide Law Enforcement Association
Dental Hygiene Board of California
Peace Officers Research Association of California
Physician Assistant Board
Veterinary Medical Board

ARGUMENTS IN SUPPORT: Californians for Safety and Justice, the sponsor of this bill, states:

> Nationally, an estimated 70 million people—nearly one in three adults, and 8 million people in California alone— have a past arrest or conviction on their record. California maintains an individual's criminal records until that person reaches 100 years of age. As a result of the widespread usage of background checks in today's society, the permanence of these records present thousands of barriers resulting in widespread constraints on civic participation.
>
> Examples of these barriers are felt by families seeking to live outside of impoverished areas, individuals that want careers in education or healthcare, others who want to coach, homeowners that want to joint heir HOA board, couples that want to adopt, or grandchildren that want to care for their elderly grandparent. Old criminal records go beyond economics and into denial of human decency, family responsibility, and basic citizenship.

Lack of access to employment and housing are primary factors driving recidivism, criminal records are serious barriers to successful reentry and come at a cost of $20 billion annually to California's economy. Nationally, it has been estimated that the U.S. loses roughly $372.3 billion per year in terms of gross domestic product due to employment losses among people living with convictions.

SB 731 proposes a structured, automated approach to sunsetting criminal records. Automated sealing of all arrest records that do not result in conviction, and phased relief for convictions records, expand record sealing to all sentences following completion of terms of incarceration, post-release supervision, and an additional period of time - provided the person has completed their sentence without any new felony convictions and has no new charges pending. For the reasons listed above, Californians for Safety and Justice is proud to co-sponsor SB 731.

ARGUMENTS IN OPPOSITION: Peace Officers Research Association of California opposes this bill stating:

Current law authorizes a defendant who was sentenced to a county jail for the commission of a felony and who has met specified criteria to petition to withdraw their plea of guilty or nolo contendere and enter a plea of not guilty after the completion of their sentence. Current law requires the court to dismiss the accusations or information against the defendant and release them from all penalties and disabilities resulting from the offense, except as specified. This bill would make this relief available to a defendant who has been convicted of any felony.

PORAC believes that by expanding the relief of penalties for all felonies, we are placing our communities at risk. Oftentimes, felony crimes are violent and leave behind innocent victims whose lives will never be the same. By allowing violent criminals back on the street, with their record dismissed, they will have less deterrent to commit another crime. Thus, leaving more victims in their wake. If the author is willing to amend the bill to exclude violent criminals, we would be inclined to remove our opposition.

ASSEMBLY FLOOR: 46-22, 6/29/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Carrillo, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson,

Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Mayes, McCarty, McKinnor, Medina, Mullin, Nazarian, O'Donnell, Quirk, Reyes, Luz Rivas, Robert Rivas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Choi, Cooley, Cooper, Megan Dahle, Davies, Flora, Fong, Gallagher, Irwin, Kiley, Lackey, Mathis, Muratsuchi, Nguyen, Patterson, Petrie-Norris, Salas, Seyarto, Smith, Valladares, Voepel
NO VOTE RECORDED: Calderon, Cervantes, Chen, Cunningham, Low, Maienschein, Quirk-Silva, Ramos, Rodriguez, Blanca Rubio, Villapudua, Waldron

ASSEMBLY FLOOR: 35-28, 9/10/21 (FAIL)
AYES: Bauer-Kahan, Bennett, Berman, Bloom, Mia Bonta, Bryan, Carrillo, Chau, Chiu, Friedman, Gabriel, Cristina Garcia, Gipson, Gray, Holden, Jones-Sawyer, Kalra, Lee, Levine, Mayes, McCarty, Medina, Mullin, Nazarian, Quirk, Reyes, Luz Rivas, Robert Rivas, Santiago, Stone, Ting, Ward, Wicks, Wood, Rendon
NOES: Bigelow, Cervantes, Chen, Cooley, Cooper, Cunningham, Megan Dahle, Davies, Flora, Fong, Frazier, Gallagher, Irwin, Kiley, Lackey, Mathis, Muratsuchi, Nguyen, O'Donnell, Patterson, Petrie-Norris, Rodriguez, Salas, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Aguiar-Curry, Arambula, Boerner Horvath, Burke, Calderon, Choi, Daly, Eduardo Garcia, Lorena Gonzalez, Grayson, Low, Maienschein, Quirk-Silva, Ramos, Blanca Rubio, Villapudua, Akilah Weber

Prepared by: Mary Kennedy / PUB. S. /
7/28/22 10:40:21

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

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UNFINISHED BUSINESS

Bill No: SB 922
Author: Wiener (D), et al.
Amended: 8/4/22
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-0, 3/28/22
AYES: Allen, Gonzalez, Skinner, Stern, Wieckowski
NO VOTE RECORDED: Bates, Dahle

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 24-1, 5/16/22
AYES: Allen, Archuleta, Atkins, Dodd, Durazo, Eggman, Glazer, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, McGuire, Min, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Wieckowski, Wiener
NOES: Bates
NO VOTE RECORDED: Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Gonzalez, Grove, Limón, Melendez, Newman, Nielsen, Stern, Umberg, Wilk

ASSEMBLY FLOOR: 71-2, 8/8/22 - See last page for vote

SUBJECT: California Environmental Quality Act: exemptions: transportation-related projects

SOURCE: Author

DIGEST: This bill expands California Environmental Quality Act (CEQA) exemptions for specified transit, bicycle, and pedestrian projects, and extends these exemptions from 2023 to 2030.

Assembly Amendments establish specified public notice and meeting requirements for projects that exceed $50 million.

ANALYSIS:

Existing law, under CEQA:

1) Requires lead agencies with the principal responsibility for carrying out or approving a proposed discretionary project to prepare a negative declaration (ND), mitigated ND, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA (CEQA includes various statutory exemptions, as well as categorical exemptions in the CEQA Guidelines). (Public Resources Code (PRC) §21000 et seq.).

2) Exempts from CEQA, until January 1, 2030, bicycle transportation plans for an urbanized area for restriping of streets and highways, bicycle parking and storage, signal timing to improve street and highway intersection operations, and related signage for bicycles, pedestrians, and vehicles under certain conditions if the lead agency holds noticed public hearings in areas affected by the bicycle transportation plan and files a notice of exemption (NOE) with Office of Planning and Research (OPR). (PRC §21080.20)

3) Exempts from CEQA, until January 1, 2023, the following projects (SB 288 projects):
   a) Pedestrian and bicycle facilities, including new facilities.
   b) Projects that improve customer information and wayfinding for transit riders, bicyclists, or pedestrians.
   c) Transit prioritization projects.
   d) On highways with existing public transit service or that will be implementing public transit service within six months of the conversion, a project for the designation and conversion of general purpose lanes or highway shoulders to bus-only lanes.
   e) A project for the institution or increase of new bus rapid transit (BRT), bus, or light rail service, including the construction of stations, as specified.
   f) A project to construct or maintain infrastructure to charge or refuel zero-emission transit buses, as specified.
   g) The maintenance, repair, relocation, replacement, or removal of any utility infrastructure associated with a project described in a) through f), above.
   h) A project that consists exclusively of a combination of a) through g), above.
   i) A project carried out by a city or county to reduce minimum parking requirements.

4) Subjects each of the projects described in 3) above, not including a project to reduce minimum parking requirements, to the following requirements:
   a) Carried out by a public agency and the public agency is the lead agency.

b) Located in an urbanized area.
c) Located on or within an existing public right-of-way.
d) Cannot add physical infrastructure that increases new automobile capacity on existing rights-of-way, except as provided.
e) Does not require demolition of affordable housing units.
f) Lead agency certification that the project will be completed by a skilled and trained workforce, except as provided.

5) Requires a project described in 3) that exceeds $100 million to also:
   a) Be incorporated in a regional transportation plan, sustainable communities strategy, general plan, or other plan that has undergone a programmatic-level environmental review within 10 years of the approval of the project.
   b) Fully mitigate construction impacts are fully consistent with applicable law.
   c) Require the lead agency to complete and consider results of a project business case and a racial equity analysis, as specified.
   d) Require lead agency to hold noticed public hearings, as prescribed.

This bill:

1) Exempts from CEQA, until January 1, 2030, active transportation plans and pedestrian plans, if the lead agency holds noticed public hearings and files an NOE with OPR.

2) Provides that for the SB 288 projects extends the January 1, 2023 sunset until 2030, and makes the following changes to SB 288 general requirements:
   a) Allows a local agency, instead of requiring a public agency, to carry out the project and be the lead agency.
   b) Prohibits a project from inducing single-occupancy vehicle trips, adding additional highway lanes, widening highways, or adding physical infrastructure or striping to highways except as specified.

3) Makes the following changes to individual SB 288 project exemptions:
   a) Applies to pedestrian and bicycle facilities that improve safety, access, or mobility.
   b) Expands “transit prioritization projects” to include:
      i) Signal and sign changes such as the installation of traffic signs or new signals.
      ii) Conversion to dedicated transit lanes, including transit queue jump or bypass lanes and turn restrictions.
      iii) Narrowing of lanes to allow for dedicated transit lanes or transit reliability improvements.

iv) Widening of existing transit travel lanes by removing or restricting street parking.
v) Transit stop access and safety improvements.

c) Exempts the designation and conversion of general purpose lanes to high-occupancy vehicle lanes or bus-only lanes, or highway shoulders to part-time transit lanes. Defines "part-time transit lanes" as designated highway shoulders that support the operation of transit vehicles during specified times and are not open to nonpublic transit vehicles at any time.
d) Exempts public projects for the institution or increase of *existing* BRT, bus, or light rail service, including the rehabilitation of stations, terminals, or existing operations facilities, as specified. Retroactively applies these changes to projects where lead agency filed an NOE before January 1, 2023.
e) Expands exemption for public projects to construct or maintain infrastructure to charge or refuel zero-emission buses to include infrastructure for zero-emission transit trains and ferries. Requires specified noticed public meetings for this exemption to apply.
f) Exempts eliminating minimum parking requirements, instituting parking maximums, removing or restricting parking, and implementing transportation demand management requirements or programs.

4) Requires, for SB 288 projects that exceed $100 million the local agency to complete an analysis of residential displacement and suggest antidisplacement strategies, designs, or actions where 50 percent of the project or project's stops and stations are located in an area that is at-risk of residential displacement, as identified by the lead agency, and that will have a maximum of 15-minute peak headways.

5) Establishes specified public notice and meeting requirements for projects that exceed $50 million.

Background

CEQA and transportation projects. In October 2017, the Senate Environmental Quality Committee conducted a survey of state agencies regarding CEQA to gain a better understanding of CEQA compliance and litigation. The survey covered a period of five years, Fiscal Years 2011/12 to 2015/16.

The Department of Transportation (DOT) reported the most number of projects with 3,259 projects during the five-year period. Breakdown of the DOT results are as follows:

- Exempt through a categorical exemption: 2,890 projects (88%).
- Exempt through a statutory exemptions: 44 projects (1.3%).

- Subject to an ND/mitigated ND: 263 projects (8%).
- Subject to an EIR: 62 projects (1.9%) .
- Total CEQA challenges filed: 29 (less than 1%) (multiple lawsuits could have been filed against a single project, making the number of projects challenged potentially lower).

SB 288. SB 288 (Wiener, Chapter 200, Statutes of 2020) was enacted as a way to "jumpstart the sustainable transportation projects as an essential part of California's economic recovery from COVID-19."

According to OPR, 22 projects have filed an NOE pursuant to SB 288.

Comments

1) *Look before you leap.* Often groups will seek a CEQA exemption to expedite construction of a particular type of project and reduce costs. Providing an exemption, however, can overlook the benefits of environmental review: to inform decisionmakers and the public about project impacts and identify ways to avoid or significantly reduce environmental damage. Environmental review includes more than just looking at the impacts on a wetland or a threatened species; it can look at things such as air quality, impacts to neighboring facilities such as hospitals and schools, pressure on underlying infrastructure, and more, and analyzes those impacts in the context of one another.

   CEQA is a process. It does not dictate the outcome of a project but rather is a disclosure mechanism that guarantees public involvement and transparency in the project approval process. A CEQA exemption takes away that guarantee. Absent CEQA, a project can be assumed to be "fine as is," without consideration of community concerns or the potential for improvement through public input. Absent CEQA, public participation can vary jurisdiction to jurisdiction and project to project, or sometimes, not be included at all.

   Under this bill, various transit projects would be exempt from CEQA. Public notice and meetings are required for projects that exceed $50,000,000 and for hydrogen refueling infrastructure.

2) *Even "environmental" projects can have environmental impacts*. A transit project, even if considered sustainable and with environmental benefits, could have environmental impacts. However, due to the exemptions provided under this bill, those impacts may not be known or mitigated. For example:

- Construction of a new light rail station may result in adverse noise and air quality impacts for nearby residents, or sensitive uses such as schools, senior centers, and hospitals.
- Construction of a project could cause traffic congestion to a sensitive land-use such as a hospital.

3) *Less than 1% of transportation projects are litigated.* The only tool for enforcing CEQA is civil litigation and eliminating the possibility of litigation means taking away the ability to enforce the law. Without CEQA, a project with significant, unknown environmental impacts can proceed without any mitigation measures. Groups such as environmental justice groups or neighborhood groups will be unable to protect communities from being disproportionately impacted by unmitigated, avoidable, significant environmental impacts such as air pollution.

   Some cite CEQA litigation as a problem but do not indicate the result of that litigation. For example, were significant impacts that were not initially evaluated ultimately addressed? What would have been the result if those impacts had not been mitigated (e.g. exposure of people to hazards, congestion, or inadequate public services)? Did the project improve as a result of the CEQA process?

   The volume of CEQA litigation is low considering the thousands of projects subject to CEQA each year as well as the overall volume of civil litigation statewide. In its 2021 report, *CEQA: California's Living Environmental Law*, The Housing Workshop found that about 2% of projects were subject to litigation between 2013-2019. These findings are consistent with the CEQA State Agency Survey results for transportation projects which found that over the course of five years, less than 1% of DOT transportation projects were subject to a CEQA challenge.

4) *Almost 90% of transportation projects are exempt from CEQA.* According to the CEQA survey, 88% of DOT projects were categorically exemption (an additional 1.3% were statutorily exempt). SB 288 exemptions made, and the expansion of those exemptions under this bill make, many transit projects that were previously categorically exempt instead statutorily exempt. The main difference between a categorical and statutory exemption is that a categorical exemption can be challenged if certain conditions are present such as, for example, the project being on a hazardous waste site or the project having a significant effect on the environment due to unusual circumstances, among others.

5) *Hydrogen might help us meet our climate goals, but it is also volatile.* SB 922 expands the exemption for zero-emission bus infrastructure to include infrastructure for zero-emission trains and ferries. While the deployment of zero-emission technology such as hydrogen is appealing from an emissions perspective, the associated environmental impacts of its supporting infrastructure may be significant. Although hydrogen fuel stations for zero emission buses and passenger cars are located through the state, and safety measures are taken when installing those stations, some have expressed concern over exempting these types of projects from CEQA due to hydrogen's volatility and the potential for significant risk of damage to surrounding communities. SB 922 requires noticed public meetings for hydrogen infrastructure.

6) *The limit does not exist*. The exemptions provided by this bill contain no restrictions on size. While not concerning for some projects, such as signal and sign changes, the lack of guardrails or public participation for larger projects can be concerning due to the associated environmental impacts. For example:

   - A project that updates or converts an entire light rail system, such as Bay Area Rapid Transit (BART), into new energy-efficient technology could potentially be exempt. While BART certainly provides an important mode of public transportation, providing hundreds of thousands of residents and visitors with an affordable way to move throughout the Bay Area, a project that updates its infrastructure to incorporate the new technology could have significant environmental impacts associated with the construction of that transition.
   - A project that institutes or increases BRT or light rail service, although on existing public right-of-way or highways right-of-way, could potentially be of any length as long as it is within an urbanized area or urbanized cluster.
   - Hydrogen storage tanks used in infrastructure of hydrogen buses, trains, and ferries could be of any size. Similarly, charging stations and maintenance facilities for electric buses and trains could be of any size.

   SB 922 requires projects that exceed $50 million to include public notice and meetings, thereby increasing public participation for many of the larger projects that previously were not required to have public meetings under SB 288.

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

According to the Assembly Appropriations Committee, enactment of this bill would result in negligible state costs.

SUPPORT: (Verified 8/8/22)

21st Century Alliance
Alameda County Transportation Commission
Alameda-Contra Costa Transit District
American Planning Association, California Chapter
Amply Power
Association of Environmental Professionals
Bay Area Council
California Bicycle Coalition
California Downtown Association
California State Association of Counties
California Transit Association
California YIMBY
CALSTART Inc.
Circulate San Diego
Cities of Alameda, Berkeley, Los Altos, Pleasanton, Redwood City, San Jose, Thousand Oaks, and Tustin
Climateplan
East Bay for Everyone
East Bay Transit Riders Union
Friends of Caltrain
Greenbelt Alliance
League of California Cities
League of Women Voters of California
Los Angeles County Metropolitan Transportation Authority
Los Feliz Neighborhood Council
Marin County Bicycle Coalition
Mayor Eric Garcetti, City of Los Angeles
Mayor London Breed, City & County of San Francisco
Metropolitan Transportation Commission
Midpeninsula Regional Open Space District
Monterey-Salinas Transit
Move LA, a Project of Community Partners
North Bay Leadership Council
North Westwood Neighborhood Council
Peninsula Corridor Joint Powers Board
Planning and Conservation League
Rails-to-trails Conservancy
Sacramento Area Council of Governments
Safe Routes Partnership

Safe Routes to School National Partnership
San Bernardino Associated Governments
San Diego Metropolitan Transit System
San Diego Regional Chamber of Commerce
San Francisco Bay Area Water Emergency Transportation Authority
San Francisco Municipal Transportation Agency
San Joaquin Joint Powers Authority
San Joaquin Regional Rail Commission
San Joaquin Regional Transit District
Seamless Bay Area
Silicon Valley Leadership Group
Southern California Regional Rail Authority
SPUR
Sunline Transit Agency
Transform
Valley Industry and Commerce Association
Walk San Francisco

OPPOSITION: (Verified 8/8/22)

None received

ARGUMENTS IN SUPPORT: According to the California Transit Association, one of the co-sponsors of this bill, "…SB 288 aims to protect development of clean transportation projects that will reduce greenhouse gas emissions by bringing online more public transit and active transportation projects sooner. These clean transportation projects include developing new bus rapid transit projects, expansion of bus or light-rail services, transit prioritization projects (as defined), projects that improve customer information and wayfinding for commuters, projects to construct and maintain infrastructure to charge or refuel zero-emission vehicles, projects to reduce minimum parking requirements, and projects for pedestrian and bicycle facilities."

ASSEMBLY FLOOR: 71-2, 8/8/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes,

Luz Rivas, Robert Rivas, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NOES: Bauer-Kahan, Stone

NO VOTE RECORDED: Bigelow, Bryan, Calderon, Megan Dahle, Gray, Rodriguez, Voepel

Prepared by: Genevieve M. Wong / E.Q. / (916) 651-4108
8/10/22 14:12:36

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

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UNFINISHED BUSINESS

Bill No: SB 940
Author: Laird (D)
Amended: 8/1/22
Vote: 21

SENATE JUDICIARY COMMITTEE: 8-2, 3/29/22
AYES: Umberg, Durazo, Gonzalez, Laird, McGuire, Stern, Wieckowski, Wiener
NOES: Borgeas, Jones
NO VOTE RECORDED: Hertzberg

SENATE FLOOR: 24-10, 5/23/22
AYES: Allen, Atkins, Becker, Bradford, Cortese, Dodd, Durazo, Eggman, Gonzalez, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Bates, Borgeas, Dahle, Glazer, Grove, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk
NO VOTE RECORDED: Archuleta, Caballero, Hertzberg, Hueso, Hurtado, Pan

ASSEMBLY FLOOR: 45-21, 8/8/22 - See last page for vote

SUBJECT: Mobilehome parks: local ordinances

SOURCE: Golden State Manufactured Homeowners League

DIGEST: This bill preempts the imposition of local mobilehome rent control ordinances on mobilehome space rent for the first 15 years after a mobilehome space or park is initially held out for rent, as defined.

Assembly Amendments (1) apply the new construction exemption from local mobilehome rent control ordinances to spaces initially held out for rent after January 1, 1990, and to newly constructed parks a extend the period of time that newly constructed mobilehome spaces first permitted to operate after January 1, 2023; (2) extend the period of the new construction exemption from 10 to 15 years; and (3) revise provisions governing when the 15 year new construction exemption period begins. [NOTE: *See* Comments, below, for further detail.]

ANALYSIS:

Existing law:

1) Establishes the Mobilehome Residency Law (MRL) which regulates the rights, responsibilities, obligations, and relationships between mobilehome park management and park residents. (Civ. Code §§ 798 et seq.)

2) Preempts the application of local ordinances regulating mobilehome rent to "new construction," defined as any newly constructed space initially held out for rent after January 1, 1990. (Civ. Code §§ 798.45 and 798.7.)

This bill:

1) Defines "new construction" to mean any newly constructed spaces initially held out for rent after January 1, 1990, and provides that a mobilehome park space shall be considered "initially held out for rent" on the date of issuance of a permit or certificate of occupancy for that space by the enforcement agency as specified.

2) Defines "new mobilehome park construction" to mean all spaces contained in a newly constructed mobilehome park for which a permit to operate is first issued by the enforcement agency on or after January 1, 2023.

3) Specifies that new construction, as defined, is exempt from any ordinance, rule, regulation, or initiative measure adopted by any city, county, or city and county, that establishes a maximum amount that a landlord may charge a tenant for rent for a period of 15 years from the date upon which the space initially held out for rent.

4) Provides that new mobilehome park construction, as defined, is exempt from any ordinance, rule, regulation, or initiative measure adopted by any city, county, or city and county, which establishes a maximum amount that a landlord may charge a tenant for rent for a period of 15 years from the date upon which 50 percent of the spaces in the new mobilehome park are initially held out for rent measured from the date of issuance of a permit or certificate of occupancy for that space by the enforcement agency.

Comments

Should they choose to exercise it, local jurisdictions in California have the authority to impose limitations on how much mobilehome parks can increase their residents' rent. However, existing state law exempts "new" mobilehome construction from any such local rent control. The idea is to ensure that local rent control laws do not inadvertently discourage the construction of new mobilehome sites by limiting developers' potential return on investment. The problem is that existing law rather arbitrarily defines "new" mobilehome construction as any mobilehome space initially offered for rent on or after January 1, 1990. As a result, current law treats mobilehome spaces that are several decades old, and growing older, as "new construction." In an effort to address this problem, this bill revises the state preemption of local rental control for new mobilehome construction in two ways: (1) for newly constructed mobilehome spaces first held out for rent after January 1, 1990, the bill preempts the application of local rent control ordinances for the initial 15 year period; and (2) for newly constructed mobilehome parks established on or after January 1, 2023, the bill preempts the application of local rent control ordinances for the first 15 years after at least half of the spaces in the park are initially held out for rent.

Policy rationale for rent control exemptions for new construction. A key criticism of blanket rent control measures is that they have the potential to discourage the construction of new housing. The idea is that developers may shy away from building new rental housing units if they know that rent control could limit the return they can get for their investment.

For this reason, many rent control laws, both state and local, contain an exception for newly constructed housing. For example, AB 1482 (Chiu, Chapter 597, Statutes of 2019), the statewide prohibition on sudden, large rent increases enacted by the Legislature in 2019 includes an exception for any housing for which a certificate of occupancy was issued in the past 15 years. (Civ. Code § 1947.12(d)(4).) Similarly, Civil Code Section 1954.52, also known as "Costa-Hawkins," prevents local jurisdictions from applying rent control to rental housing built after February 1, 1995.

Like these examples, existing state law governing mobilehomes contains a provision preempting the application of local mobilehome rent control laws to "new construction." (Civ. Code § 798.45.) That provision, enacted by the Legislature in 1989, defines "new construction" as any mobilehome space initially

held out for rent on or after January 1, 1990. (SB 1241, Leonard, Chapter 412, Statutes of 1989.)

From the author and sponsors' point of view, that definition of "new" mobilehome contstruction is problematic. In the first several years after enactment, this definition made logical sense, since any spaces constructed in those years were, at the time, new. Obviously, however, defining "new" relative to a fixed date means that, in time, even construction that is rather old still qualifies as "new." As a result, older mobilehome spaces and parks remain exempt from local rent control even though the developer may long since have achieved the return on the original investment that motivated construction of the park in the first place.

In an attempt to address this problem while avoiding the discouragement of new mobilehome park development, this bill maintains the concept of protecting "new" mobilehome parks from the imposition of local rent control ordinances, but replaces the definition based on an arbitrary date with a rolling window. Under the bill, what constitutes a "new" mobilehome park or space would automatically update with the passage of time. The bill achieves this result by establishing a 15 year period after a new park or space is initially held out for rent during which any local mobilehome rent control ordinance is preempted. Accordingly, recently built mobilehome parks and spaces would be exempt from local rent control, but would eventually lose that exemption as they age beyond the 15 year period.

Locals maintain discretion about whether or not to enact local mobilehome rent control in the first place. This bill would narrow the circumstances in which state law preempts the application of locally enacted mobilehome rent control ordinances. In that regard, it can be correctly characterized as increasing local control. At the same time, it is important to note that the bill is entirely neutral on the question of whether local jurisdictions should or should not impose mobilehome rent control in the first place. Nothing in this bill requires or encourages local jurisdictions to enact or maintain such ordinances. Local jurisdictions would retain complete discretion to impose mobilehome rent control or leave mobilehome rental rates in the hands of market forces, as they deem appropriate for their communities.

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

SUPPORT: (Verified 8/9/22)

Golden State Manufactured Homeowners League (source)
California Housing Partnership Corporation

California YIMBY
Golden State Manufactured-Home Owners League, Chapter 49
John Burton Advocates for Youth
Leadership Council for Justice & Accountability
Mesa Dunes Homeowner's Association, Inc.
Oak Haven Neighbor Group
Rancho Yolo Community Association
Sandpiper Golden State Manufactured-Home Owners League, Chapter 776
Santa Cruz County Democratic Central Committee
United Way Bay Area
United Way Monterey County
United Way Santa Cruz
Western Center on Law & Poverty
16 individuals

OPPOSITION: (Verified 8/9/22)

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

ARGUMENTS IN SUPPORT: In summary, proponents of the bill assert that it promotes housing affordability; increases local control; and retains sufficient incentives for construction of new mobilehome parks. For example:

According to the author:

> Mobilehomes are among the last forms of unsubsidized affordable housing in California. The state must do all we can to protect and preserve this type of housing for seniors, working families, veterans, and other community members on fixed incomes. Senate Bill 940 advances California's affordable housing goals by allowing locally passed rent protections to apply towards newly constructed mobile home spaces, and maintains an incentive for new mobilehome park construction by allowing for a 10-year exemption for spaces in those parks. This bill strikes the right balance among local governance, housing affordability and the creation of new housing units by retaining an incentive for the building of new mobilehome parks.

As sponsor of the bill, the Golden State Manufactured Homeowners' League writes:

> SB 940 asks the Legislature to ensure mobilehomes remain affordable by eliminating an outdated, state-imposed loophole created over thirty years ago that denies the ability of local jurisdictions to protect those homeowners from excessive rent increases.

In support of the bill, the Mesa Dunes Homeowner's Association, Inc., writes:

> This legislation should correct the inequity that now exists and help our local jurisdictions protect mobile home owners from excessive rent increases. […] Under SB 940 mobile home spaces added to parks after 1990 will now have the same protection from excessive rent increases as the other spaces in the park.

ARGUMENTS IN OPPOSITION: In summary, the opponents of this bill contend that it discourages the construction of new mobilehome spaces; punishes park owners who have added new spaces in recent years; and treats mobilehome park developers differently than other types of rental housing providers. For example:

The California Mobilehome Parkowners Alliance writes:

> Mobilehome parks are unique in the context of rent control. Mobilehome parkowners face a number of legal restrictions which make operating a park extremely challenging. This is reflected in the fact that while apartments and other forms of housing continue to be built, virtually no new mobilehome parks have been built in California in the last 60 years. Despite this, there are still opportunities to expand existing parks by constructing new spaces. This is important as housing in mobilehome parks is widely recognized as one of the few affordable housing options left in California. However, if SB 940 passes it is unlikely that parkowners will expand their parks. The prospect of new spaces being subject to rent control after only ten years leaves parkowners little opportunity to build and rent spaces in time to recuperate the cost of their

> investment let alone realize the same returns that they might if they invested in other less accessible forms of housing. That disincentive is not needed at a time when the state needs to expand its housing supply more than ever.

Western Manufactured Housing Communities Association writes:

> Unlike apartment communities, mobilehome parks often require months or years to build spaces, populate spaces and begin to receive a profit on investments made. While an apartment community can fully rent units in a new development in a manner of weeks, and be fully occupied on day 1, mobilehome parks require homes to be manufactured, delivered, and installed on a space-by-space basis. […] Unless the owner completely tries and gouges the incoming resident, it would be impossible for that landlord to make back his or her investment in 10 years before rent control overlay would be implemented.

ASSEMBLY FLOOR: 45-21, 8/8/22
AYES: Aguiar-Curry, Alvarez, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Carrillo, Cervantes, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Low, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cooley, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Mathis, Mayes, Patterson, Salas, Seyarto, Smith, Valladares, Waldron
NO VOTE RECORDED: Arambula, Bryan, Calderon, Cooper, Daly, Levine, Maienschein, Nguyen, Petrie-Norris, Quirk, Ramos, Rodriguez, Villapudua, Voepel

Prepared by: Timothy Griffiths / JUD. / (916) 651-4113
8/10/22 14:51:06

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

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UNFINISHED BUSINESS

Bill No: SB 981
Author: Glazer (D), et al.
Amended: 6/6/22
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 3/29/22
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 37-0, 4/28/22 (Consent)
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NO VOTE RECORDED: Grove, Laird, Wilk

ASSEMBLY FLOOR: 76-0, 8/4/22 (Consent) - See last page for vote

SUBJECT: Criminal procedure: factual innocence

SOURCE: California Innocence Project
Loyola Project for the Innocent
Northern California Innocence Project

DIGEST: This bill allows a person to petition a court for a finding that they are entitled to wrongful conviction compensation, if the court has granted a writ of habeas corpus or vacated a judgment, and the charges against the person have been dismissed or the person has been acquitted on retrial.

Assembly Amendments make a number of technical and reorganizing changes including changing slightly the process by which the court makes a finding that compensation by the California Victims Compensation Board (CalVCB) shall recommend a payment.

ANALYSIS:

Existing law:

1) Establishes procedures for the filing and hearing of a petition for a writ of habeas corpus, which allows a person to challenge their incarceration or related restraint as unlawful. (Pen. Code, §§ 1474-1508.)

2) States that a writ of habeas corpus may be prosecuted for, but not limited to, the following reasons:

   a) False evidence that is substantially material or probative on the issue of guilt or punishment was introduced against a person at a hearing or trial relating to the person's incarceration;

   b) False physical evidence, believed by a person to be factual, probative, or material on the issue of guilt, which was known by the person at the time of entering a plea of guilty, which was a material factor directly related to the plea of guilty by the person; or,

   c) New evidence, as defined, exists that is credible, material, presented without substantial delay, and of such decisive force and value that it would have more likely than not changed the outcome at trial. (Pen. Code § 1473 (b).)

3) Authorizes a person no longer unlawfully imprisoned or restrained to prosecute a motion to vacate a judgment for any of the following reasons:

   a) Newly discovered evidence of fraud by a government official that completely undermines the prosecution's case, is conclusive, and points unerringly to his or her innocence;

   b) Newly discovered evidence that a government official testified falsely at the trial that resulted in the conviction and that the testimony of the government official was substantially probative on the issue of guilt or punishment; or,

   c) Newly discovered evidence of misconduct by a government official committed in the underlying case that resulted in fabrication of evidence that was substantially material and probative on the issue of guilt or punishment. Evidence of misconduct in other cases is not sufficient to warrant relief under this paragraph. (Pen. Code § 1473.6(a).)

4) Authorizes a person who is no longer in criminal custody to file a motion to vacate a conviction or sentence when newly discovered evidence of actual innocence exists that requires vacation of the conviction or sentence as a matter of law or in the interests of justice. (Pen. Code § 1473.7(a)(2).)

5) States that whenever a person is convicted of a charge, and the conviction is set aside based upon a determination that the person was factually innocent of the charge, the judge shall order that the records in the case be sealed, including any record of arrest or detention, upon written or oral motion of any party in the case or the court, and with notice to all parties to the case. (Pen. Code § 851.86.)

6) Requires the court to inform a person whose conviction has been set aside based upon a determination that the person was factually innocent of the charge of the availability of indemnity for persons erroneously convicted and the time limitations for presenting those claims to the California Victim Compensation Board (board). (*Id*.; Pen. Code § 4900.)

7) Provides that after a writ of habeas was granted and the charges are subsequently dismissed, or the person was acquitted of the charges, the board, shall upon application by the person, without a hearing, recommend to the legislature that an appropriation be made and the claim paid, unless the Attorney General (AG) establishes that the person is not entitled to compensation. (Pen. Code § 4900 (b))

8) Provides that the AG has 60 days to respond to any claim for which the board has recommended to the Legislature that a claim be paid and for which the person was not declared factually innocent. (Pen. Code § 4902(a))

9) Provides that in cases where a person was acquitted or the charges were dismissed after a habeas petition was granted, the AG may object to a claim in writing within 45 days and may request a single 45 day extension. (Pen. Code § 4902(d))

10) States that if a person has secured a declaration of factual innocence, the finding shall be sufficient grounds for compensation by the board. Upon application, the board shall, without a hearing, recommend to the Legislature that an appropriation be made. (Pen. Code § 851.865.)

11) Provides that if the district attorney or the AG stipulates to or does not contest the factual allegations underlying one or more grounds for granting a writ of habeas corpus or a motion to vacate a judgement, the facts underlying the basis

for the court's ruling shall be binding on the AG, the factfinder, and the board. (Pen. Code § 1485.5 (a).

12) States that in a contested or uncontested proceeding, the express factual findings made by the court in considering a petition for habeas corpus, a motion to vacate judgment, or an application for a certificate of factual innocence, shall be binding on the AG, the factfinder, and the board. (Pen. Code § 1485.5 (c).)

13) Provides that the district attorney shall provide notice to the AG prior to entering into a stipulation of facts that will be the basis for the granting of a writ of habeas corpus or a motion to vacate the judgement. (Pen. Code § 1485.5 (b).)

14) States that, in a contested proceeding, if the court has granted a writ of habeas corpus or when the court vacates a judgement, and if the court has found that the person is factually innocent, that the finding shall be binding on the board for a claim presented to the board, and upon application by the person, the board shall, without a hearing, recommend to the Legislature that an appropriation be made and the claim paid. (Pen. Code § 1485.55 (a).)

15) Provides that, in a contested or uncontested proceeding, if the court has granted a writ of habeas corpus or vacated a judgment, as specified, the person may move for a finding of factual innocence by a preponderance of the evidence that the crime with which they were charged was either not committed at all or, if committed, was not committed by the petitioner. (Pen. Code § 1485.55 (b).)

16) States that if the court makes a finding that the petitioner has proven their factual innocence by a preponderance of the evidence, the board shall, without a hearing, recommend to the Legislature that an appropriation be made and any claim filed shall be paid. (Pen. Code § 1485.55, (c).)

This bill:

1) Provides that that notice shall be no fewer than seven days before entering the stipulation of facts and that a response from the AG is not necessary to proceed.

2) Provides that if the court granted a writ of habeas corpus or vacated a judgment the person may move for a finding of factual innocence.

3) Provides that if the court makes a finding that if the petitioner has proven their factual innocence by a preponderance, the court shall recommend the board shall recommend to the legislature that a claim be paid.

4) Provides that if the court has granted a writ of habeas corpus or vacated a judgment and the charges were subsequently dismissed or the person was acquitted the petitioner may move the court for a finding that they are entitled to compensation unless the district attorney objects within 15 days and can establish by clear and convincing evidence that the person committed the acts constituting the offense and is therefore not entitled to compensation.

5) Provides that if the district attorney does not object, or fails to meet their burden, the court shall grant the motion and the board shall recommend payment by the Legislature.

6) Provides that the district attorney may request a single 30-day extension of time upon a showing of good cause, and an extension beyond this period may be given if agreed upon by stipulation between parties.

7) Provides that a conviction reversed and dismissed is no longer valid, thus the district attorney may not rely on the fact that the state still maintains the claimant is guilty of the crime for which they were wrongfully convicted, that the state defended the conviction against the claimant through court litigation, or that there was a conviction to establish that the claimant is not entitled to compensation.

8) Provides the district attorney may also not rely solely on the trial record to establish that the claimant is not entitled to compensation.

9) Provides that if the district attorney does not object, or the court makes a finding that the district attorney has not overcome the presumption of innocence, the court shall grant the motion and the board shall, without a hearing, recommend the Legislature make the appropriation.

Comments

According to the author:

> Last year, the signing of SB 446 into law created a more fair and equitable compensation process by shifting the burden of proof from the wrongfully convicted person to the Attorney General in compensation proceedings that proceed in front of the Victim's Compensation Board. Claimants are now cloaked with the presumption of innocence by law if their conviction has been

overturned. Now, the law requires the Attorney General to object to only those claims in which they believe the person should not be compensated. The Attorney General must then prove by clear and convincing evidence that the claimant is not entitled to compensation.

However, while SB 446 fairly shifted the burden to the Attorney General's office in compensation proceedings in front of the VCB, the law did not shift that burden to the District Attorney's office if a wrongfully convicted person instead chose to pursue the existing process through the court.

This omission has inadvertently tipped the scales to a more fair and efficient process in the VCB rather than having the same fair and efficient process in the court. This oversight has the potential for incentivizing wrongfully convicted persons to go through the VCB rather than the courts, likely placing an unbalanced burden on the Attorney General's office to handle these cases rather than them being fairly distributed through either process.

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

According to the Assembly Appropriations Committee:

- Cost pressure (Trial Court Trust Fund), possibly in the mid-thousands of dollars, in additional workload to the trial courts to resolve disputes between district attorneys and wrongfully convicted people in the event the district attorney objects to a finding of factual innocence. Habeas petitions and motions to vacate often require evidentiary hearings to resolve and may, even without a separate request, result in a court finding a person was not only wrongfully convicted but also factually innocent. In such a case, costs to the courts would be minor since even if the district attorney objects, the court has already heard evidence and made a decision about factual innocence. However, if a court does not make a finding of factual innocence when ruling on a habeas petition, and a district attorney objects, the court will have to hold a hearing and likely hear evidence on whether the wrongfully convicted person is also factually innocent. Given how difficult it is to prevail in a motion to vacate or habeas petition, trial courts will likely see very few of these requests. An hour of court time costs approximately $1,000 in workload. If five hearings are required resulting in 10 hours of court time, the cost would be $50,000. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund and staff workload may create a need for increased funding for courts from the General Fund to perform existing duties.

- No costs to CalVCB, given this bill does not expand who is eligible for compensation. This bill may result in cost savings to CalVCB since it authorizes a court to make a determination of eligibility for compensation, rather than CalVCB, potentially reducing CalVCB's workload.

SUPPORT: (Verified 8/4/22)

California Innocence Project (co-source)
Loyola Project for the Innocent (co-source)
Northern California Innocence Project (co-source)
California Coalition for Women Prisoners
California Public Defenders Association
Ella Baker Center for Human Rights
Initiate Justice

OPPOSITION: (Verified 8/4/22)

None received

ASSEMBLY FLOOR: 76-0, 8/4/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Kiley, McCarty, Voepel, Waldron

Prepared by: Mary Kennedy / PUB. S. /
8/5/22 13:02:00

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

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UNFINISHED BUSINESS

Bill No: SB 988
Author: Hueso (D)
Amended: 6/8/22
Vote: 21

SENATE HEALTH COMMITTEE: 11-0, 3/30/22
AYES: Pan, Melendez, Eggman, Gonzalez, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 33-0, 5/9/22
AYES: Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Portantino, Rubio, Skinner, Umberg, Wieckowski, Wiener
NO VOTE RECORDED: Allen, Dahle, Grove, Pan, Roth, Stern, Wilk

ASSEMBLY FLOOR: 76-0, 8/4/22 (Consent) - See last page for vote

SUBJECT: Compassionate Access to Medical Cannabis Act or Ryan's Law

SOURCE: Author

DIGEST: This bill repeals the requirement that health facilities comply with drug and medication requirements applicable to Schedule II, II, and IV drugs when permitting patient use of medicinal cannabis, and instead requires the patient or primary caregiver to be responsible for acquiring, retrieving, administering, and removing medicinal cannabis. Requires medicinal cannabis to be stored in a locked container in the patient's room or with the patient primary caregiver, and prohibits healthcare professionals and facility staff from administering medicinal cannabis or retrieving it from storage.

Assembly Amendments add provisions requested by the California Department of Public Health that, among other provisions, require the patient or primary caregiver

to be responsible for acquiring retrieving, administering, and removing medicinal cannabis, and prohibit healthcare professionals or facility staff from administering the medicinal cannabis or retrieving it from storage.

ANALYSIS:

Existing law:

1) Licenses and regulates various health facilities, including clinics, hospitals, skilled nursing facilities, intermediate care facilities, congregate living health facilities, correctional treatment facilities, and hospice facilities by the California Department of Public Health (CDPH). Licenses and regulates residential care facilities for the elderly by the Department of Social Services. [HSC §1200, §1250, and §1569]

2) Establishes the Compassionate Use Act (CUA) of 1996, also known as Proposition 215, which protects patients and their primary caregivers from criminal prosecution or sanction for obtaining and using marijuana for medical purposes upon the recommendation of a physician. Also protects physicians who recommends marijuana to a patient for medical purposes from being punished or denied any right or privilege. States that the purpose of CUA is to ensure that seriously ill Californians have the right to obtain and use marijuana if a physician has determined that the person's health would benefit from its use in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief. [HSC §11362.5]

3) Establishes the Compassionate Access to Medical Cannabis Act, or "Ryan's Law," to require health facilities to permit patient use of medical cannabis in order to support the ability of a terminally ill patient to safely use medicinal cannabis in compliance with the CUA. [HSC §1649 et seq.]

4) Requires a health facility, under Ryan's Law, including hospitals, skilled nursing facilities, intermediate care facilities, and others, to permit patients who are terminally ill with a prognosis of life of one year or less to use medical cannabis. [HSC §1649.2]

5) Prohibits, under Ryan's Law, smoking or vaping as methods to use medical cannabis. [HSC §1649.2 (a)(1)]

6) Requires health facilities to reasonably restrict the manner in which a patient stores and uses medical cannabis, including requiring the medical cannabis to be stored in a locked container, and to develop and disseminate written

guidelines for the use of medicinal cannabis within the health care facility. [HSC §1649.2 (a)(4),(5)]

7) Requires health facilities permitting patient use of medicinal cannabis under Ryan's Law, notwithstanding the classification of medicinal cannabis as a Schedule I drug, to comply with drug and medication requirements applicable to Schedule II, III, and IV drugs and to be subject to enforcement actions by CDPH. [HSC §1649.3]

8) Prohibits compliance with Ryan's Law from being a condition for obtaining, retaining, or renewing a license as a health facility. [HSC §1649.5]

9) Permits a health facility to suspend compliance with Ryan's Law if a federal regulatory agency initiates enforcement action against a health care facility related to medical marijuana, or a federal regulatory agency otherwise provides notification to the health facility that expressly prohibits the use of medical marijuana in health care facilities. [HSC §1649.6]

10) Establishes the California Uniform Controlled Substances Act, which among other things classifies controlled substances into five schedules according to their danger and potential for abuse, and classifies cannabis as a Schedule I controlled substance. [HSC §11000, et seq., §11054(d)(13)]

This bill:

1) Repeals the requirement that health facilities comply with drug and medication requirements applicable to Schedule II, III, and IV drugs, and be subject to enforcement actions by CDPH, when permitting patient use of medicinal cannabis.

2) Revises the requirements for how a health facility permits patient use of medicinal cannabis by deleting a provision requiring health facilities to "reasonable restrict the manner in which a patient stores and uses medicinal cannabis," as specified, and instead specifying the following requirements:

    a) Requiring a patient or a primary caregiver, as defined, to be responsible for acquiring, retrieving, administering, and removing medicinal cannabis;
    b) Requiring medicinal cannabis to be stored securely at all times in a locked container in the patient's room, other designated area, or with the patient's primary caregiver; and,

c) Prohibiting health care professionals and facility staff, including, but not limited to, physicians, nurses, and pharmacists, from administering medicinal cannabis or retrieving medicinal cannabis from storage.

3) Requires, upon discharge, all remaining medicinal cannabis to be removed by the patient or patients primary caregiver. If a patient cannot remove the medicinal cannabis and does not have a primary caregiver that is available to remove the medicinal cannabis, requires the product to be stored in a locked container until it is disposed of in accordance with the health facility policy and procedure.

4) Makes other clarifying and technical changes to the provisions of law governing the use of medicinal cannabis in health facilities, including specifying that these provisions of law are required to be enforced by CDPH, despite an existing law provision that prohibits compliance with these provisions from being a condition for obtaining, retaining, or renewing a license as a health care facility.

Comments

1) *Author's statement.* According to the author, last year the Legislature passed, and the Governor signed into law, SB 311 (Hueso, Chapter 384, Statutes of 2021), titled Ryan's Law, granting terminally-ill Californians access to medicinal cannabis in hospitals and certain types of healthcare facilities in the state. One of the amendments proposed by CDPH, and accepted by the author, requires health facilities, with regard to medicinal cannabis, to comply with drug and medication requirements applicable to Schedule II, III, and IV drugs [§1649.3]. Concerns have been raised by health facilities and pharmacists that this section may require health facilities to treat cannabis as a Schedule II, III, or IV drug, therefore subject to existing requirements that include: acquiring physician orders, pharmacist verification of such orders, and pharmacy oversight of management and use. This bill seeks to clarify that Ryan's Law does not require medicinal cannabis to be subject to all requirements applicable to controlled substances, nor to require that a pharmacy or pharmacist be involved in the use, storage, management, or dispensing of medicinal cannabis at a health facility.

2) *Language being repealed by this bill was a late amendment, subject of a letter to the Senate Journal.* The language being repealed by this bill requiring facilities to handle medical marijuana in accordance with the requirements applicable to other drugs in the Controlled Substances Act was added to SB

311 on September 1, 2021, and was at the request of CDPH. However, this language led to concerns being raised toward the end of session by hospitals, and in particular hospital-based pharmacies, which were concerned that this language would require them to store and dispense out of the pharmacy, among other things, which would jeopardize their license. CDPH tried to explain that they did not intend to require cannabis to be dispensed from a pharmacy, but only intended this language to apply to the use, storage, and tracking of medicinal cannabis, because the Centers for Medicare and Medicaid Services indicated that they would expect CDPH to monitor storage and tracking as they would for any other medication. The author submitted a letter to the Senate Journal on September 10, 2021, to clarify that it was not the intent to subject medicinal cannabis to all requirements applicable to controlled substances, nor to require that a pharmacy or pharmacist be involved in the use, storage, management, or dispensing of medicinal cannabis at a health facility

3) *Medical marijuana in hospitals.* ACP Hospitals, a publication of the American College of Physicians, published an article in January 2017 entitled "*Medical marijuana…in the hospital?"* According to this article, with medical marijuana laws now in effect in more than half the country, hospitals are seeing more patients who have been certified to use the drug, and they are developing policies and practices in response. According to this article, as of May 2016, state laws in Connecticut and Maine permit the use of medical marijuana by hospitalized patients and give some state-level legal protection for clinicians who administer it. However, with regard to Maine, where medical cannabis has been legal for years and even with state law permitting use in a hospital, hospitals commonly prohibit the use of the drug in their facilities. In 2015, a Maine-registered marijuana patient, hospitalized with a blood infection, tried to treat himself by rubbing an infused lotion onto his hand to relieve pain and stiffness from carpal tunnel. The hospital told the patient to remove the substance from the hospital or it would be confiscated. Elsewhere, according to the ACP Hospitals article, the Minnesota Hospital Association came up with three sample policies with three clear stances that hospitals can take on the issue: one template for hospitals that choose to prohibit medical cannabis in their facilities; a second template for hospitals that choose to allow patients to be able to continue their use of cannabis while in the hospital with self-directed therapy; and a third template for hospitals that choose to incorporate the patient's use of cannabis in the hospital's medication process. The article pointed to the Mayo Clinic's hospitals permitting use by patients registered with Minnesota's medical marijuana program who come into the hospital with a cannabis product in its original container as dispensed by an approved cannabis patient center.

4) *Federal marijuana law and changing enforcement approaches.* At the federal level, marijuana is classified as a Schedule I substance under the Uniform Controlled Substances Act, where Schedule I substances are considered to have a high potential for dependency and no accepted medical use, which makes distribution of marijuana a federal offense. In October of 2009, the Obama Administration sent a memo to federal prosecutors encouraging them not to prosecute people who distribute marijuana for medical purposes in accordance with state law. In August of 2013, the U.S. Department of Justice provided an update to its marijuana enforcement policy in the aftermath of Colorado and Washington voting to legalize non-medical use of marijuana. This memo, known as the "Cole Memorandum," stated that while marijuana remains illegal federally, the Department of Justice expects states like Colorado and Washington to create "strong, state-based enforcement efforts…and will defer the right to challenge their legalization laws at this time." However, in January 2018, former U.S. Attorney General Sessions issued a Marijuana Enforcement Memorandum that rescinded the Cole Memorandum, and permitted federal prosecutors to decide how to prioritize enforcement of federal marijuana laws, weighing "all relevant considerations, including federal law enforcement priorities set by the Attorney General, the seriousness of the crime, the deterrent effect of criminal prosecution, and the cumulative impact of particular crimes on the community." While President Biden campaigned on decriminalizing marijuana, there has been no significant progress toward making marijuana legal at the federal level.

5) *Risk for hospitals.* As pointed out in opposition arguments, even though it is legal in California, many facilities are concerned about running afoul of federal law. According to a February 2017 article in Hospital Pharmacy, *"Considerations for Hospital Policies Regarding Medical Cannabis Use,"* hospitals potentially carry enormous risk for allowing cannabis use by patients because cannabis is illegal under federal law. Because they are accredited through the Center for Medicare & Medicaid Services, hospitals could be found in violation, lose federal funding, and face penalties. Clinicians are also prohibited from prescribing or providing the drug in a hospital because it is not approved by the U.S. Food and Drug Administration. Yet, hospitals in more states are asked to create cannabis policies as voters decriminalize cannabis for medical use. The Joint Commission Standard includes a policy for medications brought into the hospital by patients, which requires the hospital, before use or administration of a medication brought into the hospital by a patient, to identify the medication and visually evaluate the medication's integrity. Additionally, the hospital is required to inform the patient if the medication brought into the hospital is not permitted. According to the article, some

hospitals have considered cannabis policies that could adequately address this standard, but several questions remain, such as how the institution verifies its integrity. Finally, the article states that while many institutions may choose to continue to ban cannabis product use by their patients, there is still a question about how appropriate or comprehensive the patient care will be if a patient will be taking a different medication regimen while in the hospital versus their usual environment.

Related/Prior Legislation

SB 311 (Hueso, Chapter 384, Statutes of 2021) enacted Ryan's Law to require a health care facility to permit a terminally ill patient, defined as a prognosis of one year or less to live, to use medical cannabis within the health care facility.

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

According to the Assembly Appropriations Committee, CDPH anticipates no costs.

SUPPORT: (Verified 8/5/22)

Americans for Safe Access
California Association of Health Facilities
California NORML
California State Board of Pharmacy

OPPOSITION: (Verified 8/5/22)

None received

ARGUMENTS IN SUPPORT: The California Association of Health Facilities and California NORML support this bill, stating that it would clarify that the intent of Ryan's Law is not to subject medicinal cannabis to all requirements applicable to controlled substances, nor to require that a pharmacy or pharmacist be involved in the use, storage, management, or dispensing of medicinal cannabis at a health facility.

ASSEMBLY FLOOR: 76-0, 8/4/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McKinnor,

Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Kiley, McCarty, Voepel, Waldron

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
8/5/22 15:36:44

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

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UNFINISHED BUSINESS

Bill No: SB 1106
Author: Wiener (D), et al.
Amended: 5/25/22
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 3/22/22
AYES: Bradford, Kamlager, Skinner, Wiener
NOES: Ochoa Bogh

SENATE FLOOR: 27-8, 4/18/22
AYES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Durazo, Eggman, Gonzalez, Hertzberg, Hueso, Kamlager, Laird, Leyva, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Bates, Borgeas, Glazer, Hurtado, Jones, Melendez, Nielsen, Ochoa Bogh
NO VOTE RECORDED: Dahle, Dodd, Grove, Limón, Wilk

ASSEMBLY FLOOR: 47-22, 8/8/22 - See last page for vote

SUBJECT: Criminal resentencing: restitution

SOURCE: Debt Free Justice Coalition

DIGEST: This bill provides that an unfulfilled order of restitution or a restitution fine shall not be grounds for: (1) denial of a petition for specified expungement relief; (2) denial of release on parole to another state; or (3) denial of a petition for reduction of a conviction.

Assembly Amendments clarify that the bill's provisions apply to any person who petitions for relief pursuant to the chapter affected by this bill if the person otherwise qualifies for relief.

ANALYSIS:

Existing law:

1) States that, in addition to any other penalty provided or imposed under the law,

the court shall order the defendant to pay both a restitution fine and restitution to the victim or victims, if any. (Pen. Code § 1202.4, subd. (a)(3).)

2) Specifies that a restitution order is enforceable by the victim as a civil judgment, and enforceable in the same manner as is provided for the enforcement of any other money judgment. Upon the victim's request, the court shall provide the victim in whose favor the order of restitution is entered with a certified copy of that order and a copy of the defendant's financial disclosure. (Pen. Code, §§ 1202.4, subd. (i), & 1214, subd. (b).)

3) States that any portion of a restitution fine or restitution fee that remains unsatisfied after a defendant is no longer on probation, parole, postrelease community supervision or mandatory supervision, after a term in custody, or after completing diversion is enforceable by the California Victim Compensation Board. (Pen. Code, § 1214, subd. (a).)

4) Authorizes a court, in its discretion, to designate an offense that is punishable as an alternate felony-misdemeanor as a misdemeanor, as specified. (Pen. Code, § 17, subd. (b).)

5) Authorizes a court, with the consent of the defendant, to determine specified offenses as an infraction instead of a misdemeanor, as specified. (Pen. Code, § 17, subd. (d).)

6) Requires a court to grant expungement relief, with specified exceptions, for a misdemeanor or felony conviction for which the sentence included a period of probation and the petitioner successfully completed probation or terminated early, is not serving a sentence for, on probation for, or charged with the commission of any offense. The court has discretion to do so in the interests of justice in other probation cases. (Pen. Code, § 1203.4, subds. (a) & (b).)

7) Requires the court to grant expungement relief, with specified exceptions, to defendants convicted of a misdemeanor and not granted probation or an infraction after one year from the date of the pronouncement of judgement, if the defendant has fully complied with and performed the sentence, is not serving a sentence, is not charged with a crime, has lived an honest and upright life, and has conformed to and obeyed the law. If the defendant does not satisfy these requirements, the court may in its discretion and in the interests of justice after one year from the date of pronouncement of judgment grant relief in non-probation cases in which the defendant has fully complied with and performed the sentence, is not serving a sentence, and is not charged with a crime. (Pen. Code, § 1203.4a subds. (a) & (b).)

8) Allows the court to grant expungement relief for a felony conviction of a petitioner sentenced to county jail and mandatory supervision pursuant to criminal justice realignment legislation of 2011 if specified conditions are satisfied. (Pen. Code, § 1203.41.)

9) Allows the court to grant expungement relief for a conviction of a petitioner sentenced to prison for a felony that, if committed after enactment of criminal justice realignment legislation in 2011, would have been eligible for county-jail sentencing to obtain an expungement. (Pen. Code, § 1203.42.)

10) States that if a defendant successfully participated in the California Conservation Camp program as an inmate hand crew member, as specified, or successfully participated as a member of a county inmate hand crew, as specified, and has been released from custody, the defendant is eligible for expungement relief. (Pen. Code, § 1203.4b.)

11) Specifies that expungement relief releases the person from the penalties and disabilities resulting from the conviction, except the person:
    a) May have a prior conviction pleaded and proved if the person is subsequently prosecuted for another crime;
    b) Is not relieved of any prohibition on possessing, owning, or having under his or her custody or control any firearm and may be convicted as an ex-offender in possession of a firearm;
    c) Must disclose the conviction in response to any direct question in a questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery; moreover, any ban on holding public office that resulted from the conviction remains in effect; and
    d) May have their driver's license revoked, suspended, or use limited after two or more Vehicle Code convictions. (Pen. Code, §§ 1203.4, subd. (a)(1)-(3); 1203.4a, subds. (a) & (c); 1203.41, subds. (a) & (b); 1203.42, subds. (a) & (b).)

12) Authorizes a person who was under 18 years of age at the time of commission of a misdemeanor and who is eligible for expungement relief, or previously received expungement relief, to petition the court for an order sealing the record of conviction and arrest, and other official records in the case. (Pen. Code, § 1203.45, subd. (a).)

13) Authorizes states to enter into compacts with other states "for cooperative effort and mutual assistance in the prevention of crime and for other purposes." (Pen. Code, § 11177.)

14) Provides that these states agree to allow a sending state who is a party to the compact to permit any person convicted of an offense within such state and placed on probation or released on parole to reside in any other receiving state that is party to this compact if (a) Such person is in fact a resident of or has his family residing within the receiving state and can obtain employment there, or, (b) though not a resident of the receiving state and not having his family residing there, the receiving state consents to such person being sent there. (Pen. Code, § 11177.)

15) Authorizes the receiving state to assume duties of visitation and supervision over the probationer or parolee and provides that the sending state may at all times enter a receiving state and there apprehend and retake any person on probation or parole. (Pen. Code, § 11177.)

16) Prohibits the release of a parolee or inmate on parole to reside in any other residing state if the parolee or inmate is subject to an unsatisfied order of restitution to a victim or a restitution fine within the sending state. (Pen. Code, § 11177.2, subd. (b).)

17) States that the parolee or inmate may be granted an exception to the above prohibition if the parolee or inmate posts a bond for the amount of the restitution order. (Pen. Code, § 11177.2, subd. (b).)

This bill:

1) Specifies that when a court exercises its discretion to reduce an offense from a felony to a misdemeanor, or a misdemeanor to an infraction, an unfulfilled order of restitution or a restitution fine shall not be grounds for denial of a request or application for reduction.

2) Specifies that a petition for expungement relief pursuant to the provisions described above shall not be denied due to an unfulfilled order of restitution or restitution fine.

3) Provides that when the court considers a petition for expungement relief pursuant to the above provisions, in its discretion and in the interest of justice, an unpaid order of restitution or restitution fine shall not be grounds for denial of the petition for relief.

4) States that an unfulfilled order of restitution or a restitution fine shall not be grounds for:
   a) Finding that a defendant did not fulfil the condition of probation for the entire period of probation;

b) Finding that a defendant did not fully comply with and perform the sentence of the court or a finding that a defendant has not lived an honest and upright life and has conformed to and obeyed the laws of the land; or,
c) Finding that a defendant did not successfully participate in the California Conservation Camp program as an incarcerated individual hand crew member, or that the defendant did not successfully participate as a member of a county incarcerated individual hand crew.

5) States that a petition for sealing of records pursuant to the above provision shall not be denied due to an unfulfilled order of restitution or restitution fine and un unfulfilled order of restitution or a restitution fine shall not be grounds for finding that a defendant did not fulfil the conditions of probation for the entire period of probation.

6) Provides that when the court considers a petition for sealing of records under this section, in its discretion and in the interest of justice, an unpaid order of restitution or restitution fine shall not be grounds for denial of the petition for relief.

7) Repeals Penal Code Section 11177.2.

8) Contains legislative findings and declarations.

Comments

According to the author:

> Senate Bill 1106 precludes courts from denying a request for expungement of a conviction based on outstanding debt related to restitution. To be clear, SB 1106 does not waive or reduce the restitution or restitution fines owed, but rather removes it as a barrier to expungement.
>
> Current law authorizes courts to require people convicted of crimes to pay restitution fines, as well as restitution payments to compensate survivors for harm caused. Courts can order people to pay direct restitution based on the amount of loss or injury but, in setting the amount, are not required to take into account a person's ability to pay that restitution. Victims of crime who are awarded restitution overwhelmingly receive either nothing or a small percentage of the restitution, due to the defendant lacking the resources to actually pay restitution.
>
> In practice, current law means that people leaving the criminal justice system are more likely to get trapped by fines and fees that they cannot get a job to

actually pay off. This helps neither the person ordered to pay restitution nor the person who would receive compensation from the payment.

Because successful re-entry into society for formerly incarcerated people benefits the broader community, SB 1106 ensures that expungement petitions aren't denied simply due to outstanding restitution debt.

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

SUPPORT: (Verified 8/8/22)

Debt Free Justice Coalition (source)
ACLU California Action
Alameda County Public Defender's Office
California Attorneys for Criminal Justice
California Catholic Conference
California Public Defenders Association
Californians for Safety and Justice
Californians for Safety and Justice – TimeDone
Californians United for a Responsible Budget
Center for Responsible Lending
Coalition of California Welfare Rights Organizations
Communities United for Restorative Youth Justice
Community Legal Services in East Palo Alto
Criminal Justice Clinic, UC Irvine School of Law
Debt Collective
Dignity and Power Now
East Bay Community Law Center
Ella Baker Center for Human Rights
Essie Justice Group
Freedom 4 Youth
Fresno Barrios Unidos
Friends Committee on Legislation of California
Homeboy Industries
Indivisible CA: State Strong
Initiate Justice
Insight Center for Community Economic Development
Justice2Jobs Coalition
Lawyers' Committee for Civil Rights - San Francisco
Legal Aid at Work
Legal Services for Prisoner with Children

Mental Health Advocacy Services
National Consumer Law Center, INC.
PolicyLink
Public Counsel
Root & Rebound
Rubicon Programs
San Francisco Financial Justice Project
San Francisco Mayor London Breed
San Francisco Public Defender
Smart Justice California
UDW/AFSCME Local 3930
Uncommon Law
Underground Grit
United Core Alliance
Western Center on Law & Poverty
Yerba Buena Center for the Arts
Young Women's Freedom Center

OPPOSITION: (Verified 8/8/22)

California District Attorneys Association

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

> While it is in everyone's interest that a formerly convicted person find gainful employment and stable housing, existing law does not require expungement for a person who has otherwise performed flawlessly on probation or in fire camp who was unable to pay victim restitution because of their indigency. Similarly, while existing law allows an individual who has served his or her time in prison to transfer their parole supervision to another state, it does not allow such a transfer if the parolee still owes victim restitution.
>
> Such restrictions needlessly discriminate against poor Californians (wealthy Californians simply pay and move on) and is deeply impractical. It is in everyone's interests, including a victim who is owed restitution, to remove barriers to employment for a former defendant, so that the defendant can earn the money to pay restitution. Because restitution orders survive past expungement, allowing defendants to expunge their cases and then seek employment increases the chances that a victim will receive compensation for their loss, while also offering defendants the opportunity to safely reintegrate into society.

ARGUMENTS IN OPPOSITION: According to the California District Attorneys Association, "The many expungement and related post-conviction rehabilitation statutes provide criminal defendants finished with their sentences a "clean slate" to apply for jobs, get benefits, and generally reintegrate into society as productive citizens. That is a useful benefit for both them and society. But taking away the requirement that these defendants complete their restitution order (to victims) and fine (to the court) before obtaining relief favors these defendants at the expense of their victims, and places a hard stop in the face of true restorative justice. The Courts hearing these motions already have the discretion to grant or deny them even if restitution is unpaid; taking that discretion totally away not only makes a social choice in favor of defendants over victims, but also in favor of defendants over the judgment of the courts of the state. Removing discretion to consider restitution fines affects not only the courts, but affects victims indirectly, because those fines help the State Victim Compensation Board pay its direct restitution to victims of violent crime. Given the breadth of post-conviction rehabilitation statutes now on the books, and the considerable discretion courts have to grant relief, making a choice to favor defendants over victims by removing the restitution bar is a policy that goes too far and which our Association should oppose."

ASSEMBLY FLOOR: 47-22, 8/8/22
AYES: Aguiar-Curry, Alvarez, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Carrillo, Cervantes, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Mayes, McCarty, McKinnor, Medina, Mullin, Nazarian, O'Donnell, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Muratsuchi, Nguyen, Patterson, Petrie-Norris, Salas, Seyarto, Smith, Valladares
NO VOTE RECORDED: Arambula, Bryan, Calderon, Gray, Irwin, Maienschein, Ramos, Rodriguez, Blanca Rubio, Voepel, Waldron

Prepared by: Stella Choe / PUB. S. /
8/10/22 14:51:06

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

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UNFINISHED BUSINESS

Bill No: SB 1120
Author: Jones (R)
Amended: 6/15/22
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 12-0, 3/21/22
AYES: Roth, Archuleta, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Melendez, Leyva

SENATE JUDICIARY COMMITTEE: 11-0, 4/19/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 33-0, 5/9/22 (Consent)
AYES: Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Portantino, Rubio, Skinner, Umberg, Wieckowski, Wiener
NO VOTE RECORDED: Allen, Dahle, Grove, Pan, Roth, Stern, Wilk

ASSEMBLY FLOOR: 76-0, 8/4/22 (Consent) - See last page for vote

SUBJECT: Engineering, land surveying, and geology

SOURCE: Board for Professional Engineers, Land Surveyors, and Geologists
California Land Surveyors Association

DIGEST: This bill requires applicants to provide the Board for Professional Engineers, Land Surveyors, and Geologists (BPELSG), if available, their email address and notify the BPELSG of any email address changes; clarifies that unlicensed individuals cannot offer professional engineering and land surveying

services; and updates the surveying requirement requiring two or more control points for a survey.

Assembly Amendments remove references to "State Plane Coordinate System of 2022".

ANALYSIS:

Existing law:

1) Establishes the BPELSG within the Department of Consumers Affairs (DCA) to license and regulate engineers, geologists, and land surveyors and sunsets the BPELSG and its authority to appoint an Executive Officer on January 1, 2026. (Business and Professions Code (BPC) § 8710)

2) Does not prohibit one or more civil, electrical or mechanical engineers or land surveyors, from practicing within the scope of his or her license, as specified, as a sole proprietorship, partnership, limited liability partnership (LLP), firm, or corporation if specified conditions are met including but not limited to, business ownership by licensees, a licensee in this state is in charge of the business, and licensing information is included in any promotional or advertisement materials. (BPC §§ 6738(a), 8729(a))

3) Requires individuals to be licensed in order to offer or provide civil, electrical, or mechanical engineering or land surveying services. (BPC § 8700, et seq.)

4) Sunsets the authorization for civil, electrical, or mechanical engineers and land surveyors to operate as an LLP on January 1, 2026. (BPC §§ 6738, 8729)

5) Defines a statutory network with horizontal and vertical data. (Public Resources Code (PRC) § 8802)

6) Recognizes particular methods for defining and stating points on the earth's surface in California. (PRC § 8801, et seq.).

7) Defines a system of plane coordinates established by the United States Coast and Geodetic Survey defining and stating the positions or locations of points on the surface of the earth within the State of California is based on the North American Datum of 1927 as the "California Coordinate System (CCS) of 1927". (PRC § 8801(a))

8) Defines a system of plane coordinates which that has been established by the National Geodetic Survey for defining and stating the positions or locations of

points on the surface of the earth within the State of California and which that is based on the North American Datum of 1983 as "CCS of 1983". (PRC § 8801(b))

This bill:

1) Deletes obsolete language to clarify professional engineering and land surveying services must be performed by a licensee.

2) Requires an applicant for licensure or certification to report their email address to BPELSG at the time of application. Requires each licensee and certificate holder to report their email address, if they have a valid email address, to BPELSG at the time of renewal. Requires BPELSG applicants, certificate holders, and licensees to notify the board within 30 days of any change to their email address. Conforms to practice acts administered by other entities within the DCA by clarifying that email addresses provided to BPELSG are not subject to the Public Records Act.

3) Repeals BPELSG's requirement to mail a renewal notice to licensees and certificate holders 60 to 90 days prior to expiration.

4) Requires, on or after January 1, 2023, that surveys using a CCS83 value or values must be referenced to and have field-observed statistically independent connections to two or more horizontal reference stations.

Background

Engineers, Land Surveyors and Geologists. To obtain licensure as an engineer, land surveyor, or an architect, applicants must meet specific education and or experience requirements and pass an examination. Engineers provide design, analysis, and evaluation as well as consultation and technical advice on a variety of projects including, foundations, electrical systems, retaining walls, commercial and residential buildings, and bridges, among others. Land surveyors retrace property lines, perform boundary line adjustments, prepare topographic maps, prepare subdivision maps, and perform construction surveys, among other duties. This bill seeks to clarify that professional engineering and land surveying services must be performed by a licensee by deleting an obsolete reference to practice requirements.

California Coordinate System. In California, land surveyors use the CCS, which is part of the national State Plane Coordinate System. CCS controls the substantive requirements for surveying, statutorily defining how to locate points on the earth's surface within the State of California. As technology has improved, the Legislature has revised the statute to stay up to date, amending the law in 1947,

1953, 1986, and 2005. This bill updates statute to reflect current science and technology, which will help consumer protection for future projects.

Email communication. In the past few years, boards and bureaus within the DCA have worked to update outdated communication requirements. Requiring mail notifications, communications, and licensure renewal notices are costly to boards and that cost is ultimately born onto licensees via licensing fee increases. Additionally, using mail often takes longer to be received by the licensee which in turn delays any time-sensitive request or notification. Updating allowable communication from the BPELSG might help staff communicate in a timelier manner and decrease costs. In an effort to do that, this bill requires license and certificate holders to provide email addresses, if available, at the time of initial licensure and renewal to the BPELSG.

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

According to the Assembly Appropriations Committee, this bill will result in negligible fiscal impact to BPELSG and DCA.

SUPPORT: (Verified 8/4/22)

Board for Professional Engineers, Land Surveyors, and Geologists (co-source)
California Land Surveyors Association (co-source)

OPPOSITION: (Verified 8/4/22)

None received

ARGUMENTS IN SUPPORT: The Board for Professional Engineers, Land Surveyors, and Geologists writes in support, "this bill will provide clarity by removing misinterpreted and unnecessary provisions of the Professional Engineers Act and the Professional Land Surveyors' Act and, thus, provide better protection for consumers and licensees."

The California Land Surveyors Association writes in support, "SB 1120 makes five, largely technical, changes to laws relating to land surveying and is the product of work from both our client and the California Board for Professional Engineers, Land Surveyors, and Geologists. Specifically, this bill makes updates within the California Coordinate System (CCS) to clarify that two or more GPS control points is needed for newly established surveys. The National Geodetic Survey (NGS) is currently in the process of revamping the national State Plane Coordinate System (SPCS). In California, land surveyors use the CCS which is part of the national SPCS and controls the substantive requirement for surveying, statutorily defining

how to locate points on earth's surface within the state of California. The NGS' effort is part of a larger effort to improve the tools relating to land surveying based upon new technologies and best available information. SB 1120 helps make this important update."

ASSEMBLY FLOOR: 76-0, 8/4/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Kiley, McCarty, Voepel, Waldron

Prepared by: Alexandria Smith Davis / B., P. & E.D. /
8/5/22 13:04:55

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

SENATE RULES COMMITTEE SB 1182
Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 1182
Author: Eggman (D)
Amended: 6/8/22
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 4/26/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 36-0, 5/23/22 (Consent)
AYES: Allen, Atkins, Bates, Becker, Borgeas, Bradford, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Archuleta, Caballero, Hertzberg, Rubio

ASSEMBLY FLOOR: 76-0, 8/4/22 (Consent) - See last page for vote

SUBJECT: Family law

SOURCE: Author

DIGEST: This bill requires a family court to provide referrals to resources for self-identified veterans appearing before the court, including how to contact the local Department of Veterans Affairs (CalVet); requires, when a self-identified veteran files their status on the Judicial Councils military service form, that the Judicial Council transmit a copy of the form to the CalVet, and for CalVet to contact the veteran within a reasonable time; and requires, when a family court that finds the effects of a parent's, legal guardian's, or relative's mental illness are a factor in determining the best interest of the child for purposes of custody or visitation, to put its reasons for the finding on the record and provide the affected

parent, legal guardian, or relative with a list of local resources for mental health treatment. This bill's requirements take effect January 1, 2024.

Assembly Amendments modify the requirements relating to when a court finds that the effect of a parent, guardian, or relative's mental illness is a factor in determining the best interest of the child, by removing the requirement that the court state in writing or on the record the evidence relied on in reaching that finding; and clarifies the provision providing that the bill's provisions relating to a parent, guardian, or relative's mental illness does not relieve a court from its obligation to ensure that the child's health, safety, and welfare are the court's primary concern; and delete the definition of "mental illness."

ANALYSIS:

Existing law:

1) Establishes certain procedural protections for persons who have served in the military who are facing criminal charges, including:

    a) Requiring a county jail, upon the detention of a person, to ask if the person has served in the military and make the response available to the person's attorney and the district attorney. (Pen. Code, § 4001.2.)

    b) Establishing a diversionary program for persons charged with a misdemeanor who were or are a member of the United States military and suffer from specified trauma or mental health conditions as a result of their service. (Pen. Code, § 1001.80.)

    c) Where mental health services are ordered for a defendant, requiring the county mental health agency to coordinate an appropriate referral of the defendant to the county veterans' service with the goal of restoring defendants who acquired a criminal record as a result of a mental health disorder stemming from service in the United States military to the community of law-abiding citizens. (Pen. Code, § 1170.9.)

    d) Requiring the Judicial Council of California (Judicial Council) to create a form to inquire about a person's military service that includes references to the availability of the diversionary program and other resources. (Pen. Code, § 858.)

2) States that it is the public policy of this state to ensure that:

a) The health, safety, and welfare of children is the court's primary concern in determining the best interests of children when making any orders regarding the physical or legal custody or visitation of children;

b) Children have the right to be safe and free from abuse, and that the perpetration of child abuse or domestic violence in a household where a child resides is detrimental to the health, safety, and welfare of the child; and

c) Children have frequent and continuing contact with both parents after the parents have separated or dissolved their marriage, or ended their relationship, and to encourage parents to share the rights and responsibilities of child rearing in order to effect this policy, except when the contact would not be in the best interests of the child, as provided. (Fam. Code, § 3020(a), (b).)

3) Requires, when the policies set forth above are in conflict, a court's order regarding physical or legal custody or visitation to be made in a manner that ensures the health, safety, and welfare of the child and the safety of all family members. (Fam. Code, § 3020(c).)

4) Authorizes a court, in any of the following proceedings, to make any order for the custody of the child during minority that seems proper:

a) A proceeding for dissolution of marriage;

b) A proceeding for nullity of marriage;

c) A proceeding for legal separation of the parties;

d) An action for exclusive custody of the child;

e) A proceeding to determine physical or legal custody or for visitation in a proceeding under the Domestic Violence Prevention Act (Fam. Code, div. 10, §§ 6200 et seq.); or

f) A proceeding to determine physical or legal custody or visitation in an action under the Uniform Parentage Act (Fam. Code, div. 12, pt. 3, §§ 7600 et seq.);

g) A proceeding to determine physical or legal custody or visitation in an action brought by a district attorney. (Fam. Code, §§ 3021, 3022.)

5) Provides that when determining the best interests of a child, a court may consider any relevant factors and must consider: the health, safety, and welfare of the child; any history of abuse by any party seeking custody, any family members of any party seeking custody, or the intimate partner or cohabitant of any party seeking custody; the nature and amount of contact with the parents; and substance abuse by a parent. The court may not consider the sex, gender identity, gender expression, or sexual orientation of a parent, legal guardian, or relative in determining the best interests of the child. (Fam. Code, § 3011.)

6) Establishes an order of preference for a parenting plan in accordance with the child's best interests: (1) both parents jointly sharing custody, subject to certain considerations; (2) if to neither parent, the person or persons in whose home the child has been living in a wholesome and stable environment; and (3) any other person deemed suitable by the court and able to provide adequate and proper care and guidance for the child. (Fam. Code, § 3040(a).)

7) Provides that, in considering an order for custody or visitation, the immigration status of a parent, legal guardian, or relative shall not disqualify the person from receiving custody. (Fam. Code, § 3040(b).)

8) Prohibits a court from considering the sex, gender identity, gender expression, or sexual orientation in determining the best interests of a child for purposes of a custody or visitation order. (Fam. Code, § 3040(c).)

9) Provides that the above order of preference establishes neither a preference nor presumption for or against joint legal custody, joint physical custody, or sole custody, but instead allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child. (Fam. Code, § 3040(d).)

10) Establishes a rebuttable presumption that it is not in the best interest of the child to award sole or joint physical or legal custody of a child to a person who has perpetrated domestic violence against specified persons, including the child, within the last five years. (Fam. Code, § 3044.)

This bill:

1) Requires, beginning January 1, 2024, a family court in family law proceedings to provide self-identified veterans with a list of resources for veterans, including information about how to contact the local CalVet office.

2) Permits a self-identified veteran to provide the information about their veteran status on the Judicial Council military service form, file the form with the court, and serve the form on the other parties to the action.

3) Requires, upon receipt of a form filed under 2), the court to transmit a copy of the form to CalVet, and for CalVet, upon receipt of the form, to contact the filer within a reasonable time.

4) Provides that Judicial Council, on or before January 1, 2024, may amend or develop the rules and forms necessary to implement the requirements in 1)-3).

5) Provides that, beginning January 1, 2024, if a court finds that the effects of a parent's, legal guardian's, or relative's history of or current mental illness are a factor in determining the best interest of a child for purposes of a custody or visitation order, the court must:

   a) Provide the parent, legal guardian, or relative with a list of local resources for mental health treatment; and

   b) State its reasons for the finding in writing or on the record.

6) Provides that the requirement in 5) does not relieve a court from ensuring that the health, safety, and welfare of the child is the court's primary concern in determining the best interest of a child when making an order regarding the physical or legal custody, or visitation, of the child.

Comments

Navigating the Family Court, and Children's Court systems can be unnecessarily traumatizing to veteran families. These systems are especially burdensome on military veterans who are dealing with PTSD, traumatic brain injuries, or a service-linked mental health issue. Similar to any other parent, veterans derive a much-needed sense of belonging and purpose from their role in a family system. Their identity as a spouse and/or parent keeps them grounded as they begin the arduous task of transitioning back to civilian life. This transition has been made even more difficult by their treatment in family court due to a lack of cultural competence, consistency, and flexibility in the courtroom. Many veterans who find themselves in family court do not have a criminal case and therefore are unable to access many of the wrap-around services provided to veterans that do. Veterans should not have to break the law to have access to support and resources. SB 1182 will require the court to provide veteran specific resources and a direct link to care through CalVet. As well as increase transparency on how mental illness is utilized in the court room in custody decisions.

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

According to the Assembly Appropriations Committee:

1) Likely minor and absorbable costs to the courts to provide self-identified veterans with a list of local mental health resources and possibly update existing forms or create new forms.

2) Likely minor and absorbable costs to CalVet to contact a veteran after receiving a military service form from the court. This bill does not require CalVet to take any action other than contacting the veteran within a reasonable time.

SUPPORT: (Verified 8/4/22)

Beverly Hills/Hollywood NAACP
Black Deported Veterans of America
California Partnership to End Domestic Violence
Family Violence Appellate Project
Fortitude Empowerment Center
Legal Aid Foundation of Los Angeles
Minority Vets
Swords to Plowshares
TimeDone
Veterans Legal Institute
One individual

OPPOSITION: (Verified 8/4/22)

None received

ARGUMENTS IN SUPPORT: According to bill supporters Beverly Hills/Hollywood NAACP and the Fortitude Empowerment Center:

> California is home to over 1.8 million veterans, more than any other state in the Nation. Additionally, almost 200,000 active military members reside in California. One in five veterans experiences a mental health disorder or cognitive impairment. Navigating Family Court and Children's Court systems can be unnecessarily traumatizing to veteran families. These systems are especially burdensome on military veterans who are dealing with PTSD, traumatic brain injuries, or a mental health issue relating to their time in service.
>
> California has long recognized the unique needs of service members and their families when navigating the judicial system. This bill expands on the work of

the Veteran Treatment Court and seeks to bring the same linkages to care found in criminal courts to civil courts. Further, it creates greater transparency and accountability by ensuring the court documents when mental health diagnosis factors into a custody decision.

This bill goes a long way to alleviate the often unseen and unaddressed burdens that many military families deal with on a daily basis. Veterans should not have to break the law to gain access to services and supports in our court system.

ASSEMBLY FLOOR: 76-0, 8/4/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Kiley, McCarty, Voepel, Waldron

Prepared by: Allison Meredith / JUD. / (916) 651-4113
8/5/22 13:02:00

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

Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 1280
Author: Hueso (D), et al.
Amended: 8/4/22
Vote: 27 - Urgency

SENATE GOVERNMENTAL ORG. COMMITTEE: 13-0, 3/29/22
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Borgeas, Bradford, Glazer, Hueso, Jones, Kamlager, Rubio, Wilk
NO VOTE RECORDED: Melendez, Portantino

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 33-0, 5/9/22
AYES: Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Portantino, Rubio, Skinner, Umberg, Wieckowski, Wiener
NO VOTE RECORDED: Allen, Dahle, Grove, Pan, Roth, Stern, Wilk

ASSEMBLY FLOOR: 74-0, 8/8/22 - See last page for vote

SUBJECT: Tied-house restrictions: advertising: San Diego State University

SOURCE: California State University

DIGEST: This bill authorizes specified licensees to purchase advertising space and time from, or on behalf of, an on-sale licensee that is the owner, manager, or major tenant at specified facilities on the campus of San Diego State University (SDSU).

Assembly Amendments add chaptering out language with AB 98 (Kalra) and AB 1330 (Mayes).

ANALYSIS:

Existing law:

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

2) Separates the alcoholic beverage industry into three component parts, or tiers, of the manufacturer (including breweries, wineries, and distilleries), wholesaler, and retailer (both on-sale and off-sale). This is referred to as the "tied-house" law or "three-tier" system. Generally, other than exceptions granted by the Legislature, the holder of one type of license is not permitted to do business as another type of licensee within the "three-tier" system.

3) Prohibits, in general, a manufacturer, winegrower, manufacturer's agent, rectifier, distiller, bottler, importer, or wholesaler, or any officer, director or agent of any such person from owning, directly or indirectly, any interest in any on-sale license.

4) Prohibits, in general, a manufacturer, winegrower, distiller, bottler, or wholesaler, among other licensees, or agents of these licensees, from paying a retailer for advertising.

5) Provides a variety of exceptions from the advertising prohibition, including permitting specified licensees to purchase advertising space and time from, or on behalf of, an on-sale retail licensee that is an owner, manager, or major tenant of certain stadiums, parks, entertainment complexes, and arenas, subject to specified conditions.

This bill:

1) Authorizes a beer manufacturer, the holder of a winegrower's license, a rectifier, a craft distiller, a distilled spirits manufacturer, or distilled spirits agent to purchase space and time from, or on behalf of, an on-sale retail license at any of the following facilities that are situated on the campus of SDSU, including the SDSU Mission Valley site, located in San Diego County:

a) An outdoor multipurpose stadium with a fixed seating capacity of at least 30,000 seats (Snapdragon Stadium).
b) A fully enclosed arena with a fixed seating capacity in excess of 10,000 seats (Viejas Arena).
c) An outdoor baseball stadium with a fixed seating capacity of at least 1,800 seats (Tony Gwynn Stadium).
d) An outdoor softball stadium with a fixed seating capacity of at least 300 seats (SDSU Softball Stadium).
e) An open-air amphitheater with a fixed seating capacity of at least 4,000 seats (Cal Coast Credit Union Amphitheater).

2) Requires any purchase of advertising space or time to be conducted by a written contract, as specified.

3) Requires the on-sale licensee to serve other brands of beer distributed by a competing beer wholesaler in addition to the brand manufactured by the beer manufacturer, other brands of wine distributed by a competing wine wholesaler in addition to the brand produced by the winegrower, and other brands of distilled spirits distributed by a competing distilled spirits wholesaler in addition to the brand manufactured by the rectifier, the crat distiller, the distilled spirits manufacturer, or the distilled spirits manufacturer's agent that purchased the advertising space or time.

4) Contains an urgency clause.

Background

Purpose of the bill. According to the author's office, "SDSU is an integral part of the San Diego region and the new Snapdragon Stadium will greatly benefit the community as a whole. The stadium will host not only SDSU sports teams, but also commencement, high school sports, concerts, festivals and other entertainment events. It will serve as a home to a national women's soccer league and potentially other professional teams in the future. Since Snapdragon Stadium does not benefit from state funding and is financially self-supported, the ability to appropriately monetize sponsorships is an important part of the overall financial success of the campus."

The author's office further states that, "the inclusion of multiple venues will enhance the sponsorship value by increasing the number and diversity of spectators viewing the advertising. Sponsorship agreements for the athletic venues have the

potential to generate at least $2.5 million annually and will support the future growth of SDSU's Department of Athletics."

Tied-house laws. Tied-house laws generally prohibit suppliers and retailers from sharing common owners and legally restrict alcohol beverage suppliers' ability to gain control over retailers through indirect means. The original policy rationale for this body of law was to: (1) promote the state's interest in an orderly market; (2) prohibit the vertical integration and dominance by a single producer in the marketplace; (3) prohibit commercial bribery and to protect the public from predatory marketing practices; and (4) discourage and/or prevent the intemperate use of alcoholic beverages.

These provisions prohibit a manufacturer from paying for advertising space at any facility where the facility is licensed to sell alcoholic beverages. Over the years, numerous exceptions to this prohibition have been added to a number of stadiums, parks, entertainment complexes, and arenas. Some examples are Levi's Stadium in Santa Clara, Oakland Coliseum in Oakland, Arrowhead Pond Arena in Anaheim, Kern County Arena in Bakersfield, the National Orange Show Events Center in San Bernardino, Auto Club Speedway, (formerly California Speedway) in Fontana, Grizzly Stadium in Fresno, Raley Field in West Sacramento, HP Pavilion in San Jose, StubHub Center (formerly the Home Depot Center) in Carson, and numerous other venues.

Current exemptions also exist for a number of venues at universities/colleges including the Los Angeles Memorial Coliseum, home to the USC Trojan's football team, Savemart Stadium at Fresno State, Green Music Center at Sonoma State, and Sonoma State arts complex.

CSU Executive Order 1109. California State University Executive Order 1109 was issued on June 30, 2017 and permits each campus president to allow the sale and service of alcoholic beverages and the advertising of alcoholic beverages on campus at university sponsored athletic events. The Executive Order requires that advertising follows specific guidelines to encourage responsible, low risk and legal use of alcoholic beverages and must support alcohol awareness programs.

In addition, the Executive Order requires that advertising of alcoholic beverages on CSU campuses must comply with minimum policy guidelines which must include, among other things, that the advertising cannot promote any form of alcohol consumption that encourages increased quantity and/or greater frequency of use, shall not portray drinking as a solution to personal or academic problems, or as a

conducive to personal, social, athletic, or academic success, and must support and promote campus alcohol awareness programs that encourage and inform students about the responsible and low risk use or non-use of alcoholic beverages.

Related/Prior Legislation

AB 98 (Kalra, 2022) authorizes specified licensees to purchase advertising space and time from, or on behalf of, an on-sale licensee that is the owner, manager, or major tenant at a fully enclosed arena with a fixed capacity in excess of 4,000 seats located in the City of San Jose (Tech CU Arena). (Pending on the Senate Floor)

AB 1323 (Haney, 2022) authorizes specified licensees to purchase advertising space and time from, or on behalf of, an on-sale licensee that is the owner, manager, or major tenant of an on-sale retail licensed premises configured with theatrical seating of at least 1,600 seats but no more than 2,400 seats (Curran Theater) in the city and County of San Francisco (Acrisure Arena), as specified. (Pending on the Senate Floor)

AB 1330 (Mayes, 2022) authorizes specified licensees to purchase advertising space and time from, or on behalf of, an on-sale licensee that is the owner, manager, or major tenant at a fully enclosed arena with a fixed capacity in excess of 10,000 seats located in the County of Riverside (Acrisure Arena). (Pending on the Senate Floor)

SB 386 (Umberg, Chapter 309, Statutes of 2021) authorized specified alcohol licensees to sponsor events promoted by, and to purchase advertising space and time from, or on behalf, an on-sale licensee that is the owner, operator agent of the operator, or sole assignee or the operator's advertising rights of a mixed-use district located in the County of Orange (ocV!BE), as specified.

AB 2000 (Kalra, Chapter 483, Statutes of 2018) extended an existing exception in the ABC Act pertaining to the general prohibition against advertising arrangements between retail, wholesale, and manufacturer licensees to include an outdoor professional sports stadium with a fixed seating capacity of at least 3,000 seats located in the City of San Jose (San Jose Municipal Stadium – minor league baseball San Jose Giants), and an outdoor professional sports stadium with a fixed seating capacity of at least 15,000 seats located in the City of San Jose (Avaya Stadium – San Jose Earthquakes).

AB 2146 (Gloria, Chapter 487, Statutes of 2018) extended an existing exception in the ABC Act pertaining to the general prohibition against advertising arrangements between retail, wholesale, and manufacturer licensees to include an outdoor stadium with a fixed seating capacity of at least 43,000 seats located in the City of San Diego (Petco Park – San Diego Padres).

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

According to the Senate Appropriations Committee, staff notes that the Department of ABC's activities are funded by regulatory and license fees and generally the department does not receive support from the General Fund. New legislative mandates, although modest in scope, may in totality create new costs pressures and impact the department's operating costs and future budget requests.

SUPPORT: (Verified 8/8/22)

California State University (source)
AleSmith Brewing Company
San Diego Bowl Game Association
San Diego Legion
San Diego State University
San Diego Wave Futbol Club

OPPOSITION: (Verified 8/8/22)

Alcohol Justice

ARGUMENTS IN SUPPORT: According to the California State University, "sponsorship agreements permitted under SB 1280 will provide a new revenue source to at least $2.5 million annually, which will enhance the educational experience of SDSU student-athletes and support athletics competitive excellence. The bill is critical to the sustainability of the campus as it will put its venues on equal footing with other venues across the state and help attract a wider variety of sporting events, concerts, festivals, and other events that will serve the community."

ARGUMENTS IN OPPOSITION: According to Alcohol Justice, "this law would degrade tied-house protections within a public college. Tied house restrictions exist to limit the ability of major alcohol companies to promote monopoly, which threatens to floor the market with low cost product that is widely marketed, including to underage drinkers. This describes many, if not most, college undergraduates."

ASSEMBLY FLOOR: 74-0, 8/8/22
AYES: Aguiar-Curry, Alvarez, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Arambula, Bryan, Calderon, Rodriguez, Voepel, Ward

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
8/10/22 16:06:17

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

SENATE RULES COMMITTEE SB 1452
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 1452
Author: Dahle (R)
Amended: 6/20/22
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 13-0, 3/29/22
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Borgeas, Bradford, Glazer, Hueso, Jones, Kamlager, Rubio, Wilk
NO VOTE RECORDED: Melendez, Portantino

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 37-0, 5/23/22
AYES: Allen, Atkins, Bates, Becker, Borgeas, Bradford, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Archuleta, Caballero, Hertzberg

ASSEMBLY FLOOR: 76-0, 8/8/22 - See last page for vote

SUBJECT: Alcoholic beverages: licenses: Counties of El Dorado and Shasta

SOURCE: Author

DIGEST: This bill authorizes the Department of Alcoholic Beverage Control (ABC) to issue no more than a total of 10 new original on-sale general licenses for bona fide public eating places in both the County of El Dorado and in the County of Shasta, as specified.

Assembly Amendments limit the number of licenses that could be issued to no more than four licenses per year.

ANALYSIS:

Existing law:

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

2) Provides that the Department of ABC must deny an application for a license if issuance would create a law enforcement problem, or if issuance would result in, or add to, an undue concentration of licenses in the area where the license is desired. However, for liquor stores and other specified retail licenses, the Department of ABC is authorized to issue a license if the respective local government determines that public convenience or necessity would be served by granting the license.

3) Caps the number of new on-sale and off-sale general licenses issued by the Department of ABC. The ratios are one on-sale general license for each 2,000 persons in the county in which the premises are situated and one off-sale general license for each 2,500 persons.

4) Defines an "on-sale" license as authorizing the sale of all types of alcoholic beverages: namely, beer, wine and distilled spirits, for consumption on the premises (such as at a restaurant or bar) and an "off-sale" license as authorizing the sale of all types of alcoholic beverages for consumption off the premises in original, sealed containers.

5) Defines "bona fide public eating place" to mean a place which is regularly and in a bona fide manner used and kept open for the serving of meals to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for ordinary meals, the kitchen of which must be kept in a sanitary condition with the proper amount of refrigeration for keeping of food on said premises and must comply with all the regulations of the local Department of Health.

6) Authorizes, beginning January 1, 2017, the Department of ABC to issue no more than five new original neighborhood-restricted special on-sale general licenses, for premises located within specified City and County of San Francisco neighborhoods, subject to certain requirements and restrictions.

7) Provides that in Napa County, from January 1, 2017, to December 31, 2017, the Department of ABC, in addition to those licenses currently issued under the law may issue no more than five additional new original on-sale general licenses for bona fide public eating places. Any premises to qualify for a license shall have a seating capacity for 25 or more diners.

8) Authorizes, beginning January 1, 2018, the Department of ABC to issue no more than five new original neighborhood-restricted special on-sale general licenses per year, until a total of 30 licenses are issued, to premises located in any of the census tracts, as specified, within the City and County of San Francisco.

9) Authorizes, beginning on January 1, 2018, the Department of ABC, to issue a maximum of 20 new original on-sale general licenses, over a four-year period, in the County of Napa, as specified.

10) Authorizes, beginning on January 1, 2021, the Department of ABC to issue up to 10 additional new original on-sale genera licenses in Mariposa County and up to 10 additional new original on-sale general licenses per year in Napa County for a period of five years.

This bill:

1) Authorizes the Department of ABC to issue no more than a total of 10 new original on-sale general licenses for bona fide public eating places in both the County of El Dorado and in the County of Shasta.

2) Prohibits the Department of ABC to issue more than four of these licenses per year.

3) Provides that this bill does not prohibit a person that currently holds a valid on-sale general license for seasonal business from applying for an original on-sale general license.

4) Prohibits a license issued under this bill from being transferred from one county to another or from being transferred to any premises not qualifying under the provisions of this bill.

5) Provides that no license issued under this bill shall be sold or transferred for a price greater than the original fee paid by the seller.

Comments

Purpose of this bill. According to the author's office, "for the last two years, the restaurant and food services industries have suffered immense loss of customers, revenue, and employees due to the fall-out from pandemic restrictions. Many were forced to close, while other were able to pivot their approach to maintain some businesses profitability or subsistence. One of the more profitable aspects of these businesses are their alcohol sales, which in some instances helped them weather the COVID storm. In El Dorado and Shasta counties, the pandemic restrictions were amplified since many of their areas cater to tourist either visiting or passing through and those industries were constrained as well."

The author's office further states that, "counties with smaller populations, but highly traveled because of tourists attractions seem to warrant additional goods and services to meet demand including the need for more food and beverage vendors. SB 1452 will do just that, by authorizing ABC to issue 10 new general license per county (El Dorado and Shasta) so they can improve the likelihood of success for their food industry, as well as meeting the needs of their growing, but small communities."

Type 47 alcohol license. An on-sale general eating-place license, or Type 47 license, authorizes the consumption of beer, wine, and distilled spirits for consumption on the licensed premise. The licensee is required to operate and maintain the licensed premises as a bona fide eating-place, which must include suitable kitchen facilities. The licensee must make actual and substantial sales of meals for consumption on the premises. Generally, this means that the business must generate at least 51% of all gross sales from food. As such, a Type 47 license is one of the most common types of liquor licenses for restaurants in California.

Some common businesses that use the Type 47 license include full-service restaurants, hotels and resorts, bowling alleys, golf courses, and other eating establishments. There are approximately 17,097 on-sale general (Type 47) licenses statewide.

Type 48 Alcohol License. An on-sale general public premises license authorizes the sale of beer, wine and distilled spirits for consumption on the licensed premises. In addition, the license authorizes the sale of beer and wine for consumption off the licensed premises. Minors are generally not allow to enter and remain. Unlike a Type 47 license, food service is not required. Some businesses that use a Type 48 license include bars and night clubs. There are approximately 2,746 Type 48 on-sale general public premises (Type 48) licenses statewide.

Alcohol license limitation. Existing law provides for a limitation on the number of new on-sale general licenses that may be issued in a given year by the Department of ABC based on the population growth of the county in which the licensed premises are located. The ratio is one on-sale general license for each 2,000 residents. For example, if a county grows by 10,000 people in a given year, the Department of ABC will issue five new licenses in that county.

If the Department of ABC receives more applications than there are licenses available, a public drawing is held. To participate in such a drawing, an applicant must have been a resident of California for at least 90 days prior to the date of the scheduled drawing. Successful drawing participants will be notified that they have 90 days to complete a formal application for their specific premises. The cost of these new licenses is $17,335 each.

Individuals seeking to open a full-service restaurant with a bar or cocktail menu who fail to obtain a liquor license through this process typically must locate an existing licensed owner willing to sell their license. Usually, that is done by contacting a liquor license broker. The cost of obtaining a license on the secondary market is driven by supply and demand and can reach upwards of $400,000.

Impact on counties. As previously noted, when a county experiences a population growth, the Department of ABC issues additional licenses based on the population growth; currently 2,000 residents per one on-sale general license. While this system tends to work for most counties, there are a substantial number of counties where the demand for alcohol licenses far outweighs the current number of alcohol licenses in those counties. The reasons for the lack of licenses are generally a lack of population growth or because of the amount of tourism in the particular county, which results in higher demand for these types of businesses.

For example, in Napa County the number of visitors to Napa continues to increase while the population of the county has not grown. While the majority of visitors to Napa take day trips, more than one million of these visitors spend at least one night in local lodgings. Tourism has therefore become one of the major economic drivers in the region. While legislation in 2017 authorized the issuance of five additional license over a four-year span, demand far outweighs the availability of these licenses. In 2018 for instance, while the Department of ABC issued five new licenses to Napa, there were a total of 38 applications for those five licenses.

Related/Prior Legislation

SB 298 (Dodd, 2022), among other things, authorizes the Department of ABC to issue up to four additional on-sale general licenses for bona fide public eating

places in a county that has reached its limit on such licenses. (Pending in the Assembly Appropriations Committee Suspense File)

AB 2459 (Bigelow, Chapter 53, Statutes of 2020) authorized the Department of ABC to issue up to 10 additional new original on-sale general licenses in Mariposa County and up to 10 additional new original on-sale general licenses per year in Napa County for a period of five years.

SB 866 (Dodd, 2020) would have authorized the Department of ABC to issue up to 10 additional new original on-sale general licenses per year to bona fide public eating places in Napa County for a period of five years. (Never heard in Senate Governmental Organization Committee)

SB 352 (Dodd, 2019) would have authorized the Department of ABC, in counties that have reached its limit of on-sale general licenses, to issue up to 10 additional new original on-sale general licenses for bona fide eating places following the year the limit is reached. (Held in the Assembly Appropriations Committee Suspense File)

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

According to the Assembly Appropriations Committee, minor and absorbable costs to the Department of ABC. Any additional licensing and enforcement investigations generated by the 20 additional on-sale licenses issued over time should be covered by corresponding licensing fees.

However, this committee sees a wide array of bills that propose to modify the scope of alcohol laws. Generally, modest changes such as those proposed by this bill do not generate major new enforcement workload for the Department of ABC, but taken together, these proposals could lead to significant new costs and future budget requests.

SUPPORT: (Verified 8/8/22)

El Dorado Hills Chamber of Commerce
Family Winemaker of California
One individual

OPPOSITION: (Verified 8/8/22)

Alcohol Justice

ARGUMENTS IN SUPPORT: According to the El Dorado Hills Chamber of Commerce, "select areas of El Dorado County, where population growth exists, lack sufficient inventory and availability of liquor licenses. As a result, businesses move to another county and terminate operations here. In some cases, businesses never begin in El Dorado County due to these prohibitive circumstance."

ARGUMENTS IN OPPOSITION: According to Alcohol Justice, "these special licenses are presumably required because the areas they are in already exceed the state threshold for alcohol license overconcentration. Outlet overconcentration is associated with a number of community harms, including dangerous consumption patterns, higher rates of violent crimes, and heightened fear and anxiety among residents. Limiting the density of retailers selling alcohol is one of the key prevention strategies advocated by the CDC-convened Community Preventive Services Taskforce."

ASSEMBLY FLOOR: 76-0, 8/8/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bryan, Calderon, Rodriguez, Voepel

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
8/10/22 14:19:15

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

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

UNFINISHED BUSINESS

Bill No: SCR 53
Author: McGuire (D), et al.
Amended: 6/2/22
Vote: 21

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

SENATE FLOOR: 30-4, 1/26/22
AYES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Grove, Melendez, Nielsen, Wilk
NO VOTE RECORDED: Bates, Borgeas, Dahle, Dodd, Jones, Ochoa Bogh

ASSEMBLY FLOOR: Read and adopted, 8/4/22

SUBJECT: Climate change

SOURCE: Author

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

Assembly Amendments expand and rephrase some of the examples of marginalized communities in the resolution.

ANALYSIS:

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

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

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

3) Requires ARB to prepare and approve a scoping plan for achieving the maximum technologically feasible and cost-effective reductions in GHG emissions and to update the scoping plan at least once every 5 years.

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

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

This resolution:

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

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

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

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

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

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

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

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

9) Declares that the State of California must commit to ensuring that its actions remain in alignment with the most current science regarding climate change and do everything in its power to encourage swift conversion to an ecologically, socially, and financially stable economy.

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

Background

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

experiencing the effects of climate change now.

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

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

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

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

are just coming into the conversation and are still difficult to quantify.

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

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

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

Comments

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

damaging impacts.

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

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

However, the term "climate emergency" does not appear in California statute and merits further consideration. In the 1970 California Emergency Services Act, three conditions or degrees of emergency were established. In particular, a "state of emergency" is, in part, defined as "conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions such as air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, plant or animal infestation or disease." Most of these conditions have worsened (or are expected to) considerably because of increasing global climate change. Therefore, the use of phrase "climate emergency" appears justified.

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

SUPPORT: (Verified 8/4/22)

350 Humboldt
350 Silicon Valley
Action for the Climate Emergency
California Environmental Voters
Climate Psychiatry Alliance
Elders Climate Action, NorCal and SoCal Chapters
Extinction Rebellion SF Bay
Fossil Free California
Great Old Broads for Wilderness
Humboldt Unitarian Universalist Fellowship's Climate Action Campaign
League of Women Voters of California

Marin Clean Energy
Mobilize CA
Napa Climate Now
Oceanic Preservation Society
Sacramento Climate Coalition
Santa Cruz Climate Action Network
Save the Redwoods League
Schools for Climate Action
Sonoma Clean Power
Sonoma Co. Regional Climate Protection Authority
Sonoma Ecology Center
Ten Strands
The Climate Center
The Climate Mobilization
Undauntedk12

OPPOSITION: (Verified 8/4/22)

None received

Prepared by: Eric Walters / E.Q. / (916) 651-4108
8/10/22 14:51:04

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

SENATE RULES COMMITTEE SCR 61
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SCR 61
Author: Dahle (R), et al.
Amended: 6/15/22
Vote: 21

SENATE FLOOR: 37-0, 9/7/21
AYES: Archuleta, Atkins, Bates, Becker, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Allen, Borgeas, Stern

ASSEMBLY FLOOR: 76-0, 8/4/22 (Consent) - See last page for vote

SUBJECT: Prostate Cancer Awareness Month

SOURCE: California Prostate Cancer Coalition

DIGEST: This resolution proclaims the month of September 2022 as Prostate Cancer Awareness Month.

Assembly Amendments add coauthors, make changes to the statistical information, add legislative findings, and make technical changes.

ANALYSIS: This resolution makes the following legislative findings:

1) Prostate cancer is the most frequently diagnosed cancer in men aside from skin cancer. It is estimated that one in eight men will develop prostate cancer in their lifetime.

2) Risk factors for prostate cancer include increasing age, African ancestry, a family history of the disease, and certain inherited genetic conditions.

3) Advanced prostate cancer commonly spreads to the bones, which can cause pain in the hips, spine, ribs, or other areas in the body.

4) The five-year survival rate approaches 100 percent when prostate cancer is diagnosed and treated early, but drops to 31 percent when it spreads to other parts of the body.

5) Treatment options for prostate cancer vary depending on age, the stage and grade of cancer, and other existing medical conditions.

6) The American Cancer Society recommends that men should have a conversation with their health care provider and should have an opportunity to make an informed decision about whether to be tested for prostate cancer based on personal values and preferences.

7) For men who desire screening, prostate-specific antigen testing may begin at 55 years of age for average-risk men, and for men at higher than average risk, including Black men, men with a family history, men with a genetic predisposition, and veterans, testing should begin at 40 years of age.

This resolution:

1) Proclaims the month of September 2022 to be Prostate Cancer Awareness Month in California.

2) Urges all levels of government to provide an educational campaign to increase awareness about the importance for men to make an informed decision with their health care provider about early detection and testing for prostate cancer.

3) Joins communities across our nation to increase awareness about the importance of removing barriers to increase early detection and testing for prostate cancer so men can have the opportunity to make informed decisions with their health care provider about early treatment options.

Related/Prior Legislation

HR 104 (Gipson, 2020) proclaimed September 2020 as Prostate Cancer Awareness Month in California. The resolution was adopted by the Assembly.

ACR 111 (Kiley, Resolution Chapter 135, Statutes of 2019) proclaimed the month of September 2019 as Prostate Cancer Awareness Month in California.

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

SUPPORT: (Verified 8/5/22)

California Prostate Cancer Coalition (source)
American Cancer Society

OPPOSITION: (Verified 8/5/22)

None received

ASSEMBLY FLOOR: 76-0, 8/4/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Kiley, McCarty, Voepel, Waldron

Prepared by: Karen Chow / SFA / (916) 651-1520
8/10/22 14:51:05

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

SENATE RULES COMMITTEE SCR 77
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SCR 77
Author: Umberg (D)
Introduced: 3/1/22
Vote: 21

SUBJECT: King Hùng Vương Commemorative Day

SOURCE: Author

DIGEST: This resolution proclaims April 10, 2022, as King Hùng Vương Commemorative Day and recognizes it as a day of cultural festivals commemorating the roots of Vietnamese Americans in California.

ANALYSIS: This resolution makes the following legislative findings:

1) The festival King Hùng Vương Commemorative Day is a Vietnamese traditional holiday commemorating the merits of founding the nation of Vietnam by the Hung Vuong kings.

2) The commemoration is held annually on the 10th day of March of the lunar calendar at King Hung Temple, Viet Tri City, Phu Tho Province, Northern Vietnam, as well as everywhere in Vietnam. Since 1975, Vietnamese communities around the world celebrate this holiday every year.

3) King Hùng Vương Commemorative Day not only highlights national pride but also reminds us to thoroughly understand and promote national identity and ancestral origins, ensuring that future generations appreciate the merits of generations of national heroes and their ancestors.

4) After the Vietnam War ended in 1975, millions of Vietnamese people escaped from Vietnam and settled in free, democratic countries, including more than 580,000 Vietnamese living in California.

5) Over the past 40 years, Vietnamese communities have rapidly formed and developed, contributing to the diversity of culture, economy, education, politics, military, and more. King Hùng Vương Commemorative Day is one of the most

monumental annual festivals, bringing forth the many historical and cultural characteristics of the Vietnamese community.

This resolution recognizes April 10, 2022, which is the 10th of March in the lunar calendar, as King Hùng Vương Commemorative Day and recognizes it as a day of cultural festivals commemorating the roots of Vietnamese Americans in California.

Related/Prior Legislation

SCR 4 (Umberg, Resolution Chapter 43, Statutes of 2021) proclaimed April 21, 2021, as King Hùng Vương Commemorative Day.

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

SUPPORT: (Verified 3/9/22)

None received

OPPOSITION: (Verified 3/9/22)

None received

Prepared by: Karen Chow / SFA / (916) 651-1520
3/9/22 15:10:35

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

SENATE RULES COMMITTEE SCR 84
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SCR 84
Author: Umberg (D)
Introduced: 3/3/22
Vote: 21

SUBJECT: Veterans of the Republic of Vietnam Armed Forces Day

SOURCE: Author

DIGEST: This resolution proclaims June 19, 2022, as Veterans of the Republic of Vietnam Armed Forces Day.

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. The Republic of Vietnam Military Forces consisted of four branches: the Army of the Republic of Vietnam, the Republic of Vietnam Air Force, the Republic of Vietnam Navy, and the Republic of Vietnam Marine Division.

2) The duties of all four branches included: protecting the sovereignty of the free Vietnamese nation and that of the Republic, maintaining the political and social order and the rule of law by providing internal security, defending the newly independent Republic of Vietnam from external and internal threats, and ultimately helping to reunify Vietnam, a country that had been divided since the Geneva Accords of 1954.

3) The Vietnam War brought about the loss of more than 250,000 members of the South Vietnamese Armed Forces and more than 58,000 members of the United States Armed Forces.

4) 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.

5) 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. 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.

6) Annually, Vietnamese Americans around the world recognize the Republic of Vietnam Armed Forces Day on June 19, and this year, 2021, marks the 56th anniversary of this annual commemoration.

7) Thousands of veterans of the South Vietnamese Armed Forces now reside in the United States and participate in activities sponsored by American veterans, including Memorial Day, Veterans Day, and Independence Day, and today there are more than 100,000 veterans from the Republic of Vietnam living in California.

8) These servicemembers who paid the ultimate sacrifice for their nation and have contributed greatly to the development of our society deserve to be honored and recognized.

This resolution recognizes June 19, 2022, 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

The following are the most recent measures recognizing Veterans of the Republic of Vietnam Armed Forces Day:

- ACR 134 (Nguyen, pending in Assembly Rules Committee).
- SCR 3 (Umberg, Resolution Chapter 79, Statutes of 2021).
- ACR 72 (Nguyen, Resolution Chapter 74, Statutes of 2021).
- SCR 59 (Umberg, 2020) – died on the Senate Inactive File.

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

SUPPORT: (Verified 3/22/22)

None received

OPPOSITION: (Verified 3/22/22)

None received

Prepared by: Melissa Ward / SFA / (916) 651-1520
3/23/22 15:13:24

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

SENATE RULES COMMITTEE SCR 119
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SCR 119
Author: Dodd (D), et al.
Introduced: 8/1/22
Vote: 21

SUBJECT: Sacramento-San Joaquin Delta Week

SOURCE: Author

DIGEST: This resolution declares, among other things, the last week of September 2022, and each year thereafter, as Sacramento-San Joaquin Delta Week, with the purpose of expanding the acknowledgment of the Sacramento-San Joaquin Delta region's contributions to a higher quality of life for all Californians.

ANALYSIS: This resolution makes the following legislative findings:

1) The Sacramento-San Joaquin Delta Conservancy was established to work collaboratively and in coordination with local communities, and lead efforts to protect, enhance, and restore the Sacramento-San Joaquin Delta's economy, agriculture and working landscapes, and environment for the benefit of the Sacramento-San Joaquin Delta region, its local communities, and the citizens of California.

2) The Delta Protection Commission was established to protect, maintain, enhance, and enrich the overall quality of the Delta environment and economy with a focus on agriculture, recreation, and natural resources, while remaining mindful of the importance of the Delta to all Californians.

3) The unique inverted Delta formed by California's two largest rivers, the Sacramento River and the San Joaquin River, is a source of sustenance for farmers and fishermen, home to 500,000 people and a vast array of fish, birds, and wildlife, a vital transportation and utility corridor, and a critical component of the state's water supply infrastructure.

4) Two-thirds of the state's population, or approximately 27,000,000 people, depend on water from the Delta watershed for some portion of their water supply.

5) More than 3,000,000 acres of irrigated farmland that grow crops for in-state, national, and international distribution depend on water from the Delta watershed.

6) Ninety-five percent of the historical tidal marsh in the Delta has been lost.

This resolution:

1) Acknowledges the critical role the Delta plays in California's economy and environment and the wide range of benefits, products, amenities, and resources reliant on the Delta, and acknowledges the benefits of proactive restoration of the region.

2) Commends the state, federal, and local agencies, along with nongovernmental organizations, for working cooperatively to support ecosystem health in the Delta, and the Sacramento-San Joaquin Delta Conservancy and the Delta Protection Commission for playing key roles in support of restoration and economic viability.

3) Applauds the public schools that include watershed protection in the Delta region as part of their outdoor education curriculum whenever possible, especially during the month of September.

4) Calls upon all Californians to acknowledge the high value of the Delta and the multiple benefits of a healthy Delta region through observance of Sacramento-San Joaquin Delta Week.

5) Declares the last week of September 2022, and each year thereafter, as Sacramento-San Joaquin Delta Week, with the purpose of expanding the acknowledgment of the Sacramento-San Joaquin Delta region's contributions to a higher quality of life for all Californians.

Related/Prior Legislation

SCR 70 (Dodd, Resolution Chapter 151, Statutes of 2019) declared the week of September 21, 2019, as Sacramento-San Joaquin Delta Week.

SCR 166 (Dodd, Resolution Chapter 239, Statutes of 2018) declared the week of September 10, 2018, and that week every year thereafter, as Sacramento-San Joaquin Delta Week.

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

SUPPORT: (Verified 8/10/22)

Sacramento-San Joaquin Delta Conservancy

OPPOSITION: (Verified 8/10/22)

None received

ARGUMENTS IN SUPPORT: According to the Sacramento-San Joaquin Delta Conservancy, "The Delta is critically important to California as a culturally and historically significant region, a hub of our State's water supply, and a unique and threatened ecosystem. Highlighting the importance of the Delta contributes to public awareness of the significance and beauty of the region and the challenges it faces. Further we appreciate the high-level recognition of the role the Delta Conservancy plays in coordination with the Delta community and our sister agencies to preserve and enhance the ecological and economic viability of the region."

Prepared by: Karen Chow / SFA / (916) 651-1520
8/10/22 14:51:07

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

SENATE RULES COMMITTEE SCR 120
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SCR 120
Author: Ochoa Bogh (R), et al.
Introduced: 8/1/22
Vote: 21

SUBJECT: Breastfeeding Awareness Month of 2022

SOURCE: Author

DIGEST: This resolution proclaims August 2022 as Breastfeeding Awareness Month of 2022 in California; recognizes the unique benefits that breastfeeding provides, as specified; and affirms that Californians should work to ensure that barriers to initiation and continuation of breastfeeding are removed.

ANALYSIS: This resolution makes the following legislative findings:

1) Breastfeeding is an issue of great importance to women, infants, their families, and their physicians and is, therefore, of interest to the Legislature. It is the first food system that, as babies, many humans are introduced to and sustained by.

2) The American Academy of Pediatrics, the American College of Obstetricians and Gynecologists, the American Academy of Family Physicians, the Academy of Breastfeeding Medicine, and the World Health Organization recommend that babies be exclusively breastfed for the first six month of age and continue to be breastfed for the following six months, along with nutritious complementary foods.

3) In January 2011, the United States Surgeon General announced a "Call to Action to Support Breastfeeding" that identifies barriers to optimal breastfeeding in health care practices, employment, communities, research, public health infrastructure, and social networks, while also recommending methods in which families, communities, employers, and health care professionals could help to eliminate those barriers to improve breastfeeding rates and increase support for breastfeeding.

4) Research shows that human milk and breastfeeding provide advantages to general health, growth, and development while significantly decreasing the risk of a large number of acute and chronic diseases, including, among others, sudden infant death syndrome, asthma, allergies, diabetes, viral and bacterial infections, childhood obesity, childhood leukemia, necrotizing enterocolitis, and infant mortality.

5) The nutrients exclusive to human milk are vital to the growth, development, and maintenance of the human brain and cannot be manufactured.

6) Breastfeeding has positive economic impacts on families by decreasing the need to pay for medical care for a sick infant and by eliminating the need to purchase infant formula. The health benefits to breastfed children and their mothers result in lower health care costs for employers, less employee time off to care for sick children, and higher productivity and employee loyalty.

7) Employers, employees, and society benefit by supporting a mother's decision to breastfeed and by helping to reduce the obstacles to initiating and continuing breastfeeding.

This resolution:

1) Proclaims the month of August 2022 as Breastfeeding Awareness Month of 2022 in California.

2) Recognizes the unique health, economic, and societal benefits that breastfeeding provides to babies, mothers, families, and the community as a whole and affirms that Californians should work to ensure that barriers to initiation and continuation of breastfeeding are removed.

3) Encourages Californians to work together to explore ways to improve women's access to breastfeeding support services in medical, social, and employment settings, to facilitate increased awareness and education about breastfeeding, to explore and encourage the use of breastfeeding supports, and to improve the availability of effective breastfeeding resources and community support services.

Related/Prior Legislation

SCR 55 (Hurtado, Resolution Chapter 143, Statutes of 2021) proclaimed August 2022 as Breastfeeding Awareness Month of 2022 in California.

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

SUPPORT: (Verified 8/9/22)

None received

OPPOSITION: (Verified 8/9/22)

None received

Prepared by: Jonas Austin / SFA / (916) 651-1520
8/10/22 14:51:08

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

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

THIRD READING

Bill No: SCR 121
Author: Hurtado (D), et al.
Introduced: 8/4/22
Vote: 21

SUBJECT: Runaway and Homeless Youth Prevention Month

SOURCE: California Coalition for Youth

DIGEST: This resolution designates November 2022 as Runaway and Homeless Youth Prevention Month in California and recognizes the need for individuals, schools, communities, businesses, local governments, and the state to take action on behalf of runaway and homeless youth in California.

ANALYSIS: This resolution makes the following legislative findings:

1) Runaway and homeless youth are young people between 12 and 24 years of age, inclusive, who have the least access to essential opportunities and supports.

2) The prevalence of runaways and homelessness among youth is staggering, with studies suggesting that nationally between 1,600,000 and 2,800,000 youth up to 24 years of age experience homelessness every year.

3) The percentage of unaccompanied homeless youth who are unsheltered in California stands at 78.9 percent, which is the highest in the country. California also has 34 percent of the homeless youth population in the country, the largest number of homeless youth of any state.

4) Runaway and homeless youth flee conflict, abuse, neglect, or increasingly, poverty in their homes. They have become disconnected from educational systems and the workforce and do not have the skills and financial resources to live on their own. The factors impacting youth homelessness are complex and differ from those impacting other homeless populations.

5) Providing safe, stable, and permanent housing for runaway and homeless youth is a family, community, state, and national priority, and homeless youth are

considered one of the unique populations in the homeless community by the United States Interagency Council on Homelessness.

6) The future well-being of our state depends on the value we place on our youth and, in particular, on our actions to provide the most vulnerable young people in the state with opportunities to acquire the knowledge, skills, and abilities they need to find and maintain stable housing and to develop into healthy and productive adults.

7) The number of effective programs providing services and support to runaway and homeless youth in California is a fraction of what is needed to fully address the needs of these young people; only 22 out of California's 58 counties have programs for runaway and homeless youth.

8) The California Coalition for Youth has operated the California Youth Crisis Line (1-800-843-5200) 24 hours a day, seven days a week, for over 30 years as the state's only emergency response system for youth in crisis, which began offering chat-to-text counseling services in 2016.

9) The California Coalition for Youth, along with other community-based organizations, providers, and advocates, is sponsoring California's 11th annual Runaway and Homeless Youth Prevention Month to increase awareness and action on behalf of youth at risk or currently living on the street. Awareness of the tragedy of youth experiencing homelessness and its causes must be heightened to ensure greater support for effective programs aimed at preventing homelessness and helping youth remain off the streets.

This resolution recognizes the need for individuals, schools, communities, businesses, local governments, and the state to take action on behalf of runaway and homeless youth in California; and designates the month of November 2022 as Runaway and Homeless Youth Prevention Month in California.

Related/Prior Legislation

The following are the most recent measures relating to Runaway and Homeless Youth Prevention Month:

- SCR 57 (Hurtado, Resolution Chapter 145, Statutes of 2021).
- SCR 75 (Hurtado, Resolution Chapter 160, Statutes of 2019).

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

SUPPORT: (Verified 8/8/22)

California Coalition for Youth (source)

OPPOSITION: (Verified 8/8/22)

None received

Prepared by: Melissa Ward / SFA / (916) 651-1520
8/10/22 14:51:08

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

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

UNFINISHED BUSINESS

Bill No: SJR 5
Author: Wilk (R), et al.
Amended: 6/23/22
Vote: 21

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

SENATE FLOOR: 37-0, 6/17/21 (Consent)
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Hurtado, Melendez, Skinner

ASSEMBLY FLOOR: 76-0, 8/1/22 - See last page for vote

SUBJECT: Social Security benefits: COVID-19

SOURCE: Author

DIGEST: This resolution urges the United States Congress to amend the United States Social Security Administration's index of earnings to ensure that a decline in aggregate wages due to COVID-19 does not result in decreased benefits.

Assembly Amendments add co-authors and remove a reference specifying a methodology to adjust Social Security's benefit by either basing the national average wage off first quarter earnings for Social Security benefits for those who turn 60 in 2020 or 2021 or using the 2019 national average wage for Social Security benefits for those who turn 60 in 2020 or 2021.

ANALYSIS:

Existing federal law:

1) Establishes the Social Security Administration (SSA) with the duty of administering the old-age, survivors, and disability insurance programs (OASDI). Funded primarily through payroll taxes, the old-age program has contributed to declines in poverty among the elderly. (42 U.S. Code, Chapter VII - Social Security §901)

2) Requires the SSA when computing a person's benefits, to use the national average wage indexing series to index that person's earning in order to ensure that a worker's future benefits reflect the general rise in the cost of the standard of living (inflation). Each year, the SSA publishes the national average wages for the year. (20 CFR §404.210-404.211)

This resolution:

1) Makes, among others, the following declarations:

   a) Sixty-three million people collect Social Security benefits, amounting to one in every six United States residents, lifting more than 15,000,000 elderly individuals out of poverty.

   b) Social Security is especially beneficial for minority demographics such as African Americans, Latinos, and women who all face higher rates of poverty and earn less than their White, male, working counterparts.

   c) The global COVID-19 pandemic has unearthed a technical glitch in the United States Social Security system.

   d) If left unaddressed, this glitch may result in more than 8,000,000 workers, those who turn 60 years of age in 2020 or 2021, receiving substantially lower Social Security benefits than workers with identical earnings who turned 60 years of age in the years immediately prior to the COVID-19 pandemic.

   e) Social Security's earned benefits are based on each worker's earning history adjusted to reflect the growth in aggregate economy wide wages.

   f) Social Security benefits are calculated individually and adjusted through the average wage index, which amounts to the total wages paid in the United

States in a year, divided by the number of W-2 tax forms issued in that same year.

g) Due to the COVID-19 pandemic, tens of millions of Americans have filed for unemployment during the COVID-19 pandemic.

h) Due to high levels of unemployment, aggregate wage levels are expected to continue to decline substantially this year, which may result in lower adjusted benefits by as much as roughly 9 percent, or $2,511 annually, for those workers who turn 60 years of age in 2020 or 2021.

i) A median income worker who turns 60 years of age in 2020 or 2021, retires at the normal retirement age of 67 years of age, and collects Social Security benefits for 18 years may lose $45,859 over the course of their retirement.

j) A decline in overall wages due to a pandemic should not produce lower benefits for a select group of retirees.

2) Resolves by the Senate and the Assembly of the State of California, jointly, that the Legislature urges the United States Congress to:

a) Amend the United States Social Security Administration's index of earnings to ensure that a decline in aggregate wages due to COVID-19 does not result in decreased benefits.

3) Requires the Secretary of the Senate to transmit copies of this resolution to the President and Vice President of the United States, the Commissioner of the Social Security Agency, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the United States Senate, the Minority Leader of the United States Senate, and to each Senator and Representative from California in the Congress of the United States.

Background

Wage Indexing. Social Security replaces a percentage of pre-retirement income based on the individual's lifetime career earnings. Higher lifetime earnings results in higher benefits. The portion of pre-retirement wages that the Social Security replaces is based on the average of a person's highest 35 years of Social Security covered wage-indexed earnings. According to the SSA, when computing a person's benefits, they use the national average wage indexing series to index that person's earnings. Such indexation ensures that a worker's future benefits reflect the general rise in the standard of living that occurred during the individual's

working lifetime and ensures the amounts are more reflective to today's dollars. For example, a person born in 1959 who earned $20,000 in 1991 would have those earnings indexed to an amount close to $50,000 when calculating their Social Security retirement benefit rate.

Existing law requires wage indexing to depend on the year in which a person is first eligible to receive benefits. The age of retirement eligibility is 62. SSA indexes an individual's earnings to the average wage level *two years prior* to the year of first eligibility. Therefore, for a person retiring at age 62 in 2021, the person's earnings would be indexed to the average wage index for 2019 (54,099.99). Earnings in a year before 2019 would be multiplied by the ratio of 54,099.99 to the average wage index for that year; earnings in 2019 or later would be taken at face value.

COVID-19 and its Economic Impact. The COVID-19 pandemic changed the way we live and has had devastating consequences. According to the National Bureau of Economic Research, the beginning of the economic downturn caused by COVID-19 began in February 2020, marking the end of the longest period of expansion in U.S. History. This expansion followed the Great Recession which spanned from December 2007 to June 2009, a downturn widely considered to be the worst since the Great Depression. The unemployment rate rose quickly in March 2020 as a result of quarantine orders throughout the state. By April 2020, the unemployment rate had surpassed previous peaks observed during the Great Recession. At its peak, the unemployment rate in California reached 16% in April 2020. According to the Employment Development Department, 22.5 million unemployment insurance claims have been filed since March 2020. EDD has paid more than $147 billion in unemployment insurance benefits.

Comments

Need for this resolution? According to the author, "Social Security Benefits are in part calculated by running a worker's wages through the Average Wage Index (AWI) which is used to ensure that a person's historical annual earnings are more reflective of current day dollars. If the AWIs for 2020 and 2021 are lower than the projected levels due to depressed economic output throughout the economy, then future retirees born in 1960 and 1961 (those turning 60 during the past two years), could experience a substantial decline in actual social security benefits compared to their expected benefits, due solely to the economic impact of the pandemic.

This resolution urges the United States Congress to amend the United States Social Security Administration's index of earnings to ensure that a decline in aggregate wages due to COVID-19 does not result in decreased benefits.

Related/Prior Legislation

SR 89 (Wilk, 2020) was almost identical to this resolution and would have (1) urged the US Congress to amend Social Security's index of earnings to ensure that a decline in aggregate wages due to COVID-19 did not result in decreased benefits; and (2) urged Congress to either base the national average wage off first quarter earnings for benefits for those turning 60 in 2020 or use the 2019 national average wage for Social Security benefits for those turning 60 in 2020. The Senate Rules Committee did not refer SR 89 and it died in Senate Rules Committee.

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

SUPPORT: (Verified 8/3/22)

None received

OPPOSITION: (Verified 8/3/22)

None received

ASSEMBLY FLOOR: 76-0, 8/1/22
AYES: Aguiar-Curry, Alvarez, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Arambula, Calderon, Friedman, Waldron

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
8/3/22 14:50:41

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

SENATE RULES COMMITTEE SJR 9
Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SJR 9
Author: Limón (D), et al.
Amended: 5/19/22
Vote: 21

SENATE EDUCATION COMMITTEE: 6-0, 3/9/22
AYES: Leyva, Ochoa Bogh, Cortese, Glazer, McGuire, Pan
NO VOTE RECORDED: Dahle

SENATE FLOOR: 30-0, 3/28/22
AYES: Allen, Archuleta, Atkins, Becker, Bradford, Cortese, Dodd, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Bates, Borgeas, Caballero, Dahle, Durazo, Grove, Jones, Melendez, Umberg, Wilk

ASSEMBLY FLOOR: 61-0, 8/4/22 - See last page for vote

SUBJECT: 20th anniversary of the nonresident tuition exemption: American Families Plan: immigration reform

SOURCE: Author

DIGEST: This resolution recognizes October 12, 2021, as the 20th anniversary of the enactment of the exemption from nonresident tuition at California's public postsecondary universities established by AB 540 (Firebaugh, Chapter 814, Statutes of 2001) for qualified students. This resolution further calls upon the United States Congress to remove barriers to college access for undocumented students through the adoption of comprehensive immigration reform.

Assembly Amendments add data on the number of undocumented students in attendance at each segment of California's public higher education system and make other technical changes.

ANALYSIS:

Existing law:

1) Exempts specified California nonresident students who graduated from a California high school (or the equivalent) and either (a) attended a California high school for three years or (b) earned the equivalent of three years of high school credit at a California high school and attended three years at some combination of California elementary or secondary schools is exempt from paying nonresident tuition. It further expands eligibility for tuition exemption to include nonresident students who meet both (a) time and coursework requirements (three years attendance or credit equivalent) and (b) degree or unit requirements at some combination of California elementary, secondary, adult school or community college, as specified. (Education Code (EC) § 68130.5.) Students who meet the requirements to qualify for the exemption from nonresident tuition are commonly referred to as "AB 540 students" after the original legislation AB 540.

2) Provides that a student who meets nonresident tuition exemption requirements under EC Section 68130.5 or who meets equivalent requirements adopted by the University of California (UC) is eligible to apply for any financial aid program administered by the state to the full extent permitted by federal law. (EC § 69508.5)

3) Provides that a student attending the California State University (CSU), the California Community College (CCC), or UC who is exempt from paying nonresident tuition under EC Section 68130.5 is eligible to receive a scholarship derived from non-state funds received, for the purpose of scholarships, by the segment at which he or she is a student. (EC § 66021.7)

4) Requires the Trustees of the CSU and the Board of Governors of the CCC, and request the UC Regents, to establish procedures and forms that enable AB 540 students to apply for, and participate in, all student aid programs administered by these segments to the full extent permitted by federal law. (EC § 66021.6)

5) Establishes the California DREAM Loan Program intended to provide low interest loans to AB 540 students who are accessing the Cal Grant program and attending UC and CSU. (EC § 70030-70039)

This resolution:

1) Recognizes October 12, 2021, as the 20th anniversary of the enactment of the exemption from nonresident tuition at California's public postsecondary

institutions established by AB 540 for certain long-term California residents, regardless of citizenship status.

2) Urges all residents of the state to celebrate the significance of the enactment in enabling more undocumented students to pursue a college education.

3) Calls upon the United States Congress to pass the American Families Plan and provide financial resources for undocumented students through the budget reconciliation process, and adopt comprehensive immigration reform.

4) Makes various findings and declarations relative to undocumented students, the significance of AB 540 for expanding college access, the commitment of California's higher education systems to serving all students including the undocumented student population, and the opportunity for congress to expand federal aid with the passage of federal American Families Plan.

Comments

1) *Need for the resolution.* According to the author, "undocumented students remain one of the most underserved populations in California due to racism, poverty, employment challenges, fear of deportation, and lack of access to federal financial aid. These barriers restrict access to higher education and limit their ability to work, contribute to California's economy, and provide for their families. As a result, many of these students have been forced to give up on their college dreams. This situation has been exacerbated by the COVID-19 pandemic, which has disproportionally impacted low-income students and students of color."

   The author further asserts, "Immigrants are the fabric of our community and deserve the opportunity to thrive and succeed. They are aspiring medical professionals, lawmakers, community leaders, engineers, teachers, scientist, and entrepreneurs and are poised to make significant contributions to our state and nation's economic prosperity and growth…"

2) *State support for undocumented youth.* The state has demonstrated a commitment to undocumented students by qualifying them for state aid programs that help make college more attainable. Specifically, state law, established by breakthrough legislation AB 540 and expanded upon by other legislation, allows non-resident students who meet certain qualifications to pay in-state tuition. These students may include undocumented students, students who are US citizens but who are not California residents, and dependent students whose parents are not California residents. The California Dream Act,

established by SB 131 (Cedillo, Chapter 604, Statutes of 2010) allowed AB 540 students to apply for and receive private scholarships funded through public universities, state-administered financial aid, University grants, community college fee waivers, and Cal Grants. Current law additionally establishes a loan program, known as the Dream loan, for those students attending a participating UC or CSU. Students apply for these awards using the California Dream application. Undocumented students who meet the nonresident tuition exemption may apply and receive state aid but remain ineligible for federal student aid programs like Pell grant. This resolution urges all residents of the state to celebrate the significance of historic state policies that enable undocumented students to pursue a college education.

3) *American Families Plan*. President Biden's budget proposal under the American Families Plan includes a $1.7 trillion package of new investments in education, childcare, healthcare, and family leave. Among its expansion of social programs, tax credits and services, the plan seeks to increase access to higher education by offering two-years of free community college to all Americans, including DREAMers, provides up to $1,400 in additional assistance to low-income students by increasing the Pell Grant award, allows DREAMers to access Pell Grants and provide two-years of subsidized tuition in high-demand fields at minority serving institutions. According to information provided by the author's office, major provisions of the American Families Plan were considered as part of the Build Back Better bill that is currently pending in Congress. The House of Representatives passed their own version of Build Back Better last year, which included federal financial aid eligibility for DACA recipients. However, the Senate Parliamentarian has ruled that this provision is outside the scope of budget reconciliation. Senators have also tried to include a pathway to citizenship with Build Back Better but those provisions have also been rejected by the Parliamentarian. Overall, there is a high amount of uncertainty regarding the state of Build Back Better. This resolution calls upon Congress to pass the American Families Plan and provide financial resources for undocumented students through the budget reconciliation process and adoption of comprehensive immigration reform.

Related/Prior Legislation

SB 1141 (Limón, 2022) reduces, for purposes of eligibility for the exemption from paying nonresident tuition, the total years of full-time attendance in certain California schools, the years of full-time high school coursework in California, and the total years of attendance in California elementary schools and California secondary schools required from three or more years to two or more years, and

makes a conforming change. SB 1141 was placed on suspense in the Assembly Appropriations Committee.

SB 1160 (Durazo, 2022) makes nonimmigrant visa holders under the federal Immigration and Nationality Act eligible for the exemption from paying nonresident tuition. SB 1160 was placed on suspense in the Senate Appropriations Committee.

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

SUPPORT: (Verified 8/4/22)

California Catholic Conference
California Community Colleges Chancellor's Office

OPPOSITION: (Verified 8/4/22)

None received

ASSEMBLY FLOOR: 61-0, 8/4/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mathis, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Chen, Choi, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mayes, Nguyen, Patterson, Robert Rivas, Seyarto, Smith, Valladares, Voepel, Waldron

Prepared by: Olgalilia Ramirez / ED. / (916) 651-4105
8/10/22 14:19:13

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

SENATE RULES COMMITTEE SR 97
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SR 97
Author: Caballero (D)
Introduced: 6/27/22
Vote: Majority

SUBJECT: Probation Services Week

SOURCE: Author

DIGEST: This resolution proclaims July 17, 2022, to July 23, 2022, inclusive, as Probation Services Week to highlight the immense contributions probation departments and their officers provide to our communities and state.

ANALYSIS: This resolution makes the following legislative findings:

1) Probation is an alternative to incarceration, and California's probation mission is to deliver a seamless approach to providing effective supervision and rehabilitation services to justice-involved individuals.

2) Probation professionals play a unique and essential role in our justice system and communities. Probation is focused on helping justice-involved individuals transition out of the system permanently through transformative and evidence-based rehabilitation.

3) Probation officers are trained experts who are prepared to manage trauma and other needs of justice-involved individuals and safely connect them to the resources they need.

4) Probation connects services and needs to enhance community safety and the restoration of justice-involved individuals. Probation departments are a connector in the justice system: bridging the gap and maximizing the resources available within the courts, local governments, law enforcement, social services, behavioral health, schools, crime survivor organizations, nonprofit organizations, and the community to reduce recidivism by carefully balancing direct human services and research-based deterrents and interventions.

5) By delivering sustainable community safety, probation departments have a profound impact on the health and safety of our communities by working to reduce recidivism through evidence-based programming and supervision. Probation's success ensures that our state's communities are safer for all Californians to live and prosper.

This resolution proclaims July 17, 2022, to July 23, 2022, inclusive, as Probation Services Week to highlight the immense contributions probation departments and their officers provide to our communities and state.

Related/Prior Legislation

SR 50 (Caballero, 2021) proclaimed July 18, 2021, to July 24, 2021, inclusive, as Probation Services Week. The resolution was adopted by the Senate.

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

SUPPORT: (Verified 8/3/22)

None received

OPPOSITION: (Verified 8/3/22)

None received

Prepared by: Karen Chow / SFA / (916) 651-1520
8/3/22 15:04:32

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

SENATE RULES COMMITTEE SR 99
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SR 99
Author: Pan (D)
Introduced: 8/3/22
Vote: Majority

SUBJECT: American Academy of Pediatrics Day

SOURCE: Author

DIGEST: This resolution recognizes July 19 as American Academy of Pediatrics Day.

ANALYSIS: This resolution makes the following legislative findings:

1) The American Academy of Pediatrics is America's leading professional association of pediatricians comprised of over 67,000 pediatricians committed to the optimal physical, mental, and social health and well-being for all infants, children, adolescents, and young adults.

2) The origin of the American Academy of Pediatrics can be traced to a dinner during the American Medical Association Section on Diseases of Children meeting on July 19, 1929, as described in a letter by William P. Lucas, MD of San Francisco, California.

3) California welcomes the American Academy of Pediatrics for their first in-person National Conference and Exhibition since the start of the COVID-19 pandemic, which is taking place from October 7, 2022, to October 11, 2022, in Anaheim, California.

4) The 2022 Conference and Exhibition will bring pediatricians from across our country and the world to network, participate in educational sessions, and attend special events and exhibit halls.

5) The American Academy of Pediatrics has provided education, training, and program implementation across the globe for the health and well-being of all children, adolescents, and young adults.

This resolution recognizes July 19 as American Academy of Pediatrics Day.

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

SUPPORT: (Verified 8/9/22)

None received

OPPOSITION: (Verified 8/9/22)

None received

Prepared by: Karen Chow / SFA / (916) 651-1520
8/10/22 14:51:09

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

SENATE RULES COMMITTEE SR 100
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SR 100
Author: Pan (D)
Introduced: 8/3/22
Vote: Majority

SUBJECT: Essential State Workers Day

SOURCE: Author

DIGEST: This resolution recognizes August 8, 2022, as Essential State Workers Day.

ANALYSIS: This resolution makes the following legislative findings:

1) According to the Sacramento Bee, all units of essential state workers took a 9 percent pay cut, while providing their essential services, to ensure the state kept running.

2) In Unit 1 of the California Division of the Service Employees International Union (SEIU), 46,000 informational, financial and public resources professionals, including accounting officers, auditors, and analysts for all departments; employment program representatives at the Employment Development Department (EDD), disability evaluators at the Disability Determination Services division of the State Department of Health Care Services, and information technology analysts, worked 14-hour days to ensure Californians were able to keep a roof over their heads and food on their tables.

3) In SEIU Unit 3, 2,300 professional educators and librarians, including teachers and librarians at the Division of Juvenile Justice of the Department of Corrections and Rehabilitation, the State Department of Developmental Services, and teachers with the Schools for the Deaf and School for the Blind at the Department of Education, ensured our special needs students and our children who are on the path to redemption received a quality education.

4) In SEIU Unit 4, 29,000 office and allied workers, including program assistants, program technicians, tax technicians, key data operators, word processing

technicians, stock clerks, and toll collectors at eight bridges up and down the State of California, ensured the operations of our agencies continued to run because of workers at the Department of Motor Vehicles and California Highway Patrol, so that our roads remained safe.

5) In SEIU Unit 11, 2,900 engineering and scientific technicians, including agricultural inspectors, air resources technicians, and those who perform drafting and technical work in the Department of Transportation and the Department of Water Resources, ensured our food, air, and roads remained safe and in compliance with state law.

6) In SEIU Unit 14, 500 printers, including employees at the Office of State Publishing, where the state budget, bills, laws, and other state documents are printed; printers, and graphic artists in individual departments, ensured our state documents were distributed in a timely fashion, and that our state communications were readily accessible to all Californians.

7) In SEIU Unit 15, 4,600 allied service workers, including civil service custodians who clean various state buildings, laundry workers, and supervising cooks and food services workers in prisons and other state institutions, ensured state workers had clean and safe facilities so they could continue to provide the essential services that kept California going.

8) In SEIU Unit 17, 5,100 registered nurses, including registered nurses in state hospitals and prisons, the State Department of Health Care Services, the State Department of Public Health, nurse evaluators who inspect facilities, and nurse consultants who oversee special programs, risked exposure to COVID-19 while providing vital medical care to incarcerated persons who had COVID-19 and other serious health conditions.

9) In SEIU Unit 20, 3,700 medical and social services specialists, including licensed vocational nurses, certified nurse assistants, teaching assistants, registered dental assistants, pharmacy and laboratory technicians, physical therapists, and counselors, worked in prisons, veterans' homes, developmental centers, and special schools, risking exposure to COVID-19 while providing vital medical care to people who had COVID-19 and other serious health conditions.

10) In SEIU Unit 21, 600 educational consultants and librarians, including librarians at the California State Library and educational consultants at the Department of Education who work with school districts and in educational

programs, ensured that our nurses and school bus drivers were adequately trained so they could continue to provide quality services throughout the state.

This resolution recognizes August 8, 2022, as Essential State Workers Day.

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

SUPPORT: (Verified 8/9/22)

None received

OPPOSITION: (Verified 8/9/22)

None received

Prepared by: Jonas Austin / SFA / (916) 651-1520
8/10/22 14:51:10

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

SENATE RULES COMMITTEE SR 101
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SR 101
Author: Grove (R)
Introduced: 8/4/22
Vote: Majority

SUBJECT: Gold Star Mothers' and Families' Day

SOURCE: Author

DIGEST: This resolution proclaims September 25, 2022, as Gold Star Mothers' and Families' Day in California.

ANALYSIS: This resolution makes the following legislative findings:

1) Honoring Gold Star families began in the United States after World War I to provide support for mothers who lost sons or daughters in the war.

2) The reference to the Gold Star comes from the custom of families of service members hanging a service flag in the window of their homes displaying a blue star for every living family member in the United States Armed Forces and a gold star for those who have perished.

3) The United States began observing Gold Star Mothers' Day on the last Sunday of September in 1936, and the Gold Star Wives was formed before the end of World War II.

4) Since 2009, the President of the United States has issued annual proclamations designating the last Sunday in September as Gold Star Mothers' and Families' Day, continuing the tradition of honoring the sacrifice of these families.

5) The strength of our military is built upon the men and women who serve in uniform and the families who support them.

6) The families of our fallen soldiers have made a tremendous sacrifice on behalf of our country.

7) All Gold Star families deserve to be recognized by our local, state, and federal leaders for their sacrifices and for their dedicated, patriotic support of the United States.

8) Supporting Gold Star families demonstrates the commitment of the American people to those families now and in the future.

9) As a nation, we must continually look for new ways to support Gold Star families both in the days immediately following their tragic loss and in the years that follow.

This resolution proclaims September 25, 2022, as Gold Star Mothers' and Families' Day in California.

Related/Prior Legislation

The following are the most recent measures relating to Gold Star Mothers' and Families Day:

- ACR 152 (Salas, 2022) – pending on the Assembly Floor.
- ACR 7 (Salas, Resolution Chapter 131, Statutes of 2021).
- SR 87 (Grove, 2020) – died in Senate Rules Committee.
- ACR 150 (Salas, 2020) – died in Assembly Rules Committee.
- SCR 54 (Grove, Resolution Chapter 153, Statutes of 2019).
- ACR 61 (Salas, Resolution Chapter 165, Statutes of 2019).

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

SUPPORT: (Verified 8/10/22)

None received

OPPOSITION: (Verified 8/10/22)

None received

Prepared by: Melissa Ward / SFA / (916) 651-1520
8/10/22 14:51:10

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

SENATE RULES COMMITTEE SR 103
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SR 103
Author: Kamlager (D)
Introduced: 8/8/22
Vote: Majority

SUBJECT: Muslim American Heritage Month

SOURCE: Project Islamic Hope
Star Power Offering Peace and Prosperity

DIGEST: This resolution proclaims the month of July 2022 as Muslim American Heritage Month in California.

ANALYSIS: This resolution makes the following legislative findings:

1) In July of each year, people across the State of California recognize and celebrate over 350 years of Muslim contributions to the United States by recognizing Muslim American Heritage Month.

2) Islam is followed by approximately 1.6 billion people worldwide encompassing every major region of the world. The Muslim community promotes brotherhood, community, and diversity and strives to embrace all cultures.

3) The United States is a nation built upon the achievements of immigrants. Muslim Americans have strengthened the society of the State of California and contributed significantly to all areas of life in the United States since the time when Muslims first arrived in significant numbers on the shores of the United States on slave ships during the 17th, 18th, and 19th centuries.

4) Muslim Americans contribute greatly to charitable organizations that help people from all faiths in the United States and around the world by providing medical assistance, family services, scholastic supplies, before and after school programs, feeding the hungry, and providing recuperation efforts following natural disasters.

5) With roots in at least 77 different countries, and identifying racially as White, Black, Arab, and Asian, Muslim Americans are an extremely diverse

population. The current population of Muslims living in the United States, a tapestry of ethnic, racial, linguistic, social, and economic groups, is estimated at over 3,450,000 and growing.

6) The State of California has one of the largest Muslim communities in the United States with the majority of Muslims living in Los Angeles and southern California being home to over 120 mosques.

7) Nearly 50 percent of Muslim Americans have reported experiencing religious discrimination, with that number rising to 64 percent for Muslim Americans whose appearance identifies them as Muslim, such as women who wear the hijab, or headscarf.

8) Much work has been done to foster transformational social change and unite people of every racial, ethnic, cultural, and religious background, but there is a continued need for public education, awareness, and policies that are culturally competent when addressing the impacts of being Muslim American.

This resolution:

1) Proclaims the month of July 2022 as Muslim American Heritage Month in California.

2) Honors the contributions and integral role of Muslim Americans in the economy, culture, and identity of the United States and of California, and urges the people of California to observe Muslim American Heritage Month with appropriate ceremonies, programs, and activities that celebrate the contributions of Muslim Americans to California.

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

SUPPORT: (Verified 8/9/22)

Project Islamic Hope (co-source)
Star Power Offering Peace and Prosperity (co-source)
Muslim Democratic Party of Southern California

OPPOSITION: (Verified 8/9/22)

None received

Prepared by: Karen Chow / SFA / (916) 651-1520
8/10/22 14:51:11

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

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

THIRD READING

Bill No: AB 13
Author: Holden (D)
Amended: 8/2/22 in Senate
Vote: 27 - Urgency

PRIOR VOTES NOT RELEVANT

SENATE APPROPRIATIONS COMMITTEE: 6-0, 8/8/22
AYES: Portantino, Bradford, Jones, Kamlager, Laird, Wieckowski
NO VOTE RECORDED: Bates

SUBJECT: California Victim Compensation Board: payment of claims

SOURCE: Author

DIGEST: This bill, an urgency measure, appropriates $2,497,600 from the General Fund to the California Victim Compensation Board (Board) for the payment of three specified erroneous conviction claims.

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) *Alexander Torres Claim (Mandatory Recommendation)*

On the evening of December 31, 2000, Martin Guitron (Guitron) was fatally shot eight times while walking with a friend on El Camino Avenue in Los Angeles County. Guitron, who went by the moniker "Casper," was a member of the Compton Varrio Segundo (CVS) street gang. Before firing, the shooter stepped out of a blue Chevy Caprice, approached Guitron, and repeatedly asked him if he was "Casper." Afterwards, the shooter returned to the Chevy, whose driver remained seated inside with the engine running, and drove off. Guitron died from his injuries. Multiple, .45-caliber bullet casings were recovered at the scene.

Guitron's friend Enrique V. (Enrique) initially told responding officers that he did not recognize the shooter and only provided a general description of the assailant's physical appearance. But one week later, Enrique identified Torres by name as the shooter. Torres was a member of the Compton Varrio Tortilla Flats (CVTF) gang, and he lived with his family in CVS territory. Torres and Guitron had a prolonged and well-known adversarial history, which included graffiti with the name "Casper" on Torres' mother's car just a few months earlier, followed by a fistfight over the graffiti a few weeks before Guitron's death.

Based upon Enrique's identification, police arrested Torres on January 18, 2001. A search of Torres' home did not uncover any physical evidence linking him to Guitron's murder. When interviewed by police, Torres emphatically denied shooting Casper. However, Torres appeared to be evasive when questioned about having been observed in possession of a firearm a couple of days before his arrest on January 16, 2001.

At trial, Enrique identified Torres as the shooter. A bystander who witnessed the shooting also testified that Torres "looks like" the shooter. Torres did not testify in his defense. Instead, several alibi witnesses, including his mother, testified that Torres was home, at his New Year's Eve party, when the shooting occurred. The defense also presented evidence that Torres, who was righthanded, was physically unable to fire a gun on the night of the murder because his right arm was in a hard cast that extended from his elbow to his thumb. Torres removed the cast himself sometime after the party but before his arrest. The jury ultimately sided with the prosecution and convicted Torres as charged on June 12, 2001.

In 2006, a friend of Torres' brother arranged a meeting with "Individual 1" to obtain information about Guitron's murder. During the discussion, Individual 1 admitted that he had been driving the car when his passenger (i.e., "Individual 2") fatally shot Guitron. Individual 1 noted that Individual 2 was currently imprisoned for other offenses. Torres' brother subsequently hired a private investigator, who spoke to Individual 1 on December 16, 2006. Subsequent investigations resulted in police becoming "convinced" that individuals 1 and 2 were the true perpetrators of Guitron's killing. The Los Angeles County Superior Court expressly found, by a preponderance of the evidence, that Torres was factually innocent in Guitron's murder.

As noted above, claimants typically bear the burden to prove by a preponderance that the crime with which they were convicted either did not occur or was not committed by them and they suffered injury as a result of their erroneous

conviction. An exception to that rule exists where a claimant has obtained a finding of factual innocence for each and every conviction underling their incarceration. When the claimant has obtained that finding, such is the case with Torres, then the Board must automatically recommend payment.

Torres spent 7,580 days, more than 20 years, in prison as a result of the conviction for which he has now been declared factually innocent. The Board approved Torres's application and recommends payment of $1,061,200.

2) *Juan Carlos de Jesus Bautista Claim (Mandatory Recommendation)*

Shortly after midnight on May 9, 2009, 17-year-old Anthony P. was shot. The bullet entered his left leg, fractured his femur, and shattered. The shooting occurred at an apartment complex located on McCoy Court in Lodi, where a party was taking place at the home of 17-year-old Christopher H. Moments earlier, Anthony P. and Christopher H. had been standing together outside of the apartment with some of the partygoers, including 17-year-old Michael N. Two men and a female approached the group. One of the men yelled at Michael N., pulled out a firearm, and fired two shots. The second shot struck Anthony P. Paramedics arrived shortly thereafter and transported Anthony P. to a hospital, where he underwent surgery for his injury.

Roughly 30 minutes before the shooting, a physical altercation occurred between Michael N. and the shooter, who at that time was solely accompanied by the female. Michael N. was affiliated with the Norteno gang, and the shooter was affiliated with the Sureno gang. The two knew each other from prior incidents. Anthony P. helped break up the fight. The shooter finally walked away with the female.

Christopher H. described the shooter as a Hispanic male, 18 to 19 years old with a husky build, approximately 6'2" or 6'1" tall and 200 to 250 pounds, with a goatee. Anthony P. described the shooter as a Hispanic male, approximately 18 to 20 years old, with a medium build, approximately 5'7" tall, with short hair and no facial hair that he remembered. Michael N. confirmed the shooter was the same person with whom he had fought earlier that night, but Michael N. would only describe the shooter as a Hispanic male, approximately 5'6" to 5'8" tall. Other witnesses gave varying descriptions of the shooter's physical appearance.

Later that night, at 10:29 p.m. on May 9, 2009, police encountered Bautista, who was a known Sureno, wandering inside the apartment complex on McCoy Court. Bautista offered no explanation for his presence and denied knowing anyone who lived there. The officers admonished Bautista to stay away or be arrested for

trespass. They allowed Bautista to leave, ostensibly to call his mother to pick him up. But a few hours later at 1:05 a.m. on May 10, 2010, officers encountered Bautista again at the apartment complex. When asked why he was still there, Bautista claimed he had forgotten something but refused to say what it was. The officers arrested Bautista for trespass and transported him to the local jail. He was released the next morning.

At the time of his arrest, Bautista, who is a Hispanic male, was 19 years old, 5'6" tall, 250 pounds, with short hair and facial hair. Significantly, Bautista's 17-year-old brother Adrian, was the same height and weight, with the same haircut and similar facial hair.

Prompted by Bautista's arrest for trespass, police assembled a photographic lineup that included Bautista, but not Adrian, and showed it to Christopher H. and Anthony P. Both separately identified Bautista as the shooter. Police also showed the lineup to Michael N., who stated that he did not recognize any one as the shooter.

Police subsequently searched Bautista's home. No items related to the shooting were discovered. When interrogated by police, Bautista denied attending a party at the McCoy Court apartment on the night of the shooting. He claimed, instead, to have been drinking with "homies" but declined to provide any other details. Bautista specifically denied fighting with Michael N. or attempting to shoot him. Bautista admitted to having met Michael N. once previously at a library, after his brother pointed him out. Police arrested Bautista for the shooting on May 26, 2009.

At trial, Christopher H. and Anthony P. again identified Bautista as the shooter. No other physical evidence tied Bautista to the shooting. The defense argued mistaken identity. After deliberating for two days, the jury convicted Bautista of all charges, and he was sentenced to life imprisonment on November 7, 2011.

On November 15, 2011, Adrian spoke to Bautista's trial attorney and stated that he, not Bautista, was the shooter. Adrian claimed to have attended a separate party in the same apartment complex on McCoy Court that was hosted by an unidentified person when he happened to encounter Michael N. while walking with another unidentified female that he had met that night. Adrian and Michael N. exchanged words, and the two started fighting. After about a minute, Adrian and the female walked away together. Adrian and the female returned to their party, where Adrian obtained a gun from someone else whom he declined to identify. Adrian left the party in search of Michael N., joined by the same female and

another unidentified "homie." Adrian claimed he only intended to scare Michael N., but the gun accidentally fired twice. Adrian denied that Bautista had been present during any of the events and only arrived at the apartment complex afterward.

Based upon Adrian's statement to his trial attorney, Bautista filed a petition for a writ of habeas corpus in the San Joaquin County Superior Court. The petition was denied under a provision of law in effect at that time, which required new evidence that pointed unerringly to innocence and undermined the prosecution's case. Bautista later filed a second habeas petition, which included a report from the district attorney's investigator who spoke to Letitia P. on April 29, 2019. During that conversation, Letitia P. admitted accompanying Adrian when he fought with a Norteno, returned to the party, obtained a gun, left the party in search of the Norteno, and then fired the gun. Letitia P. recalled that Bautista was at the same party with her and Adrian but Bautista did not join them during the fight or shooting. The habeas petition also included a declaration from Christopher H., who acknowledged that, on February 10, 2018, he had selected a photograph of Adrian over Bautista as the shooter when shown both pictures together.

An evidentiary hearing followed, and after two days of testimony and evidence, the prosecutor informed the court that, even though "I still believe [Bautista] is the person who committed this crime, with the state of the evidence as we have it right now, … I'm not convinced that there's enough evidence beyond a reasonable doubt to convict Mr. Bautista." The prosecutor therefore conceded that reversal was warranted. The court accepted the prosecutor's concession and further found that the new statements from Letitia P. and Christopher H. were sufficiently credible and material as to warrant habeas relief. The court denied Bautista's claim of factual innocence.

Bautista met the requirements for a mandatory recommendation for compensation. He was granted a writ of habeas corpus, the underlying charges were dismissed, and the Attorney General declined to object to compensation. Bautista was incarcerated for 4,412 days. The Board approved Bautista's application and recommends payment of $617,680.

3) *Zavion Johnson Claim (Mandatory Recommendation)*

At 3:20 p.m. on November 24, 2001, paramedics arrived to assist Johnson's four-month-old daughter Nadia, who was not breathing and had no pulse. The paramedics immediately administered oxygen and undertook cardiopulmonary resuscitation. Johnson was present, but the paramedics were unable to elicit much information from him about what had occurred. Nadia was transported by

ambulance to a nearby hospital, where she remained unresponsive on life support. Nadia died two days later. The official cause of death was blunt force trauma to her head.

When police initially questioned Johnson at the hospital, his only explanation for Nadia's condition was that his one-year-old brother may have hit Nadia with a toy, which left a cut on her lip. It was not until the following day on November 25, 2001, that Johnson first told anyone that he had accidentally dropped Nadia in the bathtub the day before, sometime after 9:30 a.m. Afterwards, Nadia appeared unusually sleepy and was "breathing strangely…." Johnson waited until 2:15 p.m. to seek medical care, when he traveled with Nadia to two nearby clinics, which were both closed. Johnson finally called 911 shortly before 3:20 p.m. when Nadia stopped breathing. Following Nadia's death two days later after being removed from life support, Johnson was arrested for her murder on December 4, 2001.

At trial, the prosecution presented three medical experts, who all opined that Nadia's fatal injuries were caused by severe shaking (i.e., shaken baby syndrome), in addition to a traumatic blow to the head. The experts denied that Nadia's injuries could have resulted from a single, accidental fall in the shower as described by Johnson. Primarily based upon this expert evidence, as well as Johnson's initial failure to disclose to medical personnel, the police, and others the cause of Nadia's injuries, the prosecution urged the jury to find Johnson guilty of both murder and assaulting a child resulting in death.

In his defense, Johnson testified that he had accidentally dropped Nadia in the shower, causing her to fall and hit her head on the tub. Specifically, he had been holding Nadia at chest level, while rinsing her off in the shower, when she kicked out of his grasp and fell three to four feet, striking the back of her head on the rounded edge of the cast-iron tub. Nadia cried but quieted down once he held her. Johnson did not detect any bump or bleeding on Nadia's head. He acknowledged that he failed to tell anyone about the fall until the next day, when he first informed Nadia's mother, even though his sister, mother, grandmother, and cousin were all present that day. Johnson, who was 18 years old at the time, explained that he had been in shock, scared, and emotional, and he hoped that the fall was not the reason for Nadia's condition.

Nadia's mother, along with other members from Johnson's family and his friends, testified for the defense. They all described Johnson as a loving and caring father, who was never aggressive with Nadia. Nadia's mother added that Johnson told her, on the day after Nadia's fall, that Nadia had slipped out of his hand when he had turned around to turn off the shower. A biomechanical expert, who specialized

in the study of the amount of force necessary to damage certain parts of the body, testified that all of Nadia's injuries were consistent with, and could have been caused by, a single accidental fall as described by Johnson. The jury ultimately sided with the prosecution and found Johnson guilty as charged on December 12, 2002. Johnson was sentenced to 25-years-to-life.

In 2017, after much debate in the medical and scientific communities regarding the symptoms of shaken baby syndrome, two of the medical experts who had testified against Johnson recanted their testimony. Specifically, Dr. Gregory Reiber, a forensic pathologist, opined that "there is at least an equal possibility that the head injury is accidental." In addition, Dr. Claudia Greco, a neuropathologist, opined that Nadia's neck injury, which she originally believed to be the most convincing evidence of violent shaking, "does not prove that Nadia Johnson was violently shaken or that her injuries were intentionally inflicted." Two more medical experts reviewed the evidence, and both likewise concluded that Nadia's injuries were consistent with an accidental fall as described by Johnson.

Based upon the revised opinions by Drs. Reiber and Greco, the prosecution conceded their contrary expert testimony during Johnson's trial amounted to false evidence. The prosecution similarly conceded that the doctors' revised expert opinions amounted to new evidence for which reversal was also required. The trial court agreed and vacated Johnson's convictions for murder and assault of a child resulting in death on December 8, 2017. The prosecution declined to retry Johnson on any charges, and the entire case was dismissed on Johnson's motion, without objection from the prosecution, on January 19, 2018.

Similar to Bautista's claim, Johnson's meets the requirements for a mandatory recommendation of compensation. Johnson's convictions for murder and assault of a child resulting in death were both vacated by a writ of habeas corpus, all charges against Johnson were subsequently dismissed on remand, and the Attorney General declined to object to compensation. Johnson was imprisoned for 5,848 days. The Board approved Johnson's application and recommends payment of $818,720.

Background

Existing law establishes the Victim Compensation Board within the Government Operations Agency. 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. Typically, 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 the claim is ultimately approved, it results in a recommendation by the Board to the Legislature to make an appropriation for compensation for the person's sustained injury, which is calculated at the rate 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 while awaiting trial.

In limited circumstances, both of the elements for innocence and injury may be presumed, if a court has found the claimant factually innocent under any standard applicable in a proceeding to grant habeas relief or vacate a conviction (Penal Code 1485.55). To obtain such a finding, the claimant may move for a finding of factual innocence by a preponderance of the evidence that the crime with which they were charged was either not committed at all or, if committed, was not committed by the claimant. If the claimant received a finding of factual innocence for each and every conviction underlying the period of their incarceration, the Board must automatically recommend compensation, within 30 days and without a hearing.

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

According to the Senate Appropriations Committee:

- One-time General Fund appropriation of $1,061,200 to pay the claim of Alexander Torres, approved by the Board on April 28, 2022.

- One-time General Fund appropriation of $617,680 to pay the claim of Juan Carlos de Jesus Bautista, approved by the board on May 6, 2022.

- One-time General Fund appropriation of $818,720 to pay the claim of Zavion Johnson, approved by the Board on April 11, 2022.

SUPPORT: (Verified 8/8/22)

None received

OPPOSITION: (Verified 8/8/22)

None received

Prepared by: Matthew Fleming / APPR. / (916) 651-4101
8/10/22 14:12:30

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

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

THIRD READING

Bill No: AB 98
Author: Kalra (D), et al.
Amended: 6/9/22 in Senate
Vote: 27 - Urgency

SENATE GOVERNMENTAL ORG. COMMITTEE: 13-0, 6/28/22
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Bradford, Hueso, Jones, Kamlager, Melendez, Portantino, Rubio, Wilk
NO VOTE RECORDED: Borgeas, Glazer

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: Not relevant

SUBJECT: Tied-house restrictions: advertising exceptions: City of San Jose

SOURCE: Author

DIGEST: This bill authorizes specified licensees to purchase advertising space and time from, or on behalf of, an on-sale licensee that is the owner, manager, or major tenant of a fully enclosed arena with a fixed capacity in excess of 4,000 seats located in the City of San Jose (Tech CU Arena), as specified.

ANALYSIS:

Existing law:

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

2) Separates the alcoholic beverage industry into three component parts, or tiers, of the manufacturer (including breweries, wineries, and distilleries), wholesaler, and retailer (both on-sale and off-sale). This is referred to as the "tied-house" law or "three-tier" system. Generally, other than exceptions granted by the Legislature, the holder of one type of license is not permitted to do business as another type of licensee within the "three-tier" system.

3) Prohibits, in general, a manufacturer, winegrower, manufacturer's agent, rectifier, distiller, bottler, importer, or wholesaler, or any officer, director or agent of any such person from owning, directly or indirectly, any interest in any on-sale license.

4) Prohibits, in general, a manufacturer, winegrower, distiller, bottler, or wholesaler, among other licensees, or agents of these licensees, from paying a retailer for advertising.

5) Provides a variety of exceptions from the advertising prohibition, including permitting specified licensees to purchase advertising space and time from, or on behalf of, an on-sale retail licensee that is an owner, manager, or major tenant of certain stadiums, parks, entertainment complexes, and arenas, subject to specified conditions.

This bill:

1) Authorizes a beer manufacturer, the holder of a winegrower's license, a rectifier, a craft distiller, a distilled spirits manufacturer, or distilled spirits agent to purchase space and time from, or on behalf of, an on-sale retail license at a fully enclosed arena with a fixed capacity in excess of 4,000 seats located in the City of San Jose. A similar authorization already exist for a fully enclosed arena (SAP Center) with a seating capacity of 15,000 seats located in the City of San Jose. This bill decreases the seating capacity to 4,000 seats to capture the Tech CU Arena.

2) Requires any purchase of advertising space or time to be conducted by a written contract, as specified.

3) Requires the on-sale licensee to serve other brands of beer distributed by a competing beer wholesaler in addition to the brand manufactured by the beer manufacturer, other brands of wine distributed by a competing wine wholesaler in addition to the brand produced by the winegrower, and other brands of

distilled spirits distributed by a competing distilled spirits wholesaler in addition to the brand manufactured by the rectifier, the craft distiller, the distilled spirits manufacturer, or the distilled spirits manufacturer's agent that purchased the advertising space or time.

4) Contains an urgency clause.

Background

Purpose of this bill. According to the author's office, "tied-house exceptions to allow for alcohol-related advertising arrangements in stadiums and sports arenas have been widely granted without endangering the public's interests. AB 98 expands the existing exemption for fully enclose arenas in the City of San Jose by lowering the current seating threshold to include the soon-to-be-opened, Tech CU Arena. Doing so will provide the San Jose Barracuda ownership team the legal certainty to explore and develop alcoholic beverage sponsorships that are common among professional sports teams."

Tech CU Arena. The Tech CU Arena will be the home of the San Jose Barracuda, a minor league hockey team of the American Hockey League. The 4,200-seat arena is part of a 200,000 square foot expansion of the Sharks Ice at San Jose public skating facility. The venue is scheduled to open in August of 2022, in time for the start of the 2022-23 American Hockey League season.

Tied-House Laws. Tied-house laws generally prohibit suppliers and retailers from sharing common owners and legally restrict alcohol beverage suppliers' ability to gain control over retailers through indirect means. The original policy rationale for this body of law was to: (1) promote the state's interest in an orderly market; (2) prohibit the vertical integration and dominance by a single producer in the marketplace; (3) prohibit commercial bribery and to protect the public from predatory marketing practices; and (4) discourage and/or prevent the intemperate use of alcoholic beverages.

These provisions prohibit a manufacturer from paying for advertising space at any facility where the facility is licensed to sell alcoholic beverages. Over the years, numerous exceptions to this prohibition have been added to a number of stadiums, parks, entertainment complexes, and arenas. Some examples are Levi's Stadium in Santa Clara, Oakland Coliseum in Oakland, Honda Center in Anaheim, Kern County Arena in Bakersfield, the National Orange Show Events Center in San Bernardino, Auto Club Speedway, (formerly California Speedway) in Fontana,

Grizzly Stadium in Fresno, Sutter Health Park in West Sacramento, SAP Center in San Jose, Dignity health in Carson, and numerous other venues.

Related/Prior Legislation

SB 1280 (Hueso, 2022) authorizes specified licensees to purchase advertising space and time from, or on behalf of, an on-sale licensee that is the owner, manager, or major tenant at specified facilities on the campus of San Diego State University (SDSU). (Pending on the Assembly Floor)

AB 1323 (Haney, 2022) authorizes specified licensees to purchase advertising space and time from, or on behalf of, an on-sale licensee that is the owner, manager, or major tenant of an on-sale retail licensed premises configured with theatrical seating of at least 1,600 seats but no more than 2,400 seats (Curran Theater) in the city and County of San Francisco (Curran Theater), as specified. (Pending on the Senate Floor)

AB 1330 (Mayes, 2022) authorizes specified licensees to purchase advertising space and time from, or on behalf of, an on-sale licensee that is the owner, manager, or major tenant at a fully enclosed arena with a fixed capacity in excess of 10,000 seats located in the County of Riverside (Acrisure Arena). (Pending on the Senate Floor)

SB 386 (Umberg, Chapter 309, Statutes of 2021) authorized specified alcohol licensees to sponsor events promoted by, and to purchase advertising space and time from, or on behalf, an on-sale licensee that is the owner, operator agent of the operator, or sole assignee or the operator's advertising rights of a mixed-use district located in the County of Orange (ocV!BE), as specified.

AB 2000 (Kalra, Chapter 483, Statutes of 2018) extended an existing exception in the ABC Act pertaining to the general prohibition against advertising arrangements between retail, wholesale, and manufacturer licensees to include an outdoor professional sports stadium with a fixed seating capacity of at least 3,000 seats located in the City of San Jose (San Jose Municipal Stadium – minor league baseball San Jose Giants), and an outdoor professional sports stadium with a fixed seating capacity of at least 15,000 seats located in the City of San Jose (Avaya Stadium – San Jose Earthquakes).

AB 2146 (Gloria, Chapter 487, Statutes of 2018) extended an existing exception in the ABC Act pertaining to the general prohibition against advertising arrangements

between retail, wholesale, and manufacturer licensees to include an outdoor stadium with a fixed seating capacity of at least 43,000 seats located in the City of San Diego (Petco Park – San Diego Padres).

SB 664 (Dodd, Chapter 486, Statutes of 2017) extended an existing exception in the ABC Act pertaining to the general prohibition against advertising arrangements between retail, wholesale, and manufacturer licensees to include an outdoor stadium (AT&T Park – the home of the San Francisco Giants) and an indoor arena (Chase Center – the home of the Golden State Warriors) with specified seating capacities located in the City and County of San Francisco.

AB 1724 (Jones-Sawyer, Chapter 478, Statutes of 2017), among other things, extended an existing exception in the ABC Act pertaining to the general prohibition against advertising arrangements between retail, wholesale, and manufacturer licensees to include a specified outdoor stadium located in the City of Los Angeles (Banc of California Stadium, the future home of the Los Angeles Football Club).

SB 582 (Bradford, Chapter 672, Statutes of 2017) allowed beer manufacturers, winegrowers, distilled spirits rectifiers, distilled spirits manufacturers, or distilled spirits manufacturer's agents to purchase advertising space and time from, or on behalf of, on-sale retail licensees at a specified stadium (The Los Angeles Stadium at Hollywood Park) and performance venue located in the City of Inglewood.

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

According to the Senate Appropriations Committee, staff notes that the Department of ABC's activities are funded by regulatory and license fees and generally the department does not receive support from the General Fund. New legislative mandates, although modest in scope, may in totality create new cost pressures and impact the department's operating costs and future budget requests.

SUPPORT: (Verified 8/1/22)

Sharks Sports & Entertainment, LLC

OPPOSITION: (Verified 8/1/22)

None received

ARGUMENTS IN SUPPORT: According to Sharks Sports & Entertainment, LLC, "Tech CU Arena currently is not included in the list of tied-house

exemptions, which includes various other indoor and outdoor venues throughout the State of California. As it relates to enclosed arenas within the City of San Jose, [current law] grants a tied-house advertising exemption to an on-sale licensee that is the 'owner, manager, agent of the owner, assignee of the owner's advertising rights, or the major tenant of the owner' of a fully enclosed arena with a fixed capacity in excess of 15,000 seats. Due to limited seating capacity, Tech CU Arena does not meet the criteria for exemption under the current statute."

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
8/5/22 15:42:20

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

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

THIRD READING

Bill No: AB 154
Author: Ting (D)
Amended: 6/8/22 in Senate
Vote: 21

SENATE BUDGET & FISCAL REVIEW COMMITTEE: 12-2, 6/9/22
AYES: Skinner, Cortese, Durazo, Eggman, Kamlager, Laird, McGuire, Min, Newman, Pan, Roth, Wieckowski
NOES: Nielsen, Dahle
NO VOTE RECORDED: Caballero, Grove, Melendez, Ochoa Bogh, Stern

ASSEMBLY FLOOR: Not relevant

SUBJECT: Budget Act of 2022

SOURCE: Author

DIGEST: This bill contains the 2022 Budget Act. This bill represents a budget package that authorizes General Fund expenditures of $235.9 billion and assumes $243.7 billion in total General Fund resources. Under this budget act, there are combined total reserves in the Budget Stabilization Account (BSA), the Special Fund for Economic Uncertainties (SFEU), the Public School System Stabilization Account (PSSSA) and the Safety Net Reserve of approximately $37.8 billion.

ANALYSIS: This budget builds on the strong proposals of the Governor and the priorities of the Legislature laid out in the Assembly's "Delivery Prosperity & Strengthening the Future" blueprint and the Senate's "Putting Wealth to Work" plan.

California's economy remains strong, and the common sense, voter approved revenue system results in the wealthy paying their share, which has strengthened California's fiscal health and provided over $85.5 billion in available General Fund and Proposition 98 resources that this budget allocates. But economic warning signs indicate that challenging times could arrive in the coming years. Therefore, this budget strikes the right balance of providing fiscal relief to families and small

businesses, making strong investments in programs that strengthen families and the economy, responsibly focusing on funding infrastructure and other one-time investments, and building record reserves to assist the state in withstanding economic downturns or other budget challenges.

The 2022-23 budget includes total spending of just over $300 billion, of which an estimated $235.9 billion is from the General Fund. The budget includes total reserves of $37.8 billion in 2022-23, including $3.5 billion in the regular operating reserve. (General Fund spending in 2021-22 in the budget is about $9 billion less than the Governor proposes, with higher non-recurring spending of about $8.7 billion in 2022-23.)

2021-22 and 2022-23
General Fund Summary
(Dollars in Millions)

	2021-22	2022-23
Prior Year Balance	**$37,698.4**	**$24,573.7**
Revenues and Transfers	$232,737.6	$222,129.4
Transfer to/from BSA	-$5,682.0	-$2,958.0
Total Resources Available	**$264,754.0**	**$243,745.2**
Non-Proposition 98 Expenditures	$156,541.6	$153,190.4
Proposition 98 Expenditures	$83,638.7	$82,292.4
Prop 2 Infrastructure Offset	$0.0	$476.0
Total Expenditures	**$240,180.3**	**$235,958.9**
Fund Balance	**$24,573.7**	**$7,786.3**
Budget Reserves:		
Reserve for Liquidation of Encumbrances	$4,276.4	$4,276.4
Special Fund for Economic Uncertainties	$20,297.3	$3,509.9
Safety Net Reserve	$900.0	$1,500.0
Budget Stabilization Account	$20,325.0	$23,283.0
Public School System Stabilization Account	$7,293.3	$9,519.0

Budget Framework

This budget adopts the May Revision revenue estimates and keeps the state budget under the State Appropriations Limit by an estimated $20 billion in 2022-23 by including major infrastructure and COVID emergency-related spending, direct payments to families and businesses, and additional options suggested by the Legislative Analyst's Office.

The budget framework prepares the state to endure economic downturns without having to make cuts to programs or increases to middle class taxes; and second, it provides confidence for the Legislature and Governor to make program improvements, knowing the state's finances are on solid ground. This budget reflects record high reserves; a total of $37.8 billion, nearly double the $19 million estimated in the 2019-20 state budget prior to the COVID pandemic.

In addition, the budget requires 50 percent of revenues that come in over the budget act forecast through 2022-23 and that are not required to meet baseline, emergency, and constitutionally required costs (including Propositions 98 and 2) to be deposited into the Budget Deficit and Infrastructure Savings Account, which was initially established in statute in the 2018-19 budget.

Finally, the budget continues the May Revisions structure of allocating the vast majority of available resources for one-time purposes. Only nine percent of new commitments in 2022-23 are ongoing, with the remaining 91 percent for discretionary reserve deposits and one-time or temporary purposes.

Major Budget Package Highlights

- *Better For Families Rebates.* Provides $8 billion for the Better For Families (BFF) Rebates plan to provide relief to Californians from the impacts of high gas prices and other growing costs due to inflation. The BFF rebates provide $200 per taxpayer and dependent for taxpayers with up to $250,000 annual income for joint filers and $125,000 for single filers. In addition, provides a rebate for families enrolled in the CalWORKs program and the Supplemental Security Income/State Supplementary Payment (SSI/SSP) program and to additional low-income Californians.

- *Minimum Earned Income Tax Credit*. Provides $400 million ongoing beginning in 2023-24 to increase the minimum CalEITC to $255. This will ensure every Californian receiving a CalEITC will receive a meaningful tax credit.

- *Workers Tax Fairness Credit.* Provides $200 million to turn union dues from being tax deductions into a tax credit. While union dues are currently tax deductible, union workers are more likely to not itemize their deductions and therefore do not get the same tax benefit for their dues that higher paid professions are more likely to get for their professional association dues.

- *Small Business and Non-Profits Relief.* Provides $1.3 billion in fiscal relief to small businesses and non-profits, including the following:

    - $870 million to provide full rebates of cost of repaying upcoming increases in federal Unemployment Insurance costs for the first 250 employees for every business. An additional appropriation will be needed to continue the rebates beginning in 2024 and beyond.

    - $250 million for relief grants for small businesses and non-profits with up to 150 employees to offset costs of recently enacted Paid Sick Leave program.

    - $100 million for additional COVID Relief Small Business Grants, in addition to ensuring small businesses and non-profits can access existing grant programs.

    - $75 million for the California Small Agricultural Business Drought Relief Grant Program at the state Department of Food and Agriculture, to provide direct assistance to eligible agriculture-related businesses that have been affected by severe drought conditions.

- *Historic Infrastructure Investments.* Provides more than $40 billion for infrastructure investments throughout the budget forecast period. The investments will be throughout the budget including: transportation; housing; schools facilities; higher education facilities, deferred maintenance, and student housing; climate and energy; dam safety; broadband; and switching the cost of the new Capitol Annex from more costly lease revenue bonds to the General Fund to bring the overall cost of the project down.

- *Record Ongoing Discretionary Funding for Schools.*

    - Provides over $9.4 billion in ongoing increases to the Local Control Funding Formula, a nearly 16 percent increase from last year's rates.

  - Includes a one-time $9 billion Proposition 98 General Fund Learning Recovery Discretionary Block Grant, and a one-time $1.5 billion Proposition 98 General Fund investment for an Arts, Music, Instructional Materials, and Libraries Block Grant.

- *Medi-Cal For All, Regardless of Immigration Status.* Expands Medi-Cal to all eligible Californians regardless of immigration status. Currently, income eligible young adults 25 and younger and those 50 and older have access to full scope Medi-Cal. This action will expand access to ages 26 through 49 beginning no later than January 1, 2024.

- *No Child In Deep Poverty.* Increases CalWORKs grant levels beginning July 1, 2023 to lift all CalWORKs families out of deep poverty.

- *Investments in the Child Care System.* Starting January 1, 2023, increases the child care reimbursement rates to the 85th percentile of the regional market rate (RMR), and applies a cost of living increase to the county RMR for all provider rates.

- *Climate and Energy Package.* In lieu of the Governor's various Resources- and Energy-related packages, adopt a Climate-Energy Budget Plan, appropriating $21 billion General Fund (in addition to associated federal and special funds) over multiple years, with details subject to ongoing negotiations. The Plan is expected to include items related to the following issues: Water-Drought Resilience, Wildfire Resilience, Sea Level Rise, Extreme Heat, Biodiversity and Outdoor Access, Energy, Zero-Emission Vehicles, and other climate-related actions.

State Appropriations Limit (SAL). As noted above, this budget keeps state spending under the Gann Limit by an estimated $20 billion in 2022-23 and aims to keep the state budget under this constitutional limit for at least two more years to avoid a 2023 "fiscal cliff" recently identified by the LAO.

The administration estimated that the Governor's May Revision, if adopted with no changes, would leave the state $3 billion over the State Appropriations Limit (SAL), or the Gann Limit, in 2022-23. Below are the major changes in the budget package. (In general, appropriating more for SAL "excluded" purposes means there is a lower amount of SAL appropriations.)

- Adopt LAO suggestion to change statutory definition of "local subventions," thereby counting more subventions under local Gann Limits. ($10 billion less in SAL appropriations)

- Classify more Proposition 98 funding as excluded spending, including more qualified capital outlay spending and emergency spending. ($8 billion less in SAL appropriations)

- Approve more qualified capital outlay spending elsewhere in the budget. ($3 billion less in SAL appropriations)

- Adopt LAO suggestion to swap certain qualified capital outlay spending in nontax accounts with General Fund or other tax proceeds. ($2 billion less in SAL appropriations)

- Various other net changes to the May Revision. (~$200 million less in SAL appropriations)

This bill contains the following major components of the budget package:

K-12 Education, Child Care and Higher Education

K-12 Education:

1) Provides an additional $3.4 billion in ongoing Proposition 98 General Fund, for a total of $4.4 billion in ongoing Proposition 98 General Fund, for the Expanded Learning Opportunity Program.

2) Provides $1.2 billion in ongoing Proposition 98 General to fund reimbursements for the universal school meals program.

3) Includes $500 million in ongoing Proposition 98 General Fund for the special education funding formula to increase the base rate to $820.

4) Provides $80 million in ongoing Proposition 98 General Fund for the Classified School Employee Summer Assistance Program.

5) Consolidates two special education extraordinary cost pools into a single cost pool to simplify the current funding formula, and appropriates $20 million in ongoing Proposition 98 General Fund.

6) Provides $20 million one-time General Fund for the Integrated Teacher Preparation Program.

7) Provides an additional $2 million in ongoing Proposition 98 General Fund for the Agricultural Career Technical Education Incentive Grant program.

8) Provides $2 million annually for three years to the California State Summer School for the Arts.

9) Includes $2 million in one-time Proposition 98 General Fund for resources on inclusivity of students with disabilities.

10) Provides one-time $500,000 General Fund to support the California Association of Student Councils, available over three years.

11) Provides one position and $150,000 in ongoing General Fund at the Department of Education to support LGBTQ programs.

Child Care and Early Education:

12) Provides $718.4 million in General Fund and $280.6 million in Proposition 98 General Fund to increase child care and preschool rates to the 85th percentile of the 2018 regional market rate survey and to provide an additional cost of living adjustment to all providers commencing January 1, 2023.

13) Provides $20 million in one-time General Fund for Alternative Payment Programs to support administration needs related to additional slots.

14) Provides $21.6 million one-time ($10.8 million General Fund and $10.8 million Proposition 98 General Fund) to extend family fee waivers for CSPP families for the 2022-23 school year

15) Provides $136 million in one-time federal funds to waive family fees for state-subsidized child care programs for the 2022- 23 fiscal year.

16) Provides $114 million ($6 million General Fund and $108 million federal funds) to extend the policy of reimbursing voucher-based child care providers based on authorized hours of care, rather than attendance, for the 2022-23 fiscal year.

17) Provides $18.3 million General Fund for the first year of a three-year planning process to support Universal Preschool.

Higher Education:

Student Housing, Enrollment, Base increases, and Deferred Maintenance

18) Includes a combined total in 2022-23 of $1.2 billion General Fund for student housing projects across UC, CSU, and CCC campuses. This amount includes: 1) $750 million General Fund in 2022-23 for the Student Housing Grant Program and an additional $450 million in 2022-23. The additional $450 million is part of an additional $2 Billion General Fund augmentation over three years for student housing projects.

19) Includes the following for enrollment in 2022-23 and 2023-24 respectively:

    a) $24.9 million Proposition 98 General Fund in 2022-23 and ongoing for 0.5-percent enrollment growth at CCC, $81 million General Fund in 2022-23 and ongoing for an increase of $81 million ongoing General Fund to support California resident undergraduate student enrollment growth of 9,434 full-time equivalent students in the 2022-23 academic year at CSU, and $98.8 million General Fund for resident undergraduate enrollment growth of 7,132 full-time equivalent students in the 2022-23 academic year at UC.

    b) Legislative intent language for an additional one percent at UC ($23 million General Fund in 2023-24 and ongoing) and 0.5 percent enrollment target ($17 million General Fund in 2023-24 and ongoing) at CSU above the Governor's one percent for academic year 2023-24.

20) Appropriates $125 million in 2022-23 each for UC and CSU for deferred maintenance and energy efficiency projects. Funding under this agreement would include $100 million General Fund in 2023-24 each for UC and CSU for similar purposes.

21) Includes the following base increases:

a) CCC: A total base increase of $700 million Proposition 98 General Fund in 2022-23 and ongoing above the COLA for apportionments.

b) UC: An additional $50 million General Fund ongoing base augmentation above the Governor's proposal. The total base increase included is $251 million in 2022-23 and ongoing.

c) CSU: An additional $100 million General Fund in 22-23 and $200 million General Fund in 2023-24 and ongoing above the Governor's proposal. The total base increase included is $311 million General Fund in 2022-23 and $411 million General Fund in 2023-24 and ongoing. This base increase helps CSU begin the implementation of fair and competitive compensation increases for faculty and non-faculty staff.

California Community Colleges

22) Approves a $200 million ongoing Proposition 98 General Fund increase to augment the Part-Time Faculty Health Insurance Program. This augmentation expands healthcare coverage provided to part-time faculty by community college districts and includes trailer bill language to reform the program. This large augmentation creates a stronger financial incentive for more community college districts to provide medical care coverage to their part-time faculty.

23) Includes $150 million total Proposition 98 General Fund in 2022-23 and ongoing to increase the Student Success Completion Grant (SSCG) award amount. This amount includes 1) a $200 million increase to the grant program that is offset by a $50 million decrease to reflect a revised estimate of eligible Cal Grant B and Cal Grant C students for 2022-23. The SSCG offsets total cost of college attendance, to encourage full time attendance, and successful on-time completion for students at CCC.

24) Provides an increase of $30 million for 2022-23 to support healthcare-focused vocational pathways for English language learners across all levels of English proficiency, through the Adult Education Program. Funding is scheduled to be $50 million for 2023-24 and $50 million for 2024-25.

25) Includes an increase by $30 million ongoing Proposition 98 General Fund to expand availability of foster youth support services offered by the NextUp program. This raises total funding to $50 million starting in 2022-23.

26) Includes an increase of $25.7 million Proposition 98 General Fund to allow all 116 colleges to establish and support California Community College Mathematics, Engineering, Science Achievement Programs. This raises total programming to $36.4 million starting in 2022-23.

27) Includes $26.7 million Proposition 98 General Fund in 2022-23 for targeted enrollment recruitment and ongoing support through the Extended Opportunity Programs and Services (EOPS) program. Funding under this agreement would include $10 million Proposition 98 General Fund in 2023-24 and ongoing.

28) Includes $10 million Proposition 98 General Fund in 2022-23 and ongoing to support students who are also working parents receiving CalWORKs aid through Cooperative Agencies Resources for Education.

29) Includes an increase of $25 million ongoing Proposition 98 General Fund for an approximately five-percent increase to the Student Equity and Achievement program.

30) Includes $20 million Proposition 98 General Fund in 2022-23 and ongoing to increase base funding to support rapid rehousing by $10 million and basic needs centers by $10 million.

31) Includes an additional $15 million Proposition 98 General Fund in 2022-23 and ongoing to the Rising Scholars Network to implement model programming for juvenile justice-impacted students, as a grant program administered by the California Community College Chancellor's Office's Rising Scholars Network. Funds shall be used for programming with key components based on the Project Change model, to be offered both within juvenile facilities and on the community college campus, to establish a direct pathway to college for juvenile justice-impacted young people.

32) Includes $10 million Proposition 98 General Fund in 2022-23 to support the California Healthy School Meals Pathways Program over a two-year period.

33) Includes an increase of $3 million in 2022-23 and ongoing Proposition 98 General Fund for the Puente Project to support up to 115 colleges.

34) Includes $8 million Proposition 98 General Fund in 2022-23 and ongoing to support the California Community Colleges Asian American and Native Hawaiian and Pacific Islander Student Achievement Program.

35) Includes an increase of $1 million ongoing Proposition 98 General Fund for the Umoja program and an increase of $179,000 one-time Proposition 98 General Fund to support a study of the Umoja program practices that promote student success for African American students.

University of California

36) Includes $83 million in 2022-23, to expand enrollment capacity and research innovation at the Riverside, Merced, and Santa Cruz campuses. Funding under this agreement would include $83 million in 2023-24 and $83 million in 2024-25 for these efforts.

37) Includes $83 million in 2022-23, for the Berkeley campus to become the first 100 percent clean energy public research university in California and the United States. Funding under this agreement would include $83 million in 2023-24 and $83 million in 2024-25 for this effort.

38) Includes $22.5 million General Fund in 2022-23 and ongoing to support Student Academic Preparation and Educational Partnerships programs.

39) Includes $13 million General Fund in 2022-23 and ongoing to support the operations of existing UC Labor Centers and Occupational Safety and Health Programs, and invest in similar new initiatives throughout the UC system.

40) Includes $15 million General Fund in 2022-23, for use over five years, to support the Unseen Latinas Initiative at the UCLA Latino Policy and Politics Institute.

41) Provides an increase of $6 million General Fund in 2022-23 and ongoing for foster students' support throughout UC campuses.

42) Includes a $4 million General Fund in 2022-23 and ongoing for the Underground Scholars Initiative.

43) Includes $1.8 million General Fund in 2022-23, for use over five years, to support the University of California, Irvine Leveraging Inspiring Futures Through Educational Degrees (LIFTED) program.

44) Includes $3 million General Fund in 2022-23 to support the University of California, Berkeley Latinx Research Center.

45) Includes $3 million General Fund in 2022-23 to support the University of California, San Francisco Amend program.

46) Includes $2.4 million General Fund in 2022-23 shall be available to support the University of California Nutrition Policy Institute in the Division of Agriculture and Natural Resources for School Meals for All Research.

California State University

47) Provides an increase of $20 million General Fund in 2022-23 and ongoing to increase support for basic needs.

48) Provides an increase of $12 million General Fund in 2022-23 and ongoing for foster students' support throughout CSU campuses.

49) Includes $8 million General Fund in 2022-23 and ongoing to support the California State University Asian American and Native Hawaiian and Pacific Islander Student Achievement Program.

50) Provides an increase of $8 million General Fund in 2022-23 and ongoing to expand the Project Rebound program.

51) Includes $25 million General Fund in 2022-23 for purposes related to the California State University Graduation Initiative 2025. Funding under this agreement would grow to $45 million General Fund in 2023-24 and $75 million General Fund in 2024-25 and ongoing.

52) Includes $10 million General Fund in 2022-23 for the California Council on Science and Technology to sustain the Science Fellows program. This funding

may be used as an endowment. Funding under this agreement include an additional $10 million General Fund in 2023-24.

53) Includes $5 million General Fund in 2022-23 for support of the Council on Ocean Affairs, Science & Technology.

54) Includes $5 million General Fund in 2022-23 for the Asian Language Bilingual Teacher Education Program Consortium. As part of this consortium, Fullerton Campus is the host and distributor of funds to collaborating campuses in the consortium.

55) Approves several investments in CSU capital infrastructure, including:

    a) $80 million General Fund in 2022-23 to expand the San Diego State University, Brawley Center in Imperial Valley to support a local workforce pipeline to aid the state's goals for development of the Lithium Valley vision.

    b) $67.5 million General Fund in 2022-23 toward construction of the CSU Fullerton Engineering and Computer Science Innovation Hub.

    c) $75 million General Fund in 2022-23 to support equipment and facilities for CSU University Farms.

    d) $83 million General Fund in 2022-23 to construct the Energy Innovation Center at CSU Bakersfield.

    e) $59 million General Fund in 2022-23 to expand the CSU San Bernardino Palm Desert campus

    f) $46 million General Fund in 2022-23 to support the Human Identification Lab at Chico State.

    g) $20.3 million General Fund in 2022-23 to support infrastructure and rebuilding efforts at Swanton Pacific Ranch-California Polytechnic State University, San Luis Obispo.

State Library

56) Provides $50 million in 2022-23, for a second round of the Library Infrastructure Grants. Funding under this agreement would grow to $100 million General Fund in each of 2023-24 and 2024-25.

57) Provides $5 million General Fund in 2022-23 for an ethnic media grant.

58) Provides $68.2 General Fund in 2022-23 to establish the Statewide Imagination Library, a California iteration of Dolly Parton's Imagination Library, under the administration of the State Librarian

59) Includes $3 million General Fund in 2022-23 for on a one-time basis to renovate and enhance the Jewish Family and Children's Services Holocaust Library Holocaust Center Library and Archives building.

Hastings College of the Law

60) Appropriates $90 million General Fund in 2022-23 to support the facility improvement project at the institution's 100 McAllister Street building. This project will provide for the institution's continued use of 252 campus-housing units at below market rents, will add at least five additional campus-housing units, and will renovate space within the facility to be used for academic purposes.

61) Appropriates $885,000 General Fund in 2022-23 to support costs associated with changing the name of the institution, conditioned upon enactment of legislation authorizing a name change.

Resources, Environmental Protection and Energy

1) Appropriates $4.34 billion from various sources in 2022-23 for the Climate and Energy Package.

2) Appropriates a total of $120 million ($80 million GGRF and $40 million General Fund) in 2022-23 to the State Coastal Conservancy for nature-based solutions to address sea level rise impacts, of which $30 million is for the San Francisco Bay Area Conservancy Program. This proposal includes an appropriation of $300 million General Fund in 2023-24 and ongoing, of which $100 million is directed to the San Francisco Bay Area Conservancy Program, for these purposes.

3) Appropriates $180 million Greenhouse Gas Reduction Fund (GGRF) to CalRecycle for organic waste infrastructure local assistance.

4) Appropriates $260 million GGRF and $40 million General Fund in 2022-23 to the Air Resources Board for purposes of the Community Air Protection Program implementation. This proposal includes an appropriation of $300 million General Fund in 2023-24 and ongoing for these purposes.

5) Appropriates $330 million Beverage Container Recycling Fund one-time to CalRecycle for purposes of addressing issues related to the Beverage Container Recycling Program, with details to be worked out.

6) Appropriates $20 million General Fund one-time to the Department of Fish and Wildlife for the completion of fine-scale vegetation mapping. (Total appropriation is $40 million over two years.)

7) Appropriates $30 million General Fund one-time to the Department of Conservation, Geologic Energy Management Division, to serve as a state match for federal funding for purposes of oil well abandonment and remediation costs.

8) Appropriates $25.4 million General Fund in 2022-23 and $35.4 million ongoing to fund 12 hand crews, implemented over two years, to be utilized for vegetation management, hazardous fuel reduction projects, wildland fire suppression in Contract Counties, and includes a budget adjustment to re-baseline Contract County funding commensurate with CalFire units.

9) In lieu of the Administration's proposal for Emergency Surge Capacity and Response Enhancement," appropriates $152 million General Fund for fire suppression purposes to be determined in future Legislation.

10) Appropriates $15 million General Fund one-time to Department of Parks and Recreation for a grant program for local parks to install disability accessible playsets.

11) Appropriates $15 million General Fund one-time to Department of Parks and Recreation to support African American History and Engagement in California State Parks.

12) Appropriates $75 million for small business drought relief at the California Department of Food and Agriculture.

Health and Human Services

Health:

Behavioral Health, Public Health, Primary Care and Reproductive Care Workforce

1) Includes General Fund expenditure authority of $281.1 million in 2022-23 to support workforce development programs for careers in behavioral health, public health, primary care and reproductive health including the following investments:

   a) Behavioral Health Investments:

   - *Addiction Psychiatry and Addiction Medicine Fellowship Programs* - $25 million to support additional slots for Addiction Psychiatry and Addiction Medicine Fellowship programs.

   - *University and College Training Grants for Behavioral Health Professionals* - $26 million to support 4,350 licensed behavioral health professionals through grants to existing university and college training programs, including partnerships with the public sector.

   - *Expand Masters in Social Work (MSW) Slots at Public Schools of Social Work* - $30 million to support grants to public schools of social work to immediately expand the number of MSW students. $27 million would support the 18 California State University programs and $3 million would support the two University of California programs.

   - *Graduate Medical Education and Loan Repayment for Psychiatrists* - $19 million to support two training programs for psychiatrists: 1) $7.5 million annually for two years for graduate medical education slots for psychiatrists, and 2) $11.5 million annually for two years to support loan repayment for psychiatrists that agree to a five year service

commitment at a State Hospital, with a weekly rotation to provide behavioral health interventions in local public behavioral health systems.

b) Public Health Workforce Investments:

- *Public Health Recruitment and Retention Stipends* - $40 million to support stipends for positions in local public health departments that are difficult to recruit and retain, including, but not limited to epidemiologists, laboratory directors, health officers, public health nurses, infectious disease specialists, food and disease surveillance, and information systems/data analysts.

- *Waive Public Health Nurse Certification Fees* - $3.3 million to waive public health nurse certification fees for three years to reduce barriers to registered nurses entering the field of public health.

- *Public Health Incumbent Upskilling* - $3.2 million to establish the Public Health Workforce Career Ladder Education and Development Program to provide education and training for existing employees within the public health workforce, including stipends to offset up to 12 hours per week to complete educational requirements and grants for local health departments for additional hiring.

- *California Public Health Pathways Training Corps* - $8 million to expand the California Public Health Pathways Training Corps, which provides a workforce pathway for early-career public health professionals from diverse backgrounds and disproportionately impacted communities.

- *California Microbiologist Training* - $3.2 million to increase the number of Public Health Microbiologist Trainee spots, which is a requirement to become certified in California as a public health microbiologist.

- *Public Health Lab Aspire* - $3.2 million to restore funding for the Lab Aspire Program, to address the severe shortage of trained and qualified public health laboratory directors.

- *California Epidemiologic Investigation Service (Cal-EIS) Training* - $3.2 million to increase the number of Cal-EIS fellows, which trains epidemiologists for public health leadership positions.

c) Primary Care Workforce Investments:

- *California State Loan Repayment* - $10.6 million to increase the number of awards granted to primary care and behavioral health providers in the California State Loan Repayment Program.

- *Allied Healthcare Loan Repayment* - $17 million to enhance private investment and provide 1,060 new loan repayment awards in the Allied Healthcare Loan Repayment Program.

- *Allied Healthcare Scholarship Program* - $1.7 million to build on private investment and increase program awards by 125 scholarships in the Allied Healthcare Scholarship Program.

- *Nurse Practitioner Postgraduate Training* - $15 million to support 150 Nurse Practitioner postgraduate training slots in primary care within underserved communities through the Song-Brown Healthcare Workforce Training Program.

- *Physician Assistant Postgraduate Training* - $1 million to support 10 or more Physician Assistant postgraduate training slots in primary care within underserved communities through the Song-Brown Healthcare Workforce Training Program.

- *Teaching Health Centers* - $5.7 million to support an additional 33 program awards for graduate medical education at teaching health centers through the Song-Brown Primary Care Residency Program.

- *Additional Primary Care Residency Slots in Song-Brown* - $10 million to support additional primary care residency slots in the Song-Brown Primary Care Residency Program.

- *Clinical Dental Rotations* - $10 million to support new and enhanced community based clinical education rotations for dental students to improve the oral health of underserved populations.

- *Health Information Technology (IT) Workforce* - $15 million to support health IT workforce recruitment and training for health clinics and other providers in underserved communities.

- *Promotoras de Salud* - $10 million to support the Latino Coalition for a Healthy California Health Ambassadors (Promotoras de Salud) Leadership Institute, Health Justice Youth Initiative, and Community Listening Tour, which will educate, train, and activate at least 213 promotoras and 120 youth across the state.

d) Reproductive Health Workforce Investments:

- *California Reproductive Health Service Corps* - $20 million to support targeted recruitment and retention resources, and training programs to ensure a range of clinicians and other health workers can receive abortion training.

- *Certified Nurse Midwives Training* - $1 million to allow certified nurse-midwives to participate in the Song-Brown program, consistent with the Midwifery Workforce Training Act authorized by SB 65 (Skinner, Chapter 449, Statutes of 2021).

2) Includes $1.7 billion over three years to support the Care Economy Workforce, including the following investments:

a) *Community Health Workers* - $350 million to recruit, train, and certify 25,000 new community health workers by 2025, with specialty certifications in areas that include climate health, homelessness, and dementia.

b) *High Road Training Partnerships* - $340 million for training and career advancement programs for people with barriers to employment to build partnerships and pathways into family-sustaining healthcare jobs.

c) *Comprehensive Nursing Initiative* - $270 million to increase the number of registered nurses, licensed vocational nurses, certified nursing assistants, certified nurse midwives, certified medical assistants, family nurse practitioners, and other health professions.

d) *Expanding Social Workers* - $210 million to support social work training programs and provide stipends and scholarships to create a new pipeline for diverse social workers.

e) *English Language Learners Health Careers* - $130 million through the Adult Education program to support, healthcare-focused vocational pathways for English language learners at multiple levels of English proficiency, to increase language and cultural diversity in these settings.

f) *Psychiatric Resident Program* - $120 million to create training positions for psychiatric residents, psychiatric mental health nurse practitioners, psychology interns/fellows, and psychiatric nurses.

g) *Healthcare Workforce Advancement Fund* - $90 million to support job entry and career advancement for entry-level and other workers in health and human service settings, with $40 million set aside for social worker training.

h) *Multilingual Health Initiatives* - $60 million to expand scholarships and loan repayment programs in healthcare and social work for multilingual applicants.

i) *Emergency Medical Services Corps* - $60 million to expand Emergency Medical Technicians in partnership with local public health systems and their contracted emergency medical providers.

j) *Opioid Treatment* - $26 million to train providers to build out the substance use disorder workforce with a focus on opioid treatment.

k) *Clinical Infrastructure: Reproductive Health*_ - $20 million to support clinical infrastructure for reproductive health care services by providing scholarships and loan repayments to a variety of health care providers who commit to providing reproductive health care services.

l) *Indian Health Program Grant Restoration* - $12 million one-time proposed by the Governor, with ongoing funding proposed by the Legislature's budget, to promote the retention of the health care workforce that serves Indian Health Programs.

m) *Workforce Council for Healthcare Training* - $3 million for the HCAI Health Workforce Education and Training Council to research healthcare shortages and support research on best practices and strategies to build a diverse, culturally competent healthcare workforce.

3) Includes $1 billion for immediate, clinically enhanced bridge housing solutions for individuals experiencing homelessness with serious mental illness.

4) Includes $261 million to protect access to abortion and other reproductive health care, including the following investments:

a) $20 million one-time General Fund for clinical infrastructure within the Department of Health Care Access and Information to provide scholarships and loan repayments to a variety of health care provider types that commit to providing reproductive health care services.

b) $20 million one-time in grant funding to the Department of Health Care Access and Information to assist reproductive health care facilities in securing physical and information technology infrastructure and to enhance facility security.

c) $40 million General Fund one-time, available over six years, for the Department of Health Care Access and Information to award grants to reproductive health care providers to offset the cost of providing care to low and moderate income individuals who do not have health care coverage for abortion care services.

d) $15 million General Fund one-time for the California Reproductive Justice and Freedom Fund for the Department of Public Health to award grants to community-based reproductive health, rights, and justice organizations to conduct medically accurate and culturally competent outreach and education on sexual health and reproductive health issues.

e) $8 million total funds ($5 million General Fund) to expand the Family PACT program to include the HPV vaccine for individuals age 19 through 45.

f) $1 million General Fund one-time for the Department of Public Health to develop and maintain a website providing accurate and updated information to the public on the right to abortion care under state law, information about reproductive health care providers, and options for coverage for reproductive services including state-funded coverage and programs.

g) $1 million General Fund one-time for the Department of Public Health to research the unmet needs for access to reproductive health care services.

h) Ten percent Medi-Cal rate increase for alternative birthing centers.

i) Modifies Medi-Cal telehealth billing requirements to remove requirements for in-person follow up visits and ultrasounds, if not clinically indicated.

j) $21 million for reproductive health workforce programs at the Department of Health Care Access and Information.

k) $15 million ongoing to increase funding for abortion providers in Medi-Cal.

l) $20 million one-time for a Los Angeles County Abortion Access Safe Haven Pilot Program.

m) $20 million one-time for targeted recruitment and retention resources, and training programs for health care providers that serve patients at a reproductive health provider location.

n) $20 million over three years to support the CA Abortion Support Fund, which will provide grants for non-profit organizations and health care providers that assist patients with overcoming barriers to abortion care.

o) $10 million one-time to backfill lost federal Title X Family Planning funds.

p) $49 million over three years to support innovative and impactful syphilis and congenital syphilis prevention and control activities.

q) $1 million one-time to allow certified nurse midwives to participate in the Song-Brown program.

5) Includes $290 million for youth behavioral health and suicide prevention programs, including the following investments:

a) $40 million for a Youth Suicide Prevention Project, including a media campaign and community-based organization mini-grant program, required to begin no later than September 1, 2022.

b) $50 million for a Youth Suicide Reporting and Crisis Response Pilot Program that will treat youth suicide as a reportable public health event

and increase rapid and comprehensive response to youth suicide and attempted suicide.

c) $85 million for wellness and mindfulness programs on school campuses, including peer-to-peer support programs, provided to school-behavioral health partnerships established by the Mental Health Student Services Act.

d) $15 million for parent information resources, supports, and training videos

e) $75 million to develop next generation digital supports for remote mental health assessment and intervention.

f) $25 million to establish an Early Talents program to attract and support high school students considering professional careers in behavioral health.

6) Includes $191 million annually to eliminate the ten percent provider rate reductions in the Medi-Cal program imposed pursuant to AB 97 (Committee on Budget), Chapter 3, Statutes of 2011.

7) Includes $31 million in 2022-23 to expand eligibility for Medi-Cal coverage for seniors and persons with disabilities by reforming Medi-Cal share of cost requirements and increasing the Maintenance Need Income Level.

8) Includes $300 million to support ongoing investment in state and local health departments to address vital public health priorities, consistent with the 2021 Budget Act.

9) Includes $75 million to support the Health Equity and Racial Justice Fund, which will support community-based organizations to reduce health disparities and address the public health impacts of systemic racism.

10) Includes $304 million in 2022-23 to restore the state premium subsidy program in Covered California to replace lost federal subsidies from the American Rescue Plan Act, and allows Covered California to utilize these funds for cost-sharing reduction assistance if federal subsidies are extended.

11) Includes $10 million in 2022-23 to guarantee continuous Medi-Cal coverage for children ages zero to five.

12) Includes $10 million to establish a Skilled Nursing Facility Quality Standards Board to create a set of standards for minimum wages, staffing levels, benefits, workplace protections, training standards, and conditions of resident care for skilled nursing facilities in California.

13) Includes $1 million to establish a Hospice Fraud Prevention Taskforce to identify and investigate cases of suspected fraud in the hospice services industry.

14) Includes $40 million for a bridge loan to California's district and municipal hospitals to address the impacts of the COVID-19 pandemic and cash flow issues related to implementation of California's new Medicaid waiver.

15) Includes $25 million for the Specialty Dental Clinic Grant Program, to support the construction, expansion, modification, or adaptation of specialty dental clinics to increase access to oral health care for individuals with special health care needs.

16) Includes $100 million for the CalRx Program to invest in the development of low-cost interchangeable biosimilar insulin products and a California-based insulin manufacturing facilities, consistent with the requirements of SB 852 (Pan), Chapter 207, Statutes of 2020.

17) Includes $15 million to establish 25 new Accountable Communities for Health, which are cross-sector collaboratives that include the health care sector, public health, community-based organizations, and other applicable sectors such as housing, public safety, domestic violence prevention, nutrition, education, and business.

18) Includes $12 million to support restoration of funding for Indian Health Programs.

19) Includes $30 million to support the Village San Francisco and Yurok Tribe of California Regional Wellness Center.

20) Includes $60 million ($30 million General Fund) to support the Health Enrollment Navigators Project, to help eligible beneficiaries with Medi-Cal coverage by assisting with annual renewals, reporting updated contact information, and engaging in outreach regarding application assistance and enrollment.

21) Includes $80 million in 2022-23 to continue providing crisis counseling through CalHOPE, including $9 million for the Peer-Run Warm Line.

22) Includes $10 million for the Alameda County Health Care Service Agency for a supportive housing project.

23) Includes $8 million to assist crisis call centers with start-up costs related to the implementation of 988.

24) Includes $114.4 million in 2022-23 to forgive the retroactive reduction of claims for reimbursement for independent pharmacies as a result of the implementation of actual acquisition cost reimbursement in Medi-Cal.

25) Includes $10 million to support grants to Programs for All-Inclusive Care for the Elderly with reimbursement rates below the county average and that have expanded services to homeless seniors, for health information technology, housing, or wellness infrastructure projects.

26) Includes $1 million to provide car seats for infants.

27) Includes $5 million to increase Medi-Cal reimbursement for acupuncture services.

28) Includes $50 million to support rate increases for community clinics.

29) Includes $5.4 million to expand availability of hearing aids to children in the Hearing Aid Coverage for Children Program.

30) Includes $2 million to support free clinics.

31) Includes $1.5 million in 2022-23 to restore the chiropractic benefit in Medi-Cal and remove the two visit per month cap on services.

Human Services:

Developmental Services

32) Includes $340 million in the budget year to accelerate service provider rate increases by one year.

33) Includes $186 million to promote workforce stability and address challenges in recruiting and retaining regional center service coordinators and direct support professionals.

34) Includes $4.7 million to eliminate family fees for regional center services.

35) Includes $22 million total for grants to regional centers and community-based organizations to reduce disparities and increase equity within the developmental services system.

Aging/Older Adult Supports and Services

36) Includes $150 million for operating subsidies for "board and care" facilities that serve older adults and other adults that need assistance with daily living activities.

37) Includes $61.4 million for grants to adult day services providers to recover from COVID-19 and combat senior isolation.

38) Includes $36.3 million to continue implementation of the Master Plan for Aging.

39) Includes $34.4 million to establish a permanent back-up provider system for In-Home Supportive Services recipients.

Supports for Foster Families and Youth in Foster Care

40) Includes $150 million for county grants to assist with connecting youth in foster care to families and foster family engagement.

41) Includes $67 million for family finding and engagement work targeted to older youth and youth in long-term foster care.

42) Includes $50 million to fund flexible family supports for resource/foster families.

Nutrition and Hunger

43) Includes $120 million total to support food banks and to continue to address record levels of hunger, rising inflation, and a decline in federal support.

44) Includes $50 million to support food bank infrastructure and climate resilience.

45) Includes $70 million for senior nutrition programs.

46) Includes $35.2 million for planning purposes to expand the California Food Assistance Program to all Californians age 55 and older regardless of immigration status.

47) Includes $5 million to support increased food access for indigenous tribes.

State Administration and General Government

1) Appropriates $40 million to waive Secretary of State new business filing fees.

2) Appropriates $50 million for mental health services for veterans.

3) Approves the Governor's May Revision funding of $81 million General Fund for the Office of Legislative Counsel for information technology services and other statutorily required obligations and related legal services.

4) Provides a total of $20 million ongoing General Fund to increase CalEITC Outreach and Education, providing year round funding to support free tax preparation services and Volunteer Income Tax Assistance (VITA) program, with a specific focus on increasing Individual Taxpayer Identification Number (ITIN) filers.

5) Provides $100 million one-time General Fund for any additional waitlisted applicants for the California Small Business COVID-19 Relief Program and other COVID relief grant programs.

6) Provides $23 million in ongoing General Fund for the Technical Assistance Expansion Program (TAEP) for small businesses and provides an additional $8 million in one-time funding for Women's Business Centers. Also adopts a proposal to provide ongoing funding for the Capital Infusion Program.

7) Provides $120 million in one-time General Fund for second year of CalCompetes Grants.

8) Provides $100 million in ongoing General Fund to establish the Hope Account Program to provide trust fund accounts for low-income children who have lost parents or caregivers to COVID-19 and for children who have experienced long-term foster care.

9) Provides $30 million in one-time General Fund $30 million to provide funding for operational and process improvements at the ports, including improving data interconnectivity.

10) Appropriates $230 million General Fund in 2022-23 for the Capitol Annex Project.

11) Provides $10 million in one-time General Fund for the Student Loan Borrower Assistance Program for a communications, education, and outreach campaign to assist California student loan borrowers in understanding their rights and options.

12) Provides $13.4 million one-time General Fund over four years to expand the Inclusive Innovation Hubs regionally across the state.

13) Provides $15 million one-time General Fund to Visit California for strategic media tourism recovery campaigns.

14) Provides $50 million one-time General Fund to support grants for Community Development Financial Institutions.

Cannabis

1) Provides $20.5 million, pending legislation, for the cannabis retail incentive grant program.

Housing and Homelessness

1) The budget provides $1.55 billion for a variety of investments in affordable housing, including:

    a) $350 million for the CalHome program

    b) $50 million for CalHFA's Downpayment Assistance program

    c) $125 million for the Multifamily Housing Program

    d) $300 million for the Housing Accelerator program

    e) $50 million to provide financing assistance for the production of Auxiliary Dwelling Units

    f) $200 million for the new Community Anti-Displacement and Preservation Program (CAPP), to assist in the preservation of affordable housing.

    g) $100 million for the Joe Serna Jr. Farmworker Housing Program

    h) $225 million for the Infill Infrastructure Grant Program

    i) $50 million for the new Adaptive Reuse program

    j) $50 million for the additional preservation of affordable housing

    k) $25 million for mobilehome housing

2) The budget bill provides $875 million for various homelessness programs, including:

    a) $300 million for the Encampment Resolution Program

b) $500 million in additional funding for the Homeless Housing, Assistance, and Prevention Program. This is in addition to the $1 billion in baseline funding provided for this program in the 2022-23 budget.

c) $75 million for the Veterans Housing and Homelessness Prevention program.

3) The budget bill also establishes the California Dream For All program to make homeownership more achievable for first time homebuyers, and provides $50 million in startup and administrative funding for the program.

4) The budget bill includes $65 million for the Office of Planning and Research to establish the Office of Community Partnerships and Strategic Communications, which is intended to coordinate statewide communications campaigns and build ongoing relationships with community-based organizations that can help in those efforts.

Corrections, Public Safety, the Judiciary, Labor and Transportation

Corrections, Public Safety, and the Judiciary:

Judicial Branch

1) Appropriates $110 million ongoing General Fund to provide backfill to trial courts due to the elimination of the civil assessment fee and related debt, and $18 million ongoing General Fund to increase eligibility for automatic filing fee waivers.

2) Appropriates additional General Fund for trial courts, including:

a) $151.5 million General Fund to backfill the Trial Court Trust Fund.

b) $184.2 million ongoing General Fund funding for an inflation adjustment and to improve trial court equity across the state.

c) $42.6 million for 23 new judgeships and $53.9 million General Fund in associated facility modifications or new construction.

d) $33.2 million General Fund to implement and support remote access in courtroom proceedings.

e) $10.3 million to backfill trial courts for reduced revenues due to Chapter 257, Statutes of 2021 (AB 177).

f) $34.7 million General Fund for branchwide information technology upgrades.

g) $294.4 million in construction projects, including five new trial court projects, continuation of three previously approved projects, and $15.7 million to address fire and life safety issues in three courts.

3) Provides additional funding for legal aid organizations, including:

a) $11 million General Fund for a loan repayment program through the California Student Aid Commission.

b) $30 million General Fund for eviction defense.

c) $15 million General Fund for consumer debt protection.

4) Provides $60 million General Fund to support the Court Appointed Special Advocates program across the state.

5) Provides $15 million General Fund to expand access to lactation facilities in the courts.

6) Provides $30 million General Fund ongoing for a corrective adjustment to dependency counsel funding.

7) Provides $40 million General Fund to support court-ordered firearm relinquishment efforts.

Office of the Inspector General

8) Provides $7.9 million General Fund to oversee the new staff misconduct process in prisons.

9) Provides $3.3 million General Fund to expand the unit that provides oversight of prison medical care.

Office of Emergency Services

10) Provides $5 million ongoing General Fund support for the Internet Crimes Against Children Taskforce.

11) Appropriates $50 million General Fund for the Nonprofit Security Grant to provide security assistance to nonprofit organizations at risk of hate-motivated violence.

12) Provides $7.52 million for the implementation of the 988 Behavioral and Mental Health hotline.

13) Provides $50 million General Fund in flexible assistance to survivors of violence.

14) Includes $114 million ongoing for the California Disaster Assistance Act adjustment, an increase of $37.4 million from the previous year.

15) Provides $11.2 million General Fund to enhance the Fire and Rescue Mutual Aid Fire Fleet.

16) Provides $25 million General Fund to provide local law enforcement support during disasters and emergencies.

17) Includes additional resources for responding to COVID-19, including:

    a) $114.3 million General Fund to provide warehouse space, purchase new and replace expiring personal protective equipment, increase commodity supply, and secure logistic support equipment.

    b) $29.5 million General Fund one-time to continue COVID-19 testing efforts and to provide resources in the event of future outbreaks.

18) Includes additional funding for operations, including:

    a) $5.8 million ($5.5 million General Fund) to expand regional response capacity.

    b) $4.9 million for logistics management.

c) $5.04 million General Fund, $3.95 million Federal Trust Fund, $145,000 State Penalty Fund, and $68,000 bonds for support capacity.

d) $8.1 million General Fund for the California State Warning Center.

19) Includes language directing the Office of Emergency Services to create a statewide strategic plan that includes goals for and an assessment of emergency response capacity.

20) Appropriates $17.1 million General Fund for the California Earthquake Early Warning System.

21) Appropriates $19 million General Fund to modernize Cal OES's technology and data capabilities.

22) Provides additional funding for facilities, including:

a) $19 million in capital outlay and support for updates to the headquarters in Mather, including upgrading the State Operations Center.

b) $5.4 million General Fund for the Southern Regional Center.

Department of Justice

23) Includes $6 million General Fund for statewide coordination and prosecution of organized retail theft.

24) Includes $5 million General Fund to expand various statewide taskforces.

25) Provides $7.9 million to establish the Fentanyl Enforcement Program to target statewide fentanyl-trafficking criminal networks.

26) Provides $35.4 million General Fund to backfill the DNA ID Fund.

Department of Corrections and Rehabilitation

27) Provides $34.4 million General Fund for the implementation of a new system to handle allegations of staff misconduct in prisons.

28) Includes $126.6 million General Fund for integrated substance use disorder treatment, $47.1 million for Hepatitis C virus treatment for incarcerated individuals, and $18.4 million to improve medication preparation and distribution spaces at five facilities.

29) Includes $218 million ($176 million General Fund) for the department's response to COVID-19.

30) Includes additional support for programming in prisons, including:

    a) $3.9 million General Fund for CDCR staffing to facilitate rehabilitative programming.

    b) $10 million General Fund for restorative justice programming.

31) Provides $75 million for the community correctional reentry centers and $31.8 million over three years to support reentry housing through the Returning Home Well program.

32) Provides significant capital outlay investments, including:

    a) $265.3 million one-time General Fund to convert two projects from Lease Revenue Bonds to General Fund

    b) $37 million General Fund in 2022-23 to start two new and continue five other capital outlay projects.

    c) $8.205 million in reappropriations for five capital outlay projects that have been delayed.

    d) $67.6 million to in additional funding to finish 11 outstanding HCFIP projects.

33) Provides $22.2 million for facility improvements and $2.6 million for staffing to support court-mandated ADA measures.

34) Includes $12.6 million to update and expand the cellular interdiction program, which blocks unauthorized cell phone usage in prisons.

35) Includes $97.55 million General Fund to expand video surveillance systems in prisons.

36) Includes $19.5 million General Fund to implement a new centralized eDiscovery system.

37) Includes $6 million General Fund for data collection and evaluation regarding the outcomes of formerly incarcerated individuals.

Board of State and Community Corrections

38) Appropriates $85 million General Fund for grants to local law enforcement to combat organized retail theft.

39) Includes $25 million one-time General Fund for a gun buyback grant program.

40) Provides $20 million General Fund for a Medication Assisted Treatment grant program for justice system involved individuals.

41) Appropriates $100 million General Fund for county juvenile facilities, in anticipation of the closure of the Division of Juvenile Justice at CDCR.

42) Appropriates $40 million General Fund for grants to counties for peace officer wellness initiatives.

43) Provides $4 million General Fund to establish a competitive grant program to help California tribes locate and identify missing Indigenous persons.

44) Provides an additional $20 million to the Adult Reentry Grant at BSCC, bringing the total appropriation to $57 million General Fund.

Victim Compensation Board

45) Includes $114.5 million General Fund for the Restitution Fund, to support the expansion of the victim compensation program and to eliminate restitution fines.

46) Includes $23 million General Fund to expand Trauma Recovery Centers.

Commission on Peace Officer Standards and Training

47) Appropriates $23 million General Fund in 2022-23 at the Commission on Peace Officers Standards and Training and resources at various agencies that employ peace officers to implement Chapter 409, Statutes of 2021 (SB 2).

48) Includes $5 million General Fund included in the Governor's Budget for the Commission on Peace Officer Standards and Training to develop a Law Enforcement Wellness Program to support officers' overall health.

Labor and Workforce:

49) Includes $200 million General Fund in 2022-23 and trailer bill language establishing the Workers Tax Fairness Credit and requiring that the credit level be set in the annual budget act.

50) Includes $136 million in 2022-23 ($68 million General Fund) for the Employment Development Department (EDD) to continue planning and begin implementing various improvements to EDD leave benefit programs. This includes efforts on EDD's benefit systems, call center improvements, simplifying forms and notices, including user testing and engagement, developing data analysis tools to continue curbing fraudulent benefit claims, and upgrading department training and tools to increase the pace of application processing.

51) Includes $60 million General Fund in 2022-23 to establish, expand, and improve workforce development programs for health and human service careers. Funding would increase to $70 million General Fund each in 2023-24 and 2024-25.

52) Includes $8.4 million General Fund in 2022-23 and $4 million General Fund ongoing for the programmatic costs associated with changes to extending the existing, and then raising in subsequent years, wage replacement rates for the State Disability (SDI) and Paid Family Leave (PFL) programs.

53) Includes $45 million General Fund in 2022-23, to establish the Office of the California Youth Apprenticeship Program to develop new, or expand on existing apprenticeship programs for 16-24 year olds who are unhoused, in the welfare, or juvenile justice system or otherwise facing barriers to labor market

participation. Funding under this agreement would grow to $55 million General Fund in 2023-24 and $65 million General Fund in 2024-25.

54) Includes $25 million General Fund in 2022-23, for community change learn-and-earn career pathway programs at 20 selected community colleges over four-year period. Funding under this agreement would include $25 million General Fund each in 2023-24, 2024-25, and 2025-26.

55) Includes $50 million General Fund in 2022-23 to establish a fund to provide assistance for oil and gas workers facing unanticipated displacement.

56) Includes $25 million General Fund in 2022-23 for the COVID-19 Workplace Outreach Project (CWOP) at Labor and Workforce Development Agency (LWDA). CWOP partner organizations are conducting outreach activities to educate workers and employers in high-risk industries, such as the food and agriculture sectors, on how to minimize the spread of COVID-19 in the workplace, and educating essential workers about COVID-19-related labor laws. Funding under this agreement would include $25 million General Fund in 2023-24.

57) Provides investments in workforce development supports for individuals that historically have high barriers to employment, including the following:

    a) $50 million General Fund in 2022-23 for the Statewide Reentry Employment Grant Program (Program). The Program shall award competitive grants to eligible organizations to support activities including, but not limited to, reskilling, upskilling, training, and supportive services for formerly incarcerated people to ensure employment, employment opportunities, and job mobility.

    b) $25 million General Fund in 2022-23 to establish CA Regional Initiative for Social Enterprises (RISE), which would initiate regional networks in selected markets across the state that would provide targeted employment services. Through CA RISE, individuals who have experienced homelessness, mental illness, addiction, or incarceration, and are facing significant employment barriers in traditional workplaces, would receive comprehensive services and employment development.

58) Provides $15 million General Fund in 2022-23 and ongoing to promote and support women/nonbinary individuals into skilled trade careers through the creation of a Women in Construction Unit at the Department of Industrial Relations (DIR).

59) Includes the following investments at DIR for worker protections:

    a) $14 million General Fund in 2022-23 and ongoing for a base augmentation to increase resources and staffing at DIR's Retaliation Complaint Investigation Unit.

    b) $10 million General Fund in 2022-23 for the unpaid wages hardship fund.

60) Includes $50 million General Fund in 2022-23 to provide training for incumbent health and social workers.

61) Includes $30 million General Fund in 2022-23 for a Goods Movement Training Campus in southern California. Funding under this agreement would include $40 million each in 2023-24 and 2024-25 for this campus

62) Includes $20 million General Fund in 2022-23 to continue funding the California Workforce Development Board’s Low Carbon Economy Workforce grant program. Funding under this agreement would include $20 million each in 2023-24 and 2024-25 for this initiative.

63) Includes $20 million General Fund in 2022-23 to provide targeted training for Emergency Medical Technicians. Funding under this agreement would include $20 million each in 2023-24 and 2024-25 for this initiative.

64) Includes $15 million General Fund in 2022-23 to develop a well capping workforce training pilot program to provide training for short-term employment for impacted oil and gas workers in Kern and Los Angeles counties. These funds will require an extended expenditure period, with the liquidation of encumbrances ending on June 30, 2027.

65) Includes $8 million General Fund in 2022-23 to support microenterprise home kitchen operations by allowing home cooks to apply for local permits and receive financial support to sell food made in their home kitchen directly to the public.

66) Includes language that directs LWDA, by January 10, 2023 to document relevant programs and initiatives under EDD, CWDB, and DIR for which the high road standard is a candidate for application. For those initiatives, LWDA reports the current statutory and regulatory requirements for each, including whether administering departments currently apply the high road standard.

Transportation:

67) Includes $600 million from the General Fund for investments in port and freight infrastructure.

68) Provides $176 million from the State Highway Account for Caltrans to begin the process of replacing its fleet of trucks and construction equipment with zero-emission or low-emission vehicles.

69) Provides $5.5 million for the California Highway Patrol to establish a task force to address sideshows.

70) Provides $6 million to allow the California Highway Patrol to expand and make permanent the Organized Retail Crime Task Force.

71) Provides $4 million to establish the Highway Violence Task Force at the California Highway Patrol.

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

According to the Senate Budget and Fiscal Review Committee, this bill represents a 2022-23 state fiscal plan that includes over $300 billion in total spending, $235.5 billion of which is from the General Fund.

SUPPORT: (Verified 6/9/22)

None received

OPPOSITION: (Verified 6/9/22)

None received

Prepared by: Elisa Wynne / B. & F.R. / (916) 651-4103
6/15/22 14:30:19

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

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

THIRD READING

Bill No: AB 252
Author: Mia Bonta (D)
Amended: 6/30/22 in Senate
Vote: 21

PRIOR VOTES NOT RELEVANT

SENATE JUDICIARY COMMITTEE: 9-1, 6/28/22 (Pursuant to Senate Rule 29.10)
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, McGuire, Stern, Wieckowski, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas

SUBJECT: Floating home marinas: rent caps

SOURCE: Bay Area Floating Homes Association

DIGEST: This bill restricts the annual amount by which a marina could increase the rent for a floating home berth to three percent plus inflation up to a maximum of five percent.

ANALYSIS:

Existing law:

1) Defines a "floating home" to mean a floating structure which is all of the following
   a) It is designed and built to be used, or is modified to be used, as a stationary waterborne residential dwelling;
   b) It has no mode of power of its own; and
   c) It is dependent for utilities upon a continuous utility linkage to a source originating on shore. (Health & Saf. Code § 18075.55.)

2) Establishes the Floating Home Residency Law, which governs the content of floating home lease agreements, allowable fees, marina rules, relations between owners and the marina, grounds for termination, and the procedures associated with transfer of ownership of a floating home, among other things. (Civ. Code §§ 800 *et seq*.)

3) Allows marinas, in the absence of a local rent control ordinance or a fixed-term lease, to raise rents whenever they want and as much as they want subject only a requirement to provide at least 30 days advance notice before the date of the increase, and the reason for the increase, including the basis for any calculation used in determining the amount of the increase. (Civ. Code § 800.40.)

4) Establishes the Tenant Protection Act of 2019 which applies to specified rental agreements for residential real property and includes the following provisions:
   a) Limits gross rent increases in a 12-month period to the lower of five percent plus the change in the cost of living up to a maximum cap of 10 percent (Civ. Code § 1947.12);
   b) Creates eviction protections which require landlords to have and to state a "just cause" for terminating a tenancy (Civ. Code § 1946.2); and
   c) Exempts certain properties from its provisions, including units built in the last 15 years, tenancies which have not lasted at least 12 months, units subject to a more protective local measure, and single-family homes and condominiums unless owned by a real estate trust or corporation. (Civ. Code §§ 1947.12 and 1946.2.)

5) Restricts annual rent increases to three percent plus inflation up to a maximum of five percent in mobilehome parks that are located within and governed by the jurisdictions of two or more incorporated cities. (Civ. Code § 798.30.5.)

This bill:

1) Revises the definition of "floating home marina" so that it includes any area where five or more floating home berths are rented, or held out for rent, to accommodate floating homes, but excludes a marina or harbor where all of the following are true:
   a) It is managed by a nonprofit organization, the property, assets, and profits of which may not inure to any individual or group of individuals, but only to another nonprofit organization;
   b) The rules and regulations of the marina or harbor are set by majority vote of the berthholders thereof; and
   c) the marina or harbor contains berths for fewer than 25 floating homes.

2) Prohibits a marina from raising the gross rental rate for a tenancy in a floating home marina by more than three percent plus inflation up to a maximum of five percent each year.

3) Allows a marina to set the initial rental rate for a new berth tenancy in which no homeowner from the prior tenancy remains in lawful possession of the berth, unless otherwise restricted by local ordinance (vacancy decontrol).

4) Provides that if a floating home is purchased in-place, meaning that it remains docked in the berth, then initial rental rate for the new owner shall be set at the rental rate of the previous tenancy (vacancy control).

5) Exempts the following tenancies from 2) through 4), above:
   a) Floating home berths that are deed-restricted or otherwise subject to affordable housing restrictions, as specified; or
   b) Floating home berths subject to any ordinance, rule, regulation, or initiative measure that restricts annual increases in the rental rate to an amount less than that provided in 2), above.

6) Applies retroactively to all rent increases occurring on or after January 1, 2022, but provides that if a marina has increased the rent by more than the amount permissible under 2), above, between January 1, 2022, and January 1, 2023, both of the following shall apply:
   a) The applicable rent on January 1, 2023, shall be the rent as of January 1, 2022, plus the maximum permissible increase under (2), above; and
   b) The marina is not liable to a homeowner for any corresponding rent overpayment.

7) Allows a marina that increases the rental rate for a tenancy on or after January 1, 2022, but prior to January 1, 2023, by an amount less than the rental rate increase permitted by 2), above, to increase the rental rate twice within 12 months of January 1, 2022, so long as the increases do not exceed the maximum rental rate increase permitted by 2), above.

8) Provides that any waiver of the rights conferred by the bill is void as contrary to public policy.

9) Applies in Alameda, Contra Costa, and Marin counties only.

10) Does not apply to berths that are not floating home berths.

11) Does not preempt local floating home rent control ordinances that only allow smaller increases than 2), above.

12) Contains a sunset provision expiring on January 1, 2030.

Comments

What is a floating home?

As defined by California law, a floating home is a floating structure designed and built to be a stationary waterborne residential dwelling that has no mode of power of its own, depends on a continuous utility linkage to a source onshore, and has a permanent continuous hookup to a shoreside sewage system. (Health & Saf. Code § 18075.55.)

According to the proponents of this bill there are about 500 total floating homes in marinas around the San Francisco Bay Area, including marinas in Alameda, Richmond, and Sausalito. The Harbor Equity Group asserts people living in floating homes are "one of the most economically diverse populations in our region, including many seniors and others living on low and fixed incomes. Floating homes provide some of the only naturally occurring affordable housing for healthcare workers, crafts and trades people, artists and civil servants."

Typically, the floating homeowner owns the vessel itself and is only renting the berth in which the vessel is docked. Theoretically, the floating home could be disconnected from the marina's utility and sewer lines and towed away to another berth in another marina. In practice, however this is usually prohibitively expensive or simply impossible to do. Moreover, the proponents of this bill report that there are an extremely limited number of floating home berths available. As the Bay Area Floating Home Association puts it: "[b]ecause there are no more floating home berths, we are sitting ducks, vulnerable to exploitation by an unscrupulous landlord."

For this reason, floating homes are highly regulated, much like mobilehomes, with whom floating homes share this bifurcated ownership structure. Floating homes, like mobilehomes, have their own special body of law, the Floating Home Residency Law (FHRL), which governs all aspects of living in a marina community and the relationship between marinas and floating homeowners. Curiously, however, apart from requiring the provision of 30 days' advance notice, the FHRL places no limitation on rent increases in the floating home context.

Vulnerabilities of floating homes to berth rent increases

In theory at least, tenants living in houses or apartment on dry land have an option when their landlord raises the rent: they can move elsewhere. Floating homes are different. There is little that a floating homeowner can do if the marina

management decides to raise the rent for the berth. As a result, when it comes to the rent, there is a strong bargaining power imbalance between the marina and a floating home owner.

The proponents of this bill report that some California marinas have taken advantage of this dynamic to dramatically increase berth rents in recent months. As a result, the affected floating homeowners say many of them will no longer be able to afford to stay in their floating homes. This bill is intended to prevent floating home residents from being displaced from their homes in this fashion.

Restrictions on annual rent increase proposed by this bill

Existing law does not limit how much a marina can increase the rent for a floating home berth each year. By contrast, this bill would restrict annual berth rent increases to three percent plus inflation up to a maximum of five percent per year. A marina could raise the rent up to two times during the year so long as the total increase did not exceed these caps.

Since marinas are not bound by this bill currently, they are free to raise the rent and, anticipating passage of this bill, some may do so. A similar conundrum arose during legislative consideration of the statewide anti-rent gouging law, AB 1482 (Chiu, Chapter 597, Statutes of 2019). In that case, the Legislature chose to give the rent caps retroactive effect but, to avoid complex accounting problems and a situation in which landlords might end up owning tenants money, that legislation allowed any rent increases to go into effect while the bill was pending, but made the rent revert to the restricted level upon the operative date of the statute. This bill employs the same device, meaning that on January 1, 2023, all floating home owners' berth rent would revert to what they were charged on January 1, 2022 plus the maximum permissible increase under the bill (which will almost certainly be five percent for this year, given high rates of inflation).

Vacancy control and its relevance to floating home equity

This bill is modeled on the anti-rent gouging statute that California enacted in 2019 (AB 1482, Chiu, Chapter 597, Statutes of 2019) However, this bill diverges from that model is at least two key ways.

First, AB 1482 limited rent-gouging in California by placing an upper limit on annual rent increases: five percent plus inflation up to a hard cap of 10 percent. (Civ. Code § 1947.12) This bill is more restrictive: its upper limit on rent increases is three percent plus inflation up to a maximum of five percent. This is in line with the rent increase limitations that this Legislature approved last year for residents of

mobilehome parks that straddle two jurisdictions. (AB 978, Quirk-Silva, Chapter 125, Statutes of 2021)

The other major difference between the existing statewide anti-rent gouging laws and this bill is that the existing laws for land-based tenants provide for vacancy decontrol. Vacancy decontrol means that whenever a completely new set of tenants moves into a rental unit, the landlord is free to set the initial rental rate at whatever level the market will bear. By contrast, this bill calls for what might be called partial vacancy decontrol. The bill specifies, in effect, that if a berth becomes completely vacant – meaning that the floating home is no longer docked there – then the marina is free to set a new rental rate for that berth. However, if the floating homeowner sells the vessel in-place to a new owner, then vacancy control applies: the marina can only charge the new owner whatever the marina was charging the old owner and any further rent increases have to comply with the rent caps.

The inclusion of this provision is vital from the point of view of the proponents of this bill, many of whom are floating home owners themselves. Vacancy control is especially important to floating home owners because the potential sale price of their vessel – and therefore the equity they have in their home – is directly tied to how much the rent for the berth costs. For example, suppose Sally owns a floating home in a marina. The marina charges her $1,000 per month to dock her floating home there. Sally is thinking of moving away and David is thinking of buying the floating home from her. He is willing to pay Sally $100,000 if he will be paying the same amount of rent as Sally did. But if the marina can double the rent for the berth when David moves in, he knows he will be paying an additional $12,000 each year for his housing. That makes buying Sally's floating home less attractive financially and David is likely to reduce his offer to Sally accordingly. In this way, the marina's ability to charge future residents more cuts down on the value of Sally's home today. As the Mayor of the City of Alameda reports in her letter supporting the bill, this effect has already had an impact on Bay Area floating homeowners:

> In one Bay Area marina where berth rents are being doubled, a home fell out of escrow and two others have received no offers because the berth rent is too high. Though this kind of abuse has not yet happened on our side of the Bay, there are no legal protections in place to ensure that it won't. Vacancy control would set a limit on how much a marina owner can increase the berth rent when a floating home sells. This bill would protect homeowners' right to the full equity in their homes.

Viewed from the floating home owners' perspective, preserving equity makes perfect sense. As a policy matter however, it should be noted that preserving the floating home owner's equity comes at the expense of additional rent revenue for the marina. That additional revenue may simply be windfall profit, but it could also be needed for maintenance or desirable for investing in improvements.

Constitutional considerations related to rent control

Courts have consistently upheld the power of government to impose rent control so long as the mechanism assures that landlords can achieve a reasonable return on their investment. (*Kavanau v. Santa Monica Rent Control Bd.* (1997) 16 Cal.4th 761; *Fisher v. City of Berkeley* (1984) 37 Cal. 3d 644; *Birkenfeld v. Berkeley* (1976) 17 Cal.3d 129.)

Whether there has ever been a measure applying rent control to floating homes specifically, as this bill would do, is unclear. However, the courts have approved the imposition of rent control measures in the context of mobilehomes which, for the reasons previously discussed in the analysis, share many commonalities with floating homes. *(Carson Mobilehome Park Owners' Ass'n v. City of Carson* (1983) 35 Cal.3d 184.) Both have bifurcated ownership between the dwelling itself and the space in which the dwelling is located.

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

SUPPORT: (Verified 6/30/22)

Bay Area Floating Homes Association (source)
California Attorney General, Rob Bonta
American Civil Liberties Union – California Action
Alameda Floating Homes Association
Center for Environmental Health
Floating Home Association, Inc.
Harbor Equity Group
Housing and Economic Rights Advocates
Janelle Kellman, Mayor, City of Sausalito
Marilyn Ashcraft, Mayor, City of Alameda
Sausalito Village

OPPOSITION: (Verified 6/30/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "Assembly Bill 252 adds rent and vacancy control to the Floating Home Residency Law to protect one of the Bay Area's last sources of affordable housing. The Bay Area's floating home communities (425 in Sausalito, 10 in Richmond, and 42 in Alameda) provide housing for one of the most economically diverse populations in the region, including many seniors and others living on low and fixed incomes. These floating home marinas provide some of the only naturally occurring affordable housing for healthcare workers, crafts and trades people, artists and civil servants. These residents own their homes but rent their berths from marina owners. Currently, there are no state-level protections from excessive rent increases, and there is no place to move a floating home when rents become unaffordable, making floating home owners especially vulnerable. If this is not remedied, residents on low or fixed incomes will be displaced. AB 252 will cap the amount a marina owner can increase berth rent per year to 3% + COLA or 5%, whichever is lower. Berth rent directly affects how much a floating home can sell for or whether it sells at all. Presently, there are no limits on rent increases when a floating home transfers to a new owner, giving marina owners control over both homeowners' equity and the ability to sell their homes. In one Bay Area marina where berth rents are being doubled, a home fell out of escrow and two others have received no offers because the berth rent is too high. Floating home owners can become trapped by rent so high that their homes become unaffordable to live in and impossible to sell. AB 252 would correct the nearly complete power imbalance between floating homeowners and marina owners. My bill would establish a process to ensure that marina owners can earn a fair return on investment and produce sufficient revenue to cover maintenance and upgrades of their facilities. At the same time it would protect floating homeowners from the threat of unreasonable rent increases that could cause them to lose their homes and/or reduce or eliminate the value of their property."

As sponsor of this bill, Bay Area Floating Homes Association writes, "It is a perilous situation to own your home but not the land (in our case, water) underneath it. It is more perilous still that there is nowhere to go when you can no longer afford the rent. And when the rent goes so high that you cannot afford to stay but you cannot sell, this scary story turns tragic. AB 252 changes that lopsided equation to one where everybody benefits: Marina owners get a fair rate of return and can invest in their properties, floating home owners can stay housed, and California retains a much-needed source of Naturally-Occurring Affordable Housing."

In support, Marilyn Ashcraft, Mayor, City of Alameda writes, "Like mobile homeowners, these residents own their homes but rent their berths from Marina

owners. Because there are currently no state-level protections from excessive rent increases for floating home berths, floating homeowners are especially vulnerable. There is no place to move a floating home for owners who cannot afford a rent increase or fee hike. If this is not remedied, residents on low or fixed incomes will be displaced."

Prepared by: Timothy Griffiths / JUD. / (916) 651-4113
7/28/22 10:33:04

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

SENATE RULES COMMITTEE
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(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 288
Author: Calderon (D) and Mia Bonta (D), et al.
Amended: 5/17/22 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 6-0, 6/1/22
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, Pan
NO VOTE RECORDED: McGuire

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 1/31/22 - See last page for vote

SUBJECT: California Ban on Scholarship Displacement Act of 2021

SOURCE: Author

DIGEST: This bill establishes the California Ban on Scholarship Displacement Act of 2021 and prohibits an institution of higher education from reducing offers of institutional gift aid of a student who is eligible to receive a Federal Pell Grant award or financial assistance under the California Dream Act as a result of private scholarship awards designated for the student unless their gift aid exceeds the student's annual cost of attendance.

ANALYSIS: Existing federal law provides federal financial aid, known as the Pell Grant, to students who demonstrate financial need. The Pell Grant award can be used for tuition and fees, books, and supplies, transportation, and living expenses for the equivalent of up to six years of full-time enrollment. The maximum Pell Grant award for the 2020–21 Award Year is $6,345, an increase of $150 from the $6,195 maximum Pell Grant award for the 2019–20 Award Year. (United States Code, Title 20 § 1070, et seq.).

Existing state law:

1) Establishes the Donahoe Higher Education Act, setting forth the mission of the University of CA (UC), the California State University (CSU), and the California Community Colleges (CCC); and, defines "independent institutions of higher education" as nonpublic higher education institutions that grant undergraduate degrees, graduate degrees, or both, and that are formed as nonprofit corporations in California and are accredited by an agency recognized by the United States Department of Education (Education Code (EDC) § 66010, et seq.).

2) Defines “institutional financial aid” as all institutional grant aid, including institutional student need-based and merit-based aid (EDC § 66021.1).

3) Defines “cost of attendance” as the mandatory systemwide fees, books and supplies, room and board, transportation, and miscellaneous personal expenses for an undergraduate California resident student, as used in determining financial aid eligibility (EDC § 66028.1).

4) Requires the UC Regents and the CSU Trustees to annually provide the Legislature, by February 1 of each year, detailed information regarding expenditures of revenues derived from student fees and uses of institutional financial aid, and provide information regarding the systemwide average total COA per student (EDC § 66028.6).

5) Establishes the California Student Aid Commission for the purpose of administering specified student financial aid programs (EDC § 69510, et seq.).

This bill establishes the California Ban on Scholarship Displacement Act of 2021. Specifically, this bill:

1) Prohibits, commencing with the 2023-24 academic year, an institution of higher education from reducing the institutional financial gift aid offer of a student who is eligible to receive a Federal Pell Grant award or financial assistance under the California Dream Act as a result of private scholarship awards designated for the student, unless the student’s gift aid exceeds the student’s annual cost of attendance.

2) Authorizes an institution to reduce the institutional gift aid offer of a student who is eligible to receive a Federal Pell Grant award or financial assistance

under the California Dream Act by no more than the amount of the student's gift aid that is in excess of the student's annual cost of attendance.

3) Prohibits an institution from considering receipt or anticipated receipt of private scholarships when considering a student for qualification for institutional financial aid.

4) Encourages an institution to implement efforts to avoid scholarship displacement through consultation with scholarship providers and students to avoid situations where institutional gift aid and private scholarships can only be used for specific purposes.

5) Stipulates that the Act shall not be interpreted or implemented in a manner inconsistent with state or federal law; that the provisions of the Act article are severable; and, if any provision of the Act and its application is held invalid due to a conflict with federal requirements, that invalidity shall not affect other provisions of the Act that can go into effect without the invalid portions of the Act.

6) Defines various terms for purposes of the bill.

7) States various findings and declarations regarding the practice of reducing institutional financial aid offers due to private scholarships designated to students.

Comments

1) *Need for the bill.* According to the author, "prohibiting the practice of scholarship displacement is essential to consider in any equity-focused college affordability equation, especially in light of the COVID-19 pandemic, as public and private resources become even are limited for our students, By enacting the California Ban on Scholarship Displacement Act, students who receive private scholarships can make full use of their financial aid awards to cover the real cost of college, once additional expenses are fully calculated."

   The author further states, "As California students struggle with how to achieve their dream of earning a college degree, we must not punish students who are fortunate enough to receive a private scholarship. This is a common practice known as scholarship displacement. During this economic recession, it's even more urgent that we help low-income students who may have no other means to pay for the complete cost of colleges."

2) *Packaging multiple award offers.* A student who qualifies for more than one financial aid program, their campus financial aid office will "package" together aid to help meet the student's financial needs and cover their cost of attendance. A student's total financial aid package must not exceed the student's cost of attendance. When packaging aid, institutions first prioritize awarding gift aid before moving on to awarding loans and work-study. If a student's aid package exceeds the student's cost of attendance then adjustments are made to eliminate the over award. Similarly, this bill does not prohibit reductions of institutional gift aid if a student's overall gift aid exceeds the student's annual cost of attendance, presumably to avoid the over awarding of total gift aid to one student.

3) *Institutional aid.* To help cover college costs, students can access financial aid from federal, state, and university, and private sources. Financial aid programs can consist of loan and gift aid programs. Grants, scholarships, and tuition waivers are considered gift aid, which simply means awards do not have to be repaid (as opposed to loan programs that students pay back). The term institutional gift aid as used in this bill refers to gift aid offered by a college, excluding loans. As noted in the Assembly Higher Education analysis, decisions about allocating institutional aid funds reflect a number of different factors, including the types of resources colleges have at their disposal as well as their commitment to providing educational opportunities to low-and middle-income students. Additionally, institutional aid programs play a unique role in supporting individual colleges' enrollment and completion goals in that colleges have the flexibility to distribute their own grant funds; however, these funds are often tied with differential reliance on tuition revenues which can make the amount available volatile from one year to the next.

   This bill seeks to address how colleges and universities (private and public) determine a student's offer of institutional gift aid (non-loan programs) when private scholarships are designated for that student. Its provisions are limited to institutional aid offers made to low-income students specifically those who are Pell grant or Dream act application eligible.

4) *Institutional aid at California's public universities.* All three segments of CA's public higher education system administer institutional gift aid programs. UC provides institutional gift aid to needy students through its UC Grant to cover both tuition costs and the cost of living. CSU provides institutional gift aid through its State University Grant (SUG) to needy students to cover only tuition

costs. CCC provides institutional gift aid (tuition waiver) through its California College Promise Grant (formerly known as the Board of Governor's fee waiver) to needy students to cover only tuition costs.

As noted in the Assembly Appropriations analysis, "UC has implemented efforts to avoid scholarship displacement at its nine campuses through memoranda of understanding with private scholarship groups to avoid situations where a student receives private scholarships that can only be used for specific purposes already provided for with institutional aid. Both CSU and CCC award institutional aid primarily for tuition costs. Both indicate scholarship displacement is likely to occur when a student receives institutional aid and a private scholarship that are designated for tuition costs. In this situation, a college or university will provide the institutional aid for tuition to another needy student who did receive a private scholarship for tuition costs."

This measure calls on an institution to implement efforts to avoid scholarship displacement through consultation with scholarship providers to avoid situations where institutional financial and private scholarships can only be used for specific purposes. If both private scholarships and institutional gift aid, however, are designated for the same purpose, this bill could result in institutional gift aid paying for costs that might be otherwise covered by a private source.

Related/Prior Legislation

AB 1671 (Patterson, 2022) similar to this bill, establishes the California Ban on Scholarship Displacement. However, AB 1671 applies only to institutional aid offers made to foster youth.

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

SUPPORT: (Verified 6/20/22)

Office of Lieutenant Governor Eleni Kounalakis
California Community Colleges Chancellor's Office
California Edge Coalition
California Faculty Association
California Federation of Teachers AFL-CIO
California State Student Association
California Teachers Association
Jose Cisneros, Treasurer, City and County of San Francisco

Mt. San Antonio College
National Association of Social Workers, California Chapter
North Orange County Community College District
Northern California College Promise Coalition
Public Advocates Inc.
San Francisco Bay Area Water Emergency Transportation Authority
Scholarship America
Southern California College Access Network

OPPOSITION: (Verified 6/20/22)

None received

ASSEMBLY FLOOR: 76-0, 1/31/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

Prepared by: Olgalilia Ramirez / ED. / (916) 651-4105
6/22/22 14:42:17

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

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

THIRD READING

Bill No: AB 316
Author: Cooper (D)
Amended: 6/23/22 in Senate
Vote: 21

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

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

ASSEMBLY FLOOR: 77-0, 6/1/21 - See last page for vote

SUBJECT: State employees: under-represented groups

SOURCE: Author

DIGEST: This bill requires state agencies to establish a recruitment and retention plan for underrepresented groups based on gender, ethnicity, and race; requires agencies to submit their plans to the California Department of Human Resources (CalHR); requires CalHR to develop and implement a related monitoring and compliance plan, as specified; and requires CalHR to provide guidance and recommendations to state agencies for meeting their goals and other required benchmarks.

Senate Floor Amendments of 6/23/22:

- Delete the requirements that *state agencies* (1) provide CalHR specified statistical information related to pay equity for women and minorities for each personnel classification within the agency in a manner prescribed by CalHR; (2) report to CalHR their agency's progress in meeting wage parity and diverse workforce goals established in its Personnel Classification Plan; and (3) present their efforts toward achieving pay equity and workforce representation at their annual budget hearings before the Legislature's budget subcommittees.

- Add provisions that (1) require state agencies to establish a recruitment and retention plan, as specified; (2) require CalHR to develop and implement a monitoring and compliance plan, as specified; and (3) require CalHR to evaluate all state civil service classifications in the Personnel Classification Plan and prepare a detailed report on gender and ethnicity pay equity, as specified.

ANALYSIS:

Existing law:

1) Requires the CalHR to administer the state's Personnel Classification Plan which includes the allocation of every position to the appropriate class in the classification plan. (Government Code §19818 et seq.)

2) Requires CalHR to assess the adequacy of the Personnel Classification Plan and, as needed, recommend changes to the State Personnel Board. The recommendations must include a need to establish additional classes, or to abolish or alter existing classes. (GC §19818.10)

3) Requires CalHR to review and analyze existing information, including studies from other jurisdictions relevant to setting salaries for "female-dominated jobs," and to provide this information to the appropriate legislative policy committees and the state's collective bargaining units. (GC §19827.2)

4) Establishes the Department of Fair Employment and Housing (DFEH) to investigate complaints of discrimination as specified; prohibits an employer from paying its employees less than it pays employees of the opposite sex for equal work; requires equal pay for employees who perform substantially similar work when viewed as a composite of skill, effort and responsibility, among other provisions; and requires employers to report pay as specified. (GC § 12900 et seq.)

5) Requires each state agency to develop, update annually, and implement an equal employment opportunity plan which shall, at a minimum, identify the areas of significant underutilization of specific groups based on race, ethnicity, and gender, within each department by job category and level, contain an equal employment opportunity analysis of all job categories and levels within the hiring jurisdiction, and include an explanation and specific actions for removing any non-job-related employment barriers. (GC § 19797)

6) Declares that it is the intent of the Legislature to establish a state policy of setting salaries on the basis of comparability of the value of the work for jobs that employ a higher proportion of females than males. (GC § 19827.2)

7) Requires CalHR to review and analyze existing information, including studies from other jurisdictions that are relevant to setting salaries for jobs that employ a higher proportion of females than males. This information shall be provided on an annual basis to the appropriate policy committee of the Legislature and to the parties meeting and conferring, as specified. (GC § 19827.2)

This bill:

1) Requires each state agency prior to January 1, 2024, and once every two years thereafter, to establish a plan to recruit, attract, and retain employees identified from under-represented groups, as specified, and submit the plan to CalHR.

2) Requires CalHR to develop and implement, by January 1, 2024, a monitoring and compliance program and work closely with state agencies to address deficiencies and provide guidance and recommendations for meeting their goals and other required benchmarks.

3) Requires CalHR to evaluate all state civil service classifications in the Personnel Classification Plan and prepare a detailed report on gender and ethnicity pay equity in each classification where there is an underrepresentation of women and minorities. The report must include at least the following:

   a) CalHR's efforts that are consistent with existing state and federal law toward meeting the goals of pay equity for women and minorities.

   b) Statistical information for each state civil service classification.

4) Contains a severability clause.

Background

Several recent legislative initiatives have targeted the persistent gender pay gap in the state civil service and among underrepresented ethnic groups. Additionally, those initiatives have sought to require the state to measure and address underrepresentation of women and ethnic minorities in civil service positions.

CalHR, under the current and recent past Administrations, initiated civil service reform efforts whose goals include the pay gap and workforce representation issues presented in this bill. However, addressing the pay and workforce representation

gaps implicates getting state administrators to challenge, beyond historical discriminatory policies and attitudes, other state personnel practices structured to comply with the constitutional requirement that the state administer the civil service on the merit principle, as well as the challenge of operating within the parameters of complex public sector collective bargaining regimes. The civil service's complex constitutional, statutory, and contractual relationships add additional institutional obstacles to already persistent roadblocks to pay equity and workforce representation.

This bill previously attempted to breakdown those roadblocks by requiring state agency heads to collaborate with CalHR in developing a plan for each agency to move toward and achieve pay equity and workforce representation for women and ethnic minorities and to hold agency heads accountable by requiring them to present their efforts toward achieving pay equity and workforce representation at their annual budget hearings before the Legislature's budget subcommittees.

As amended, this bill restores focus on CalHR's efforts to provide guidance to, rather than mandates on state agencies on closing pay equity gaps, while also requiring the state agencies to develop recruitment and retention plans, as specified.

Related/Prior Legislation

AB 271 (Cooper, 2019) was similar to this bill. The bill died on the inactive file in the Senate.

AB 1916 (Cooper, 2018) was similar to this bill. The Governor vetoed the bill, stating in part the following:

> The information called for by this bill is currently provided by [CalHR] and the State Controller's office. …it is reasonably complete and provides a basis for sound legislative review.

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

According to the Senate Appropriations Committee, CalHR indicates that it would incur currently undetermined, but significant programming and staffing costs to comply with the bill's reporting requirements. In addition, this bill will result in unknown ongoing costs across state agencies to interface with CalHR and update it on the implementation of plans to address pay disparities and hiring in identified job classifications.

SUPPORT: (Verified 6/28/22)

American Association of University Women, California
American Federation of State, County and Municipal Employees, AFL-CIO
Association of California State Supervisors
Black Leadership Council
California Association of Professional Scientists
California Hawaii State Conference NAACP
California Labor Federation, AFL-CIO
California Pan - Ethnic Health Network
National Association of Social Workers, California Chapter
Professional Engineers in California Government

OPPOSITION: (Verified 6/28/22)

None received

ARGUMENTS IN SUPPORT: According to the National Association of Social Workers, California Chapter (NASW-CA), "In 2014, California's statewide gender pay gap, both public and private, was 15.9 percent, meaning women earned 84 cents on the dollar compared to men. This resulted in $37 billion in lost annual income. This disparity impacts not just these women's daily lives but also their retirement. AB 316 is another step in making California more equitable by helping close the gender and ethnicity pay gap and underrepresentation of women and people of color in state. For these reasons, NASW-CA is proud to support AB 316."

According the California Labor Federation, AFL-CIO, "AB 271 (Cooper) will begin to address this problem within state civil service by collecting relevant data for state employees. The bill will require the Department of Human Resources to evaluate classifications every two years and then report findings related to gender and wage disparities. State agency heads will then be required to detail planned efforts to address wage gaps discovered. With this information and these required steps, we can analyze the numbers to produce effective plans to level the economic playing field for all state workers, regardless of gender or ethnicity."

ASSEMBLY FLOOR: 77-0, 6/1/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia,

Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Gallagher, Kiley

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
6/28/22 14:32:25

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

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

THIRD READING

Bill No: AB 334
Author: Mullin (D), et al.
Introduced: 1/27/21
Vote: 21

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

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 5/20/21 (Consent) - See last page for vote

SUBJECT: Workers' compensation: skin cancer

SOURCE: Author

DIGEST: This bill expands the existing workers' compensation presumption pertaining to skin cancer by including peace officers from the Department of Fish and Game and the Department of Parks and Recreation whose primary duties are law enforcement.

ANALYSIS:

Existing law:

1) Establishes a workers' compensation system that provides benefits to an employee who suffers from an injury or illness that arises out of and in the course of employment, irrespective of fault. This system requires all employers to secure payment of benefits by either securing the consent of the Department of Industrial Relations to self-insure or by securing insurance against liability from an insurance company duly authorized by the state. (Labor Code §3600)

2) Establishes within the Workers' Compensation system temporary disability benefits (TD) which offer wage replacement equal to 2/3 of an injured employee's average weekly wages for up to 104 weeks while an employee is

temporarily unable to work due to a workplace illness or injury. (Labor Code §§4650-4660)

3) Establishes a rebuttable presumption that development or manifestation of skin cancer is work related for the following employees:

   a) Active lifeguards employed by a city, county, city and county, district, or other public or municipal corporation or political subdivision.

   b) Active state lifeguards employed by the Department of Parks and Recreation.

   This presumption only affects lifeguards employed for more than three consecutive months in a calendar year and extends 60 months after termination. (Labor Code §3212.11)

4) Establishes a minimum and a maximum amount that an employee may receive, which is adjusted annually to reflect rising wage levels. Currently, the minimum benefit is $182 per week, and the maximum benefit is $1,215. (Labor Code §§4650-4660)

5) Entitles specified peace officers to enhanced TD leave, which consists of up to one year of fully paid leave if they *are disabled temporarily or permanently by an injury or illness arising out of and in the course of their duties*, paid for out of the Workers' Compensation Fund. These employees include:

   a) City police officers.
   b) City, county, or district firefighters.
   c) Sheriffs.
   d) Officers or employees of any sheriff's offices.
   e) Inspectors, investigators, detectives, or personnel with comparable titles in any district attorney's office.
   f) County probation officers, group counselors, or juvenile services officers.
   g) Officers or employees of a probation office.
   h) Peace officers listed under Penal Code §830.31.
   i) Lifeguards employed year round on a regular, full-time basis by a county of the first class or by the City of San Diego.
   j) Airport law enforcement officers as defined in Penal Code §830.33.
   k) Harbor or port police officers, wardens, or special officers of a harbor or port district or city or county harbor department.
   l) Police officers of the Los Angeles Unified School District. (Labor Code §4850)

6) Defines the following employees as peace officers:

   a) Employees of the Department of Fish and Game whose primary duties are enforcement of the Fish and Game Code

   b) Employees of the Department of Parks and Recreation whose primary duties are enforcement of the Public Resources Code. (Labor Code §830.2 (e) (f))

This bill adds peace officers from the Department of Fish and Game and the Department of Parks and Recreation whose primary duties are law enforcement to the employees covered by the existing skin cancer workers' compensation presumption.

Comments

Need for this bill?

1) *Presumptions and Workers' Compensation*

   At its core, like other complex systems of justice, the California workers' compensation system is based on a very simple premise. If a worker is injured on a job, the employer must pay for the worker's medical treatment, including monetary benefits if the injury is permanent. In return for receiving free medical treatment, the worker surrenders the right to sue the employer for monetary damages in civil court. This simple premise, sometimes known as the "grand bargain", has stood the test of time for more than 100 years and served California remarkably well – according to relatively recent research of the California Workers' Compensation Institute and RAND, *more than 90% of all workers' compensation claims and requests for medical treatment are approved by employers and insurers.*

   In this context, the creation of presumptive injuries is a notable deviation that exists within the space of the normal operation of the California workers' compensation system. Rather than permit the existing system to operate in its normal course, the Legislature places its thumb on the scale: for these peace officers, for these injuries, employers must accept liability. This is not to say that presumptions have no place within the workers' compensation system. Rather, they should be treated as a specific policy tool for a rare set of circumstances: a group of employees who face an employment-related injury at a higher rate than average and who have difficulty establishing the injury as work-related, *which results in unfair rejections of claims.*

AB 334 expands the existing presumption pertaining to skin cancer, adding peace officers from the Department of Fish and Game and the Department of Parks and Recreation whose primary duties are law enforcement. Notably this presumption already existed for active duty lifeguards, likely due to the sun exposure inherent to their jobs and the relative difficulty by which someone could prove a definitive source of skin cancer. The proposed employees similarly spend a significant portion of their employment hours outside and away from shelter, making an expansion of this presumption potentially warranted.

Solid data on occupational sun exposure and its effect on the propensity of skin are somewhat few and far between. However, both the Canadian and Australian governments have found some correlation between outdoor occupations and skin cancer[1][2]. The author of AB 334 has submitted a study request to the Commission on Health and Safety and Workers' Compensation in February of 2020 to obtain more data; however, it is unknown when the study will be finalized.

2) *Temporary Disability Benefits*

Since AB 334 affects existing presumptive injury statutes, it also affects so-called "4850 Leave" which is an enhanced version of TD Benefits. The goal of TD is to approximate an employee's take home pay during the period after injury when the employee is temporarily unable to work for up to 104 weeks. This is accomplished by basing the weekly TD benefit on 2/3 of the employee's average weekly wages. Because there is a cap, employees who make more than approximately $1,800 per week do not reach this 2/3 goal, but because the benefit is tax free, most employees receive TD benefits roughly equivalent to their regular salaries while they are recovering. 4850 Leave allows a peace officer to have full wage replacement for the first year of TD eligibility, state and federal tax-free. It is important to remember that the quality of and access to healthcare does not differ between these types of leave; the principal difference is the amount of wage replacement, which is a higher percentage under 4850 Leave.

On one hand, benefits like enhanced TD have an important role in statute to affirm the state's commitment to caring for law enforcement personnel who have sacrificed their wellbeing in the course of their jobs. On the other hand,

[1] "Description of the use of a risk estimation model to assess the increased risk of non-melanoma skin cancer among outdoor workers in Central Queensland, Australia" published in the National Library of Medicine
[2] "OSH Answers Fact Sheets: Skin Cancer and Sunlight" Canadian Centre for Occupational Safety and Health, as updated on June 22, 2016

the existence of these enhanced benefits creates, in essence, a second workers' compensation system for a very specific class of workers. This second, heavily partitioned system combines several chaotic factors: (1) presumptive injuries that make rejecting liability very difficult, (2) public employers who have little recourse outside of tax revenue to fund increased workers' compensation costs, and (3) tax incentives arising out of the nature of 4850 Leave.

Related/Prior Legislation

AB 2665 (Mullin, 2020) was substantively similar to AB 334. (Held in Assembly Insurance Committee)

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

SUPPORT: (Verified 8/8/22)

Audubon California
California Fish and Game Wardens Association
California Fish and Game Wardens Supervisors and Managers Association
California Sea Urchin Commission
California Statewide Law Enforcement Association
California Waterfowl
California Wildlife Officers Foundation
Defenders of Wildlife
Endangered Habitats League
Friends of Fish and Game
Mountain Lion Foundation
Oceana
Peace Officers Research Association of California
The Nature Conservancy

OPPOSITION: (Verified 8/8/22)

Acclamation Insurance Management Services
Allied Managed Care

ARGUMENTS IN SUPPORT: The California Fish and Game Wardens Supervisors and Managers Association writes in support, "A rebuttable presumption that skin cancer developed by California's wildlife officers and park rangers is associated with excessive occupational exposure to the sun during their employment would remove unnecessary barriers and would reduce the state's workload associated with initiating and completing workers' compensation investigations on submitted claims. Almost all other California state and local

peace officers qualify for this same presumption through Labor Code 3212.1. AB 334 would ensure that wildlife officers and park rangers – whose jobs clearly involve extensive occupational exposure to the sun – get the same presumption."

ARGUMENTS IN OPPOSITION: Acclimation Insurance Management Services, a third-party administrator, and Allied Managed Care, a utilization review organization oppose this bill. They argue that the bill is not needed, in part because workers' compensation claims are accepted by employers at a rate of nearly 90%. The opponents also argue that by granting a presumption these claims would not be eligible for apportionment. This would mean that consideration of other underlying conditions and non-industrial injuries would not be allowed and any permanent disability claims would have to be allotted to the employer at 100%.

ASSEMBLY FLOOR: 76-0, 5/20/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Cunningham, Kalra

Prepared by: Jake Ferrera / L., P.E. & R. / (916) 651-1556
8/8/22 16:15:19

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

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

THIRD READING

Bill No: AB 498
Author: Quirk-Silva (D), et al.
Amended: 8/1/22 in Senate
Vote: 21

PRIOR VOTES NOT RELEVANT

SENATE HEALTH COMMITTEE: 9-0, 6/22/22
AYES: Pan, Melendez, Eggman, Gonzalez, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Grove, Hurtado

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/29/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Medi-Cal: county organized health system: Orange County Health Authority

SOURCE: Author

DIGEST: This bill removes the sunset on existing law regarding the Orange County Health Authority (CalOptima) board. This bill requires CalOptima board members to ensure the provision of cost-effective behavioral health care services and requires the members to address the needs of Medi-Cal members who are affected by homelessness and housing instability, and fully commit to implementation of the California Advancing and Innovating Medi-Cal (CalAIM) Act principles. This bill requires CalOptima board members with a financial interest in a board decision to recuse themselves as specified. This bill limits specified members from future board terms, representation of other individuals and entities before the board, or employment at CalOptima or entity receiving CalOptima Medi-Cal funds, except for the position they held when appointed to the CalOptima board. This bill contains an urgency clause that will make this bill effective upon enactment.

ANALYSIS:

Existing law:

1) Establishes the Medi-Cal program, administered by the Department of Health Care Services (DHCS), under which health care services are provided to qualified, low-income persons. [WIC § 14000, et seq.]

2) Authorizes a county board of supervisors, by ordinance, to establish a commission to negotiate an exclusive contract with DHCS to provide, or arrange for the provision of, health care services under the Medi-Cal program. This system of services provided by or through a county under these provisions is known as a county organized health system (COHS). Requires the enabling ordinance to, among other things, specify the membership of the county commission, the qualifications for individual members, the manner of appointment, and how long they will serve. [WIC §14087.54]

3) Requires governance of CalOptima (the Orange County COHS) to be vested in a governing body (board) consisting of ten members, of whom nine are voting members and one is a nonvoting member. Requires the nonvoting member to be the Director of the Orange County Health Care Agency. Requires the nine voting members to be nominated by the Orange County Health Care Agency and to be appointed by a majority vote of the Orange County Board of Supervisors and specifies the membership categories of board members. [WIC §14087.59]

4) Requires each member of the CalOptima board to reside in, or be employed in, Orange County and to be generally representative of the diverse backgrounds, interests, and demography of persons residing in Orange County and have a commitment to a health care system that improves access to high-quality health care for persons served by the commission, delivers high-quality care, and is financially viable. Requires each member to possess the requisite skills and knowledge necessary to design and operate a quality publicly assisted health care delivery system. [WIC §14087.59]

5) Requires members of the CalOptima board to serve four-year terms, except for those members who are members of the Orange County Board of Supervisors, who serve a one-year term. Requires a non-Orange County supervisor member of the CalOptima board to serve no more than two consecutive terms. [WIC §14087.59]

6) Permits a member of the CalOptima board to be removed by a vote of at least two-thirds of the Orange County Board of Supervisors. Permits the CalOptima board, subject to a two-thirds vote of the full membership, to increase the number of public members, or the number of members who are current CalOptima members or family members, subject to an affirmative vote by a majority of the Orange County Board of Supervisors. [WIC §14087.59]

7) Requires each member of the CalOptima board to have the responsibility and duty to follow the requirements of applicable federal and state laws and regulations, to serve the public interest of the members of CalOptima, and to ensure the operational well-being and fiscal solvency of CalOptima. Requires members of the CalOptima board to further strive to improve health care quality, promote prevention and wellness, ensure the provision of cost-effective health and mental health care services, and reduce health disparities. [WIC §14087.59]

8) Requires CalOptima to work to earn the public's trust through its commitment to accountability, responsiveness, transparency, reliability, and cooperation. [WIC §14087.59]

9) Sunsets on January 1, 2023. [WIC §14087.59]

This bill:

1) Deletes the January 1, 2023 sunset on the law that requires governance of CalOptima to be vested in a board consisting of nine voting members and one nonvoting member and specifies the membership categories of the CalOptima board, specifies the duties of board members, and their terms.

2) Requires the Orange County Board of Supervisors to consult with stakeholders in Orange County, including, but not limited to, providers who serve CalOptima members, consumers, and advocates for purposes of identifying qualified individuals to be considered as members of the governing body,

3) Prohibits a member of the CalOptima board who is a member of the Orange County Board of Supervisors from being appointed to serve a four-year term under any of the other categories within 12 months of the expiration of their one-year term.

4) Requires members of the CalOptima board to strive to reduce health disparities, address the needs of Medi-Cal members who are affected by homelessness and housing instability, improve quality outcomes, and manage

the risk and needs of Medi-Cal beneficiaries through whole-person care approaches and addressing social determinants of health.

5) Specifies that existing Government Code and Medi-Cal law regarding conflict of interest apply to the CalOptima board. Requires CalOptima board members who have a financial interest in a decision before the board, upon identifying the conflict of interest and immediately prior to the consideration of the matter to do the following:

   a) Publicly identify the financial interest that gives rise to the conflict or potential conflict of interest in sufficient detail that it can be understood by the public, except residential street addresses are not required to be disclosed;

   b) Recuse themselves from discussing and voting on the matter, but permits the member to speak on the issue during the time the general public speaks on the issue; and,

   c) Leave the room until after the discussion, vote, and any other disposition of the matter is concluded unless the matter is on the portion of the agenda reserved for uncontested matters.

6) Prohibits a CalOptima board member from acting as an agent or otherwise representing for compensation, any other person, by making any formal or informal appearance before, or by making any oral or written communication to, the commission, or any committee, subcommittee, or present member of the commission, or any officer or employee of the commission, if the appearance or communication is made to influence administrative action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, contract, or the sale or purchase of goods or property, for a period of one year after leaving office.

7) Prohibits a CalOptima board member from serving as an employee, agent, or attorney, or otherwise representing for compensation CalOptima or any other entity who received an expenditure of Medi-Cal funds from CalOptima during the prior five years for a period of one year after leaving office. Provides an exception for the role the board member held when appointed to the board.

8) Exempts CalOptima board members in the following specified membership categories from the prohibitions in 5) and 6): the representative of a community clinic, the practicing licensed medical provider, and the practicing licensed physician.

9) Makes a legislative finding that a special statute is necessary because of the unique circumstances applicable to the County of Orange with respect to the operation and governance of CalOptima.

10) Contains an urgency clause that will make this bill effective upon enactment.

Comments

1) *Author's statement.* According to the author, CalOptima, created in 1993, is the single largest health insurer in Orange County, providing coverage for one in four residents. CalOptima manages programs that are funded by the state and federal government, but operates independently, under the leadership of a Board of Directors made up of members, providers, business leaders and local government representatives. For over a decade, there have been a number of concerns raised publically related to CalOptima. Some of the most notable include high turnover of senior executives, conflict of interest of board members, allegations of misconduct and inappropriate actions, mistrust from member and partner organizations providing services to CalOptima patients, delays in care for CalOptima's homeless patients, and lack of budgetary transparency. SB 4 (Mendoza, Chapter 479, Statutes of 2017) passed overwhelmingly, to prevent any Orange County Supervisor from amending the local COHS ordinance to eliminate provider representation from the CalOptima board. However, the statute is set to sunset. This bill will not only extend SB 4 permanently, but enacts key guardrails to protect against the further politicizing of CalOptima. Transparency, for the community, partner organizations, and more importantly, for the patients they have been established to serve is vital and needed.

2) *CalOptima*. CalOptima is the COHS in Orange County. There are six COHS in California operating in 22 counties, and serving approximately 2.5 million Medi-Cal beneficiaries. Almost all Medi-Cal-eligible beneficiaries in COHS counties, including those enrolled in both Medi-Cal and Medicare (referred to as "dual-eligibles") and individuals with a share of cost, are mandatorily enrolled into the COHS plan. CalOptima was created in 1993 by a county ordinance and began operations in 1995. As of January 2022, it has 879,635 members with an operating budget of $3.7 billion. CalOptima is Orange County's largest health insurer, providing coverage through four major programs:

   a) Medi-Cal;

b) OneCare, which is Special Needs Plan (a Medicare Advantage Special Needs Plan) for low-income seniors and people with disabilities who qualify for both Medicare and Medi-Cal;

c) PACE (Program of All-Inclusive Care for the Elderly) for older adults, providing comprehensive health services through the CalOptima PACE center; and,

d) OneCare Connect Cal MediConnect Plan (Medicare-Medicaid Plan) for people who qualify for both Medicare and Medi-Cal, combining Medicare and Medi-Cal benefits, adding supplemental benefits for vision, transportation and dental services, and providing comprehensive care coordination.

According to a February 2022 article by the Orange County Register, CalOptima has had substantial turnover in key positions over the past two years while salary levels for newly created or replacement positions have jumped significantly. The Voice of OC has also published stories on troubling hiring practices suggesting nepotism and failing to follow tradition in appointing board members with local experience to the hospital seat against the recommendations of the local hospital association.

Related/Prior Legislation

SB 4 (Mendoza, Chapter 479, Statutes of 2017) required governance of CalOptima to be vested in a governing body consisting of nine voting members and one nonvoting member. Specified the membership categories of the CalOptima board, specified the duties of board members, and their terms. Sunset these provisions January 1, 2023.

SB 1308 (Nguyen, 2016) would have prohibited a COHS from utilizing any funds intended for administrative and operational expenses for staff retreats, promotional giveaways, excessive executive compensation, or promotion of federal or state legislative or regulatory modifications. Also restricted how COHS may feature elected officials or candidates in media campaigns. *SB 1308 was not heard in the Senate Health Committee.*

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

SUPPORT: (Verified 8/8/22)

American Academy of Pediatrics, Orange County Chapter
Children's Hospital of Orange County

KPC Health Global Medical Centers
Orange County Hispanic Chamber of Commerce
Orange County Medical Association
Orange County Taxpayers Association
Providence
Tenet Healthcare
UCI Health

OPPOSITION: (Verified 8/8/22)

None received

ARGUMENTS IN SUPPORT: A group of health care providers writes that this bill ensures the long-term stability of CalOptima. Orange County has no county hospital and provides no direct primary or specialty care services. As a result, CalOptima was founded as a public-private partnership nearly thirty years ago to better organize the de facto private safety net serving Orange County's poorer residents. First, this bill makes permanent the existing statute that sets forth the composition of the Board of Directors of CalOptima that was established under previous legislation that codified the County ordinance. The existing statute sunsets and the extension under this bill secures the continued balance and expertise of those individuals selected to serve on CalOptima's board. In addition, the statute sets forth the duties and responsibilities of the CalOptima board to serve the public interest of the CalOptima members and to ensure its operational independence and fiscal solvency. This bill also modernizes and ensures that existing conflict of interest and disclosure requirements that apply to local governments also apply to the CalOptima board. These safeguards ensure that all individuals on the CalOptima board involved in allocating billions of dollars in state and federal funds adhere to existing conflict of interest and related provisions of state law, while also requiring that they adhere to "cooling off" periods prior to being employed by CalOptima or by entities that have received funding from CalOptima. These safeguards are similar to those already imposed on elected and appointed state officials. This bill injects a strong and necessary set of good government principles and modernize the statute to reflect the long-term commitment of the Medi-Cal program to transform and strengthen Medi-Cal.

ASSEMBLY FLOOR: 78-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora,

Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

Prepared by: Jen Flory / HEALTH / (916) 651-4111
8/10/22 14:21:54

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

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

THIRD READING

Bill No: AB 499
Author: Blanca Rubio (D), et al.
Amended: 7/15/21 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 5-0, 6/22/21
AYES: Hurtado, Jones, Cortese, Kamlager, Pan

SENATE JUDICIARY COMMITTEE: 10-1, 7/13/21
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Skinner, Stern
NOES: Wieckowski

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/16/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

ASSEMBLY FLOOR: 78-0, 5/27/21 - See last page for vote

SUBJECT: Referral source for residential care facilities for the elderly: duties

SOURCE: A Place for Mom
Caring.com

DIGEST: This bill recasts provisions of existing law that apply to a placement agency for residential care facilities for the elderly (RCFEs) to instead apply to a newly defined "referral source." Among other things, this bill requires referral sources to provide the senior or their representative with specified disclosures, perform background checks, and carry liability insurance. This bill also provides for criminal and civil penalties.

ANALYSIS:

Existing law:

1) Establishes the California RCFE Act, which requires facilities that provide personal care and supervision, protective supervision or health related services

for persons 60 years of age or older who voluntarily choose to reside in that facility to be licensed by the California Department of Social Services (CDSS). *(HSC 1569 et seq.*)

2) Defines a "residential care facility for the elderly" as a housing arrangement chosen voluntarily by persons 60 years of age or older, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, or personal care are provided, based upon the resident's varying needs, as determined in order to be admitted and to remain in the facility. *(HSC 1569.2(o))*

3) Defines a "placement agency" as any county welfare department; county social service department; county mental health department; county public guardian; general acute care hospital discharge planner or coordinator; state-funded program or private agency providing placement or referral services; conservator, as specified; and, regional center for persons with developmental disabilities which is engaged in finding homes or other places for the placement of elderly persons for temporary or permanent care. *(HSC 1569.47(a))*

4) Prohibits a placement agency from placing individuals in licensed RCFEs when the individual, because of his or her health condition, cannot be cared for within the limits of the license or requires inpatient care in a health facility. Further provides that a violation of this provision is a misdemeanor. *(HSC 1569.47(b))*

5) Prohibits a placement agency or employee of a placement agency from placing, referring, or recommending placement of a person in a facility providing care and supervision, or protective supervision, unless the facility is licensed as an RCFE or is exempt from licensing. Further provides that a violation of this provision is a misdemeanor. *(HSC 1569.47(c))*

6) Requires any employee of a placement agency who knows, or reasonably suspects, that a facility which is not exempt from licensing is operating without a license to report the name and address of the facility to CDSS. Further provides that failure to report as required by this provision is a misdemeanor. *(HSC 1569.47(d))*

7) Requires CDSS to investigate any report filed, and if the CDSS has probable cause to believe that the facility which is the subject of the report is operating without a license, requires the department to investigate the facility within 10 days after receipt of the report. *(HSC 1569.47(e))*

8) Requires a placement agency to notify the appropriate licensing agency of any known or suspected incidents which would jeopardize the health or safety of residents in a RCFE. Defines reportable incidents to include, but not be limited to incidents of physical abuse; any violation of personal rights; any situation in which a facility is unclean, unsafe, unsanitary, or in poor condition; any situation in which a facility has insufficient personnel or incompetent personnel on duty; and/or, any situation in which residents experience mental or verbal abuse. *(HSC 1569.47(f))*

This bill:

1) Deletes existing law pertaining to placement agencies and replaces with the following.

2) Defines "compensated referral" to mean a referral by a private, for-profit or nonprofit agency that is engaged in the business of referring persons to RCFEs in exchange for any consideration or thing of value, including a fee, commission, gift, or any reciprocal benefit.

3) Defines "referral" to mean identifying and connecting a senior or that senior's representative to an RCFE to facilitate the further evaluation, in consultation with the facility, of whether that facility is a suitable senior housing option for that senior.

4) Provides that a referral source does not include a licensee of an RCFE, or any professional services staff member of an RCFE, who on behalf of that facility makes a referral, even if they have received a discount or other remuneration from the facility.

5) Prohibits a referral source from knowingly referring a person to a facility providing care and supervision or protective supervision unless the facility is licensed as an RCFE or is exempt from such licensing. Provides that violation of this prohibition is a misdemeanor.

6) Prohibits a referral source from knowingly referring an individual to an RCFE if the individual, because of their health condition, cannot be cared for within the limits of the facility's license or requires inpatient care in a health facility. Provides that violation of this prohibition is a misdemeanor.

7) Prohibits a referral source from referring a person to an RCFE in which the referral source, and an affiliated group, as specified, or immediate family member of the referral source, has an ownership or management interest or a common employee in an executive management position, unless the referral

source obtains a written waiver from the senior or that senior's representative before making the referral. Provides that violation of this prohibition is a misdemeanor.

8) Requires a referral source who knows, or reasonably suspects, that a facility that is not exempt from licensing is operating without a license shall report the name and address of the facility to CDSS. Provides that failure to make this report is a misdemeanor.

9) Requires CDSS to investigate any report of an unlicensed facility. Further requires that, if CDSS has probable cause to believe that the facility that is the subject of the report is operating without a license, CDSS must investigate the facility within 10 days after receipt of the report.

10) Requires a referral source to notify the appropriate licensing agency of any known or suspected incidents that would jeopardize the health or safety of residents in an RCFE. Provides that violation of this notification is a misdemeanor. Defines reportable incidents to include, but not be limited to incidents of physical abuse; any violation of personal rights; any situation in which a facility is unclean, unsafe, unsanitary, or in poor condition; any situation in which a facility has insufficient personnel or incompetent personnel on duty; and any situation in which residents experience mental or verbal abuse.

11) Requires that a referral source, before sending a compensated referral to an RCFE located in California, provide the senior or their representative with specified disclosures, including a statement regarding whether and under what circumstances the referral source will be paid a fee by an RCFE to which the senior is referred; a statement that the senior or representative may request in writing that the referral source cease contact with the senior or the senior's representative; among other disclosures.

12) Requires the information and disclosures listed in 11) above shall be provided to the senior or their representative in a clear manner designed to give actual notice of its contents and may be provided, together or separately, in hardcopy form, on a web page or verbally, as specified.

13) Requires the referral source to maintain records of the required disclosures for a period of three years and shall provide a copy of the disclosures provided to the senior, representative, or the residential care facility for the elderly, upon written request.

14) Requires a compensated referral source to comply with all of the following:

    a) Use a nationally accredited service provider to perform background checks on referral sources who have direct contact with seniors or their representatives.

    b) Maintain liability insurance coverage in an amount of at least $1 million per occurrence and $2 million in total annual aggregate for negligent acts or omissions by the referral source or any of its employees.

    c) Accept remuneration only from RCFEs with which the referral source has a written contract.

    d) Maintain and prominently display a privacy policy on every internet website it operates or, if the referral source does not maintain an internet website, then it shall provide the senior or the senior's representative with a written copy of the privacy policy.

    e) Refrain from holding any power of attorney for a resident or potential resident or from holding that person's property in any capacity.

    f) Cease making referrals on behalf of the senior or the senior's representative within 15 days after receipt of a written request, as specified.

    g) Cease contacting a senior or senior's representative within 15 days after receipt of a written request, as specified.

15) Provides that a referral source that violates mandated disclosures is subject to a civil penalty of between $250 and $1,000 for each violation, and that Health and Safety Code Section 1569.40, which makes violations a misdemeanor, shall not apply. Permits a district attorney to institute a proceeding in superior court to recover the civil penalties and to restrain and enjoin a violation of the disclosure mandates.

Comments

According to the author, "during COVID-19, referral agencies have been a crucial part of placement decisions as visitation is either not an option or infrequent to limit the exposure of residents and staff. This legislation, if passed, would allow for more transparency and access of information for consumers seeking placement at a residential care facility. AB 499 seeks to protect all interested parties [residents, client families, referral agencies, and residential care facilities] by codifying a number of regulations during a referral source's interaction with a

client and increased regulations on referral sources. Currently, the law loosely regulates 'placement agencies' focusing solely on the interaction between them and a residential care facility for the elderly."

Residential Care Facilities for the Elderly

Long-term care facilities provide inpatient care to individuals over extended periods of time. In general, long-term care facilities are appropriate for persons who are elderly, chronically ill, or in need of extensive rehabilitative services. There are three generally recognized classifications of long-term care facilities: skilled nursing facilities, intermediate care facilities, and RCFEs, which are the subject of this bill.

RCFEs, also known as assisted living facilities, are residential facilities that provide 24-hour nonmedical care and supervision for persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual who is 60 years of age or older. RCFEs provide housing, housekeeping, supervision, and personal care assistance with activities of daily living to individuals who need that level of care. These are nonmedical facilities that are designed for individuals who are unable to live by themselves, but who do not need 24-hour nursing care. As such, the facilities are not required to have nurses, certified nursing assistants or doctors on staff. These facilities usually centrally store and distribute medications for residents to self-administer. Residents of RCFEs may have mental, behavioral, or physical health needs or a developmental disability that results in their inability to live independently. These facilities range in size from small facilities operating out of single family homes serving a handful of residents to larger buildings that can house over a 100 residents.

Unregulated Referral Agencies

When a person can no longer live independently due to age or disability, locating appropriate housing and support can be an overwhelming endeavor. It is especially challenging if the person doing the searching is not familiar with the various types of assisted living services and settings. Under such circumstances, businesses, often referred to "referral agencies," offer the service of identifying and referring seniors, or their representatives, to potentially suitable living arrangements, or "placements". Referral agencies are also known as "placement agencies" and "referral sources" and they range from small local businesses to large, internet-based agencies that provide referral services across the country. By law, the referrals must be made to an appropriately licensed facility that can provide necessary care for the senior within the limits of the RCFE license.

Private referral agencies typically provide free referrals but receive compensation from RCFEs. Business models vary, but it is common that clients do not pay a fee for a referral. Clients also do not usually enter into a contract with the agency. Instead, referral agencies typically have financial arrangements with RCFEs and receive a fee, often, reportedly, the amount of one month's rent in the facility, if an individual moves into an RCFE to which the agency has remade a referral.

While RCFEs are regulated under existing law, private referral agencies are not. This bill represents the fifth attempt since 2015 to regulate compensated referral agencies. Broadly, these bills can be grouped into two separate efforts. First, three bills, SB 648 (Mendoza, 2015), SB 648 (Mendoza, 2017), and AB 2744 (Reyes, 2018), attempted to establish comprehensive regulatory schemes for these entities. AB 2744 was opposed by A Place for Mom and all three bills were opposed by Caring.com, the two largest referral agencies.

The second group of bills, which includes this bill and AB 2926 (Calderon, 2020), are sponsored by two referral agencies. The sponsors argue they have struck a more appropriate balance by establishing key consumer protections without imposing costs to the state or unduly burdening the industry.

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

According to the Senate Appropriations Committee:

- *Department of Justice (DOJ)*. No significant impact for staff overtime to process this increase in arrest prints. DOJ notes, while the impact of AB 499 would not pose a significant impact to the DOJ, as numerous bills this session may result in no significant impact to the DOJ, should an aggregate of these bills chapter, the DOJ would submit a workload BCP for additional resources to process the increase to the DOJ workload.

- *Court costs*. Staff estimates unknown, potentially-significant workload cost pressures to the courts to adjudicate alleged violations of this measure. While the superior courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources. For example, the Budget Act of 2020 appropriated $273.8 million from the General Fund to backfill continued reduction in fine and fee revenue for trial court operations. (General Fund)

SUPPORT: (Verified 6/30/22)

A Place for Mom (co-source)

Caring.com (co-source)
ActEight, LLC
Alzheimer's Greater Los Angeles
Alzheimer's Orange County
Alzheimer's San Diego
California Assisted Living Association
California Council of Community Behavioral Health Agencies
LeadingAge California
National Association of Social Workers, California Chapter
Retired Public Employees Association

OPPOSITION: (Verified 6/30/22)

California Advocates for Nursing Home Reform
California Commission on Aging

ASSEMBLY FLOOR: 78-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

Prepared by: Elizabeth Schmitt / HUMAN S. / (916) 651-1524
6/30/22 15:00:07

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

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

THIRD READING

Bill No: AB 503
Author: Stone (D), et al.
Amended: 8/4/22 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 6/29/21
AYES: Bradford, Kamlager, Skinner, Wiener
NOES: Ochoa Bogh

ASSEMBLY FLOOR: 35-22, 4/12/21 (FAIL) - See last page for vote

ASSEMBLY FLOOR: 41-22, 4/19/21 - See last page for vote

SUBJECT: Wards: probation

SOURCE: Alliance for Boys and Men of Color
Communities United for Restorative Youth Justice
National Center for Youth Law
W. Haywood Burns Institute
Young Women's Freedom Center
Youth Justice Coalition

DIGEST: This bill (1) limits the period of time in which a court may place a ward of the court on probation to six months, except that a court may extend probation in six month increments upon proof by a preponderance of the evidence that it is in the best interest of the ward; (2) requires that the conditions of probation be individually tailored, developmentally appropriate, and reasonable; and (3) requires that the burden imposed by the probation conditions must be proportional to the legitimate interests served by the conditions.

Senate Floor Amendments of 8/4/22 make conforming changes to avoid chaptering issues with AB 200 (Committee on Budget, Chapter 58, Statutes of 2022).

Senate Floor Amendments of 6/28/22 simplify language that allows the ward or prosecuting attorney to present relevant evidence to the court and remove the

requirements that the court state the basis for not accepting evidence as well as set forth the reasons in an order if requested by either party or when the proceedings are not being recorded electronically or reported by a court reporter.

Senate Floor Amendments of 8/18/21 allow the court to decide how it will accept evidence in each case; require the court, if it chooses not to allow any evidence, to state on the record the reason for doing so; specify that if a youth has a Welfare and Institutions Code Section 607.2 hearing, the youth will remain a ward of the court until that hearing, but that probation will be terminated at the appropriate time; and include other technical and conforming changes.

ANALYSIS:

Existing law:

1) Provides that a minor between 12 and 17 years of age, inclusive, who violates any federal, state, or local law or ordinance, and a minor under 12 years of age who is alleged to have committed murder or a specified serious sex offense, is within the jurisdiction of the juvenile court, which may adjudge the minor to be a ward of the court. (Welf. & Inst. Code, § 602.)

2) Provides, effective July 1, 2021, that the juvenile court may retain jurisdiction over a ward until the person attains 21 years of age, except that if the wardship is based on the commission of a specified serious offense, the juvenile court may retain jurisdiction until age 23, unless the ward would have faced an aggregate sentence of seven years or more in criminal court, in which case the juvenile court may retain jurisdiction until age 25. (Welf. & Inst. Code, § 607, subds. (a)-(c), as effective July 1, 2021.)

3) Authorizes the juvenile court to place a ward of the court on supervised probation. Authorizes the court to make any reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the ward. (Welf. & Inst. Code, § 727, subd. (a).)

4) Provides that if a minor is found to be a ward of the juvenile court due to the commission of a battery on school property, the court as a condition of probation is required to order the minor to make restitution to the victim. (Welf. & Inst. Code, § 729.)

5) Provides that when a ward is placed under the supervision of the probation officer or committed to the care, custody, and control of the officer, the juvenile court may make any and all reasonable orders for the conduct of the ward, and impose and require any and all reasonable conditions that it may

determine fitting and proper to the end that justice may be done and the reformation and rehabilitation of the ward enhanced. (Welf. & Inst. Code, § 730, subd (b), as repealed on July 1, 2021, & § 730, subd. (b), as operative on July 1, 2021.)

6) Authorizes the court to order the ward go to work and earn money for the support of the ward's dependents or to effect reparation and in either case that the ward keep an account of the ward's earnings and report the same to the probation officer and apply these earnings as directed by the court. (Welf. & Inst. Code, § 730, subd. (b), as repealed on July 1, 2021, & § 730, subd. (b), as operative on July 1, 2021.)

7) Authorizes, effective July 1, 2021, the court to order the ward to make restitution, pay a fine up to $250 for deposit in the county treasury if the court finds the minor has the financial ability to pay, or to participate in an uncompensated work program. (Welf. & Inst. Code, § 730, subd. (a)(1)(A), as operative on July 1, 2021.)

8) Requires the court, upon a minor being found a ward of the court, to order the minor to pay a restitution fine and restitution to the victim or victims, if any. (Welf. & Inst. Code, § 730.6, subd. (a)(2).)

9) Authorizes the board of supervisors of any county to impose a fee to cover the actual administrative cost of collecting the restitution fine, not to exceed 10 percent of the amount ordered to be paid, to be added to the restitution fine and included in the order of the court, the proceeds of which are required to be deposited in the general fund of the county. (Welf. & Inst. Code, § 730.6, subd. (q).)

This bill:

1) Prohibits a minor adjudged to be a ward of the court who is subject to an order of probation, with or without supervision of the probation officer, from remaining on probation for a period that exceeds six months, except as specified.

2) Provides that a court may extend the probation period for a period not to exceed six months after a noticed hearing and upon proof by a preponderance of the evidence that it is in the ward's best interest.

3) Requires the probation agency to submit a report to the court detailing the basis for any request to extend probation at the hearing.

4) Requires that the ward's attorney be given the opportunity to examine witnesses and present evidence at the probation review hearing.

5) Requires the court state the reasons for the findings orally on the record in cases in which the court finds by a preponderance of the evidence a basis for extending probation beyond the six-month period. Requires the court to set forth the reasons in an order entered upon the minutes if requested by either party or when the proceedings are not being recorded electronically or reported by a court reporter.

6) Requires, if the court extends probation, that the court schedule and hold a noticed hearing for the ward not less frequently than every six months for the remainder of the wardship period.

7) Requires the court, prior to terminating jurisdiction over a ward subject to an order for foster care placement, to comply with existing provisions of law related to terminating jurisdiction over those youth. Prohibits the requirement to comply with those provisions of law from being a basis for continuing an order of probation or the terms and conditions of such an order.

8) Provides that its provisions do not preclude termination of a ward's probation before the end of a six-month period.

9) Provides that it does not apply to any ward who is transferred from a secure youth treatment facility to a less restrictive program, as specified, and who is subject to any remaining baseline or modified baseline term until the ward is discharged pursuant to a probation discharge hearing, as described.

10) Requires that the conditions of probation ordered when a ward is placed on supervised or unsupervised probation meet all of the following requirements:

    a) The conditions are individually tailored, developmentally appropriate, and reasonable.

    b) The burden imposed by the conditions must be proportional to the legitimate interests served by the conditions.

    c) The conditions are determined by the court to be fitting and proper to the end that justice may be done and the reformation and rehabilitation of the ward enhanced.

11) Amends existing law that authorizes the court to order the ward to make restitution, to pay a fine up to $250 for deposit in the county treasury if the

court finds that the minor has the financial ability to pay the fine, or to participate in uncompensated work programs, and instead limits the court's authority to only order restitution.

12) Amends several provisions of law requiring the juvenile court to impose specific conditions of probation on a ward of the court and instead makes all of those conditions of probation discretionary.

13) Includes several legislative findings and declarations.

Background

Probation Generally

The juvenile court is authorized to place a minor declared to be a ward of the court on probation. Juvenile probation can theoretically continue as long as the juvenile court has jurisdiction over the ward. There is no statutorily required periodic review. (Welf. & Inst. Code, §§ 602, 607, 727, 730, subd. (b).)

Concerns about the use of juvenile probation were outlined in a recent report published by two of the bill's co-sponsors, the National Center for Youth Law and Haywood Burns Institute:

> Probation is the most common court ordered outcome imposed on youth in juvenile court in California. Too often, youth are placed on probation for an unspecified amount of time, while under the microscope of overly burdensome and confusing probation conditions. Conditions are rarely individualized—or realistic—and are ultimately impediments to healthy youth development and rehabilitation. Furthermore, available data show that probation is more frequently imposed on youth of color, and for longer periods of time. Together, these practices trap many young people in the legal system for their entire adolescence, lead to further use of detention, and cause far more harm than good. (National Center for Youth Law and W. Haywood Burns Institute, *Ending Endless Probation* (Mar. 2021), p. 2, citing The Annie E. Casey Foundation, *Transforming Juvenile Probation: A Vision for Getting it Right* (2018).)

The California Department of Justice reported that in 2019, almost 20,000 youth in California were placed on wardship probation. (Office of the Attorney General, California Department of Justice, *Juvenile Justice in California* (2019), p. 40, available at <https://data-openjustice.doj.ca.gov/sites/default/files/2020-06/Juvenile%20Justice%20In%20CA%202019.pdf .) The report included the percentage of each type of juvenile court disposition (e.g., wardship, informal

probation, dismissed, etc.) within each racial or ethnic category, and indicated that 51.2% of White youths were placed on wardship probation, 63.4% Hispanic youths were placed on wardship probation, 63.4% Black youths were placed on wardship probation, and 48.6% of youth identified as "Other" were placed on wardship probation. (*Id*. at p. 41.)

Probation Conditions

A juvenile court may impose on a minor on probation "any and all reasonable conditions that it may determine fitting and proper to the end that justice may be done and the reformation and rehabilitation of the ward enhanced." (Welf. & Inst. Code, § 730, subd. (b).) "A juvenile court enjoys broad discretion to fashion conditions of probation for the purpose of rehabilitation and may even impose a condition of probation that would be unconstitutional or otherwise improper so long as it is tailored to specifically meet the needs of the juvenile." (*In re Josh W.* (1997) 55 Cal.App.4th 1, 5; *In re Sheena K.* (2007) 40 Cal.4th 875, 889.)

In *People v. Lent* (1975) 15 Cal.3d 481, the California Supreme Court articulated the following test to determine whether a probation condition constitutes an abuse of discretion: "A condition of probation will not be held invalid unless it '(1) has no relationship to the crime of which the offender was convicted, (2) relates to conduct which is not in itself criminal, and (3) requires or forbids conduct which is not reasonably related to future criminality.'" (*Id*. at p. 486.) "This test is conjunctive—all three prongs must be satisfied before a reviewing court will invalidate a probation term." (*People v. Olguin* (2008) 45 Cal.4th 375, 379.) "As such, even if a condition of probation has no relationship to the crime of which a defendant was convicted and involves conduct that is not itself criminal, the condition is valid as long as the condition is reasonably related to preventing future criminality." (*Id*. at pp. 379-380.) The *Lent* test applies to juvenile probation conditions. (*In re P.O.* (2016) 246 Cal.App.4th 288, 294; *In re D.G.* (2010) 187 Cal.App.4th 47, 52.) In *In re Ricardo P.* (2019) 7 Cal.5th 1113, the California Supreme Court noted that "*Lent*'s requirement that a probation condition must be 'reasonably related to future criminality' contemplates a degree of proportionality between the burden imposed by a probation condition and the legitimate interests served by the condition." (*Id*. at p. 1122.)

The proponents of this bill argue that youth are "burdened with excessive and arbitrary probation conditions which, research has shown, harms their development and prospects for rehabilitation." (*Ending Endless Probation*, *supra*, at p. 5.) This bill requires conditions of probation for a ward to be individually tailored, developmentally appropriate, and reasonable. This bill additionally requires that

the burden imposed by those conditions is proportional to the legitimate interests served by the conditions.

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

SUPPORT: (Verified 8/4/22)

Alliance for Boys and Men of Color (co-source)
Communities United for Restorative Youth Justice (co-source)
National Center for Youth Law (co-source)
W. Haywood Burns Institute (co-source)
Young Women's Freedom Center (co-source)
Youth Justice Coalition (co-source)
ACLU California Action
Alianza for Youth Justice
California Alliance for Youth and Community Justice
California Attorneys for Criminal Justice
California Catholic Conference
California Coalition for Youth
California Public Defenders Association
CASA of Los Angeles
Ceres Policy Research
Children Now
Children's Defense Fund – California
Chispa
Commonweal Juvenile Justice Program
Community Agency for Resources Advocacy and Services
Community Works
County of San Diego
Courage California
Drug Policy Alliance
East Bay Community Law Center
Ella Baker Center for Human Rights
Empowering Pacific Islander Communities
Felony Murder Elimination Project
Freedom 4 Youth
Fresno Barrios Unidos
Human Rights Watch
Immigrant Legal Resource Center
Initiate Justice
John Burton Advocates for Youth

Khmer Girls in Action
Legal Services for Prisoners with Children
Monarch Services
National Association of Social Workers, California Chapter
National Institute for Criminal Justice Reform
National Juvenile Justice Network
Public Counsel
Reuniting Families Contra Costa
San Francisco Public Defender
San Mateo County Participatory Defense
Showing Up for Racial Justice Bay Area
Sigma Beta Xi, Inc.
Silicon Valley De-Bug
The Children's Initiative
Underground GRIT
Voices Youth Centers
Women's Foundation California
Youth Alive!
Youth Alliance
Youth Law Center

OPPOSITION: (Verified 8/4/22)

AFSCME Local 2703
AFSCME, AFL-CIO
Association of Orange County Deputy Sheriffs
Association of Probation Supervisors of Los Angeles County
California District Attorneys Association
Chief Probation Officers of California
Fraternal Order of Police, Southern California Probation, Lodge #702
Kern County Probation Officers Association
Los Angeles County Probation Officers Union, AFSCME Local 685
N. California Probation Lodge 19, California Fraternal Order of Police
Peace Officers' Research Association of California
Professional Managers Association, AFSCME Local 1967
Sacramento County Probation Association
San Diego County Probation Officers Association
San Joaquin County Probation Officers Association
San Luis Obispo County Probation Peace Officers Association
Santa Clara County Probation Peace Officers' Union, AFSCME Local 1587
Solano Probation Peace Officer Association

State Coalition of Probation Organizations
Ventura County Professional Peace Officers Association

ASSEMBLY FLOOR: 35-22, 4/12/21 (FAIL)
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bloom, Bonta, Calderon, Carrillo, Chiu, Cooley, Daly, Friedman, Gabriel, Cristina Garcia, Lorena Gonzalez, Grayson, Jones-Sawyer, Kalra, Lee, Levine, McCarty, Medina, Mullin, Nazarian, Quirk, Reyes, Luz Rivas, Robert Rivas, Santiago, Stone, Ting, Ward, Wicks, Wood, Rendon
NOES: Bigelow, Choi, Cooper, Cunningham, Megan Dahle, Davies, Flora, Fong, Frazier, Gallagher, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Salas, Seyarto, Smith, Valladares, Villapudua, Voepel
NO VOTE RECORDED: Arambula, Boerner Horvath, Burke, Cervantes, Chau, Chen, Eduardo Garcia, Gipson, Gray, Holden, Irwin, Low, Maienschein, Muratsuchi, O'Donnell, Petrie-Norris, Quirk-Silva, Ramos, Rodriguez, Blanca Rubio, Waldron

ASSEMBLY FLOOR: 41-22, 4/19/21
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bonta, Calderon, Carrillo, Chiu, Cooley, Daly, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Jones-Sawyer, Kalra, Lee, Levine, McCarty, Medina, Mullin, Nazarian, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cooper, Cunningham, Megan Dahle, Davies, Fong, Frazier, Gallagher, Gray, Kiley, Lackey, Mathis, Nguyen, Patterson, Salas, Seyarto, Smith, Valladares, Villapudua, Voepel
NO VOTE RECORDED: Arambula, Burke, Cervantes, Chau, Flora, Irwin, Low, Maienschein, Mayes, Muratsuchi, O'Donnell, Petrie-Norris, Ramos, Rodriguez, Blanca Rubio, Waldron

Prepared by: Stephanie Jordan / PUB. S. /
8/10/22 14:57:18

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

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

THIRD READING

Bill No: AB 522
Author: Fong (R)
Amended: 1/12/22 in Assembly
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 5-0, 6/28/22
AYES: Jones, Eggman, Grove, Hertzberg, Hueso
NO VOTE RECORDED: Stern, Allen, Limón, Skinner

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 59-4, 1/27/22 - See last page for vote

SUBJECT: Forestry: Forest Fire Prevention Exemption

SOURCE: Author

DIGEST: This bill extends the sunset of the Forest Fire Prevention timber harvest plan exemption from February 19, 2024 to January 1, 2026.

ANALYSIS:

Existing law:

1) Establishes the Z'berg-Nejedly Forest Practice Act of 1973 (Forest Practice Act), which prohibits a person from conducting timber operations unless a timber harvesting plan (THP) prepared by a registered professional forester (RPF) has been submitted to, and approved by, the Department of Forestry and Fire Protection (CalFire). A THP is the functional equivalent of an environmental impact report under the California Environmental Quality Act (CEQA).

2) Requires a THP to contain a description of the location of the planned harvest, the harvest method, measures to avoid excessive erosion, timeframe of

operations, and other information required by forest practice rules adopted by the Board of Forestry and Fire Protection (Board).

3) Authorizes the Board to exempt certain tree removal activities from the Forest Practice Act or portions of the Act, including Christmas tree farms; rights-of-way for utility lines; conversions of less than three acres; fire prevention; defensible space; small landowner fuel reduction; and, dead, dying, and diseased trees.

4) Requires a ministerial permit, called a Notice of Exemption (NOE), for certain exemptions from the Forest Practice Act, including the Forest Fire Prevention (FFP) exemption, which was revised and extended by SB 901 (Dodd, Chapter 626, Statutes of 2018). Under SB 901, the FFP exemption expires five years after the effective date of emergency regulations adopted by the Board (February 19, 2019) – so February 19, 2024.

5) Applies the FFP exemption to a person engaged in forest management whose activities are limited to the harvesting of trees to reduce the rate of fire spread, duration and intensity, fuel ignitability, or ignition of tree crowns. Limits harvesting to those trees that eliminate the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns.

6) Provides that the Board may authorize the FFP exemption *only* if certain requirements and conditions are met, including:

    a) The tree harvesting will decrease fuel continuity and increase the quadratic mean diameter of the stand.

    b) The tree harvesting area will not exceed 300 acres.

    c) The operations will occur within moderate, high, or very high fire threat zones.

    d) The project meets Board regulations and specified forestry standards.

    e) The project follows limitations on the size of trees that may be removed.

    f) The project follows rules for construction, reconstruction, and use of temporary roads, logging roads, and landings. This includes limitations on:

i) Temporary road construction or reconstruction of no more than two miles of road per ownership in a planning watershed per any five-year period. Each exemption is also subject to temporary road limits of 600 feet or less.
ii) Which trees may be removed for road construction or reconstruction.

g) A RPF prepares the NOE and submits it to the CalFire director. The NOE must include specified information and the RPF must designate and map the locations of temporary road locations, landing locations, tractor road crossings of class III watercourses,[1] unstable areas, or connected headwall swales on the ground.

h) The landowner must retain an RPF throughout the active timber operations to provide professional advice on the operations, including overseeing the construction or reconstruction of any temporary roads or landings, and advising on necessary mitigation to avoid potential impacts to associated watershed and forest resources.

7) Requires CalFire, after the timber operations are complete, to conduct an onsite inspection to determine compliance and the need to initiate enforcement action, if necessary.

8) Requires CalFire and the Board, in consultation with the Department of Fish and Wildlife and the State Water Resources Control Board, commencing December 31, 2019, and annually thereafter, to review and submit a report to the Legislature on trends in the use of, compliance with, and effectiveness of, THP exemptions and emergency notice provisions. Requires the report to include an analysis of exemption use and whether the exemptions are having the intended effect, and recommendations to improve the use of those exemptions and emergency notice provisions.

This bill extends the sunset of the Forest Fire Prevention timber harvest plan exemption from February 19, 2024 to January 1, 2026.

Background

In 2018, the Legislature passed SB 901, which was the product of a conference committee to address wildfire issues. SB 901 sought to establish a comprehensive

[1] Class III watercourses are perennial and intermittent streams that have no fish populations or fish habitat, but have sufficient flow or sediment and debris transport to directly influence downstream water quality or fish habitat capability.

framework to address and prevent catastrophic wildfires, including prevention and planning by the state's electric utilities, management of the state's forests, chaparral, and other lands to prevent and defend against wildfires, and standards to stabilize electric utilities in the event of extensive liability resulting from claims under inverse condemnation. SB 901 expanded timber harvest by exemption by adding, revising, and extending several wildfire-related THP exemptions, including the FFP exemption, which SB 901 amended to permit limited construction of temporary roads and harvest of larger diameter trees, as well as extending the exemption approximately three years, until February 19, 2024.

Comments

Use of the FPP exemption. According to CalFire, since the SB 901-revised FFP exemption become effective in February 2019, RPFs have submitted 186 notices of exemption. Of these, 179 were accepted, five were returned, and the filer(s) withdrew two. Based on the acreage provided in the notices of exemption, the use of this exemption since 2019 would have treated (or will treat) 15,867 acres.

According to the Board, the average exemption project is about 95 acres, with projects ranging in size from two acres to 299 acres, distributed throughout the Coast, Cascade, Sierra, and Southern Areas. Since the FFP exemption was adopted, it has been implemented most in the Coast and Cascade areas, with 46% submitted on the Coast, and 47% in the Cascades (5% in the Sierras and 2% in the Southern Area).

Twenty exemptions (or 13%) have proposed construction of temporary roads with lengths ranging from 30 to 600 feet, and averaging roughly 350 feet. Temporary road construction seems to be used in a minority of exemptions, and, when proposed, appears to be associated with exemption submissions of 80 acres and larger, especially on industrial ownerships, where pre-existing roads are more substantial.

The 300-acre harvest limit per exemption does not appear to limit the use of the FFP exemption. Over the three-year lifespan of the current exemption, only 17 exemptions have been submitted which were for 250 acres or larger. The exemption is effective for one year, which limits the feasibility of harvesting more than 300 acres under a single permit within the year, then treating (burning) the significant amount of slash within the allowed additional year. However, if a large landowner wished to harvest more than 300 acres, the landowner could propose multiple exemptions, concurrently or successively.

Enforcement actions. Existing law requires CalFire to conduct an onsite inspection after the timber operations are complete to determine compliance with the requirements of the FPP exemption and the need to initiate enforcement action, if necessary. According to CalFire, there have been at least 193 inspections since the SB 901-revised FFP exemption become effective in February 2019. CalFire identified 11 violations resulting from nine inspections relating to eight uses of the FFP exemption. The 11 violations occurred in relation to operations in Calaveras, El Dorado, Mendocino, Shasta, and Siskiyou counties associated with approximately 850 acres of treatment. CalFire issued notices of violation to licensed timber operators (LTOs) and RPFs, but the majority went to LTOs. Most of the violations were not correctable. CalFire has assessed administrative civil penalties for three of the violations, which have not yet reached resolution. The most common violation pertained to the selection and cutting of trees greater than 30" DBH (Diameter at Breast Height). Other violations included inadequate treatment of slash, inadequate or missing fire tools, and operations in watercourses and lake protection zones.

Does the FFP exemption need to be extended yet? The current FFP exemption is effective until February 19, 2024. While consideration of an extension is timely this year, it could also be passed in 2023, to take effect January 1, 2024, without interrupting use of the exemption.

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

SUPPORT: (Verified 7/29/22)

Association of California Water Agencies
California Association of Realtors
California Farm Bureau Federation
California Forestry Association
Forest Landowners of California
Personal Insurance Federation of California

OPPOSITION: (Verified 7/29/22)

Center for Biological Diversity
Sierra Club

ARGUMENTS IN SUPPORT: According to the author, "Wildfires burned millions of acres over the past few years. The Forest Fire Prevention Pilot Project Exemption has been a successful and essential program to help prevent wildfires. This private/public partnership helps California reach its goal of treating 500,000

acres of forestland each year by 2025 to save lives and homes. By extending this beneficial pilot program, the Legislature will show our commitment to wildfire prevention and forest resilience, empowering private landowners to engage in proactive forest management with the State, and reducing the environmental impact and risk of catastrophic wildfires."

ARGUMENTS IN OPPOSITION: According to the Center for Biological Diversity and the Sierra Club, "The Forest Fire Prevention Exemption is a Timber Harvest Plan (THP) exemption that allows trees to be removed without environmental review. THPs are intended to ensure that logging operations do not damage ecosystems, wildlife, or water quality. Without THPs, tree removal operations have the potential for substantial and extensive damage to forest ecosystems, wildlife habitat, soil stability and watershed integrity. For these reasons, our organizations opposed this exemption when it was originally passed by the legislature in SB 901 (Dodd, 2018)…"

"Protecting communities, improving forest ecosystems, and mitigating wildfires will take thoughtful, coordinated planning. THPs should be viewed as an integral part of this planning process that ensures forest projects do not have unintended and counterproductive consequences, rather than as impediments…"

"AB 522 would remove a critical process and point of review by which projects can be made more effective and unintended or unnecessary environmental impacts can be minimized. AB 522 runs counter to the purposes of effective community protection and environmental protection, with dangerous implications for both. We must respectfully oppose this bill."

ASSEMBLY FLOOR: 59-4, 1/27/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bigelow, Bloom, Bryan, Burke, Calderon, Cervantes, Choi, Cooper, Cunningham, Daly, Davies, Flora, Fong, Gallagher, Cristina Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kiley, Lackey, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Ting, Valladares, Villapudua, Voepel, Ward, Akilah Weber, Wood, Rendon
NOES: Boerner Horvath, Kalra, Stone, Wicks

NO VOTE RECORDED: Bennett, Berman, Mia Bonta, Carrillo, Chen, Cooley, Megan Dahle, Friedman, Gabriel, Eduardo Garcia, Lee, Mayes, Waldron

Prepared by: Catherine Baxter / N.R. & W. / (916) 651-4116
8/3/22 14:22:33

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

SENATE RULES COMMITTEE AB 524
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 524
Author: Rodriguez (D), et al.
Amended: 6/14/22 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 6/1/22
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, McGuire, Pan

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 64-0, 1/24/22 - See last page for vote

SUBJECT: Postsecondary education: Campus-Recognized Sorority and Fraternity Transparency Act

SOURCE: Author

DIGEST: This bill requires, beginning October 1, 2023, an institution of higher education to collect and post on its campus website and annually email to all enrolled students a report containing certain information about its campus-recognized sororities and fraternities.

ANALYSIS: Existing federal law requires, under Title IX and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), colleges and universities, as a condition of federal student aid program participation, to:

1) Publish annual campus security reports, maintain crime logs, and provide timely warnings of crimes that present a public safety risk, and maintain ongoing crime statistics.

2) Establish certain rights for victims of sexual assault, including notification to victims of legal rights, availability of counseling, the results of disciplinary proceedings, safety options for victims, and offering prevention and awareness programs. (United States Code (USC), Title 20 §1681-1688, and §1092(f))

Existing state law:

1) Requires the governing board of each community college district, the Trustees of the California State University (CSU), the Regents of the University of California (UC), and the governing boards of independent postsecondary education institutions receiving public funds for student financial assistance to require the appropriate officials at each campus to compile records of all occurrences reported to the campus of, and arrests for, crimes that are committed on campus that involve violence, hate violence, theft, destruction of property, illegal drugs, or alcohol intoxication. (Education Code (EC) § 67380)

2) Requires any report made by a victim or an employee regarding specified violent crimes, sexual assault, or a hate crime which is received by a campus security authority and has been made by the victim for purposes of notifying the institution or law enforcement, to be disclosed immediately, or as soon as practicably possible, to the local law enforcement agency with which the institution has a written agreement clarifying operational responsibilities for investigations. (EC § 67380)

3) Requires the governing board of each community college district, the Trustees of the CSU, the Board of Directors of the Hastings College of the Law, and the Regents of the UC to each adopt and implement at each campus or other facilities, a written procedure or protocol to ensure, to the fullest extent possible, that students, faculty and staff who are victims of sexual assault committed on grounds maintained by the institution or affiliated student organizations receive treatment and information. (EC § 67385)

4) Requests the Trustees of the CSU, the Regents of the UC, and the governing board of each community college district to adopt and publish policies on harassment, intimidation, and bullying to be included within the rules and regulations governing student behavior and, if the institution expends funds to support activities related to campus climate, as defined, to adopt and publish the above-described policies. (EC Section 66302)

This bill:

Campus Recognition Requirements

1) Requires each institution of higher education to include in the institution's requirements for campus recognition of each campus-recognized sorority or fraternity, both of the following requirements:

a) A requirement that the campus-recognized sorority or fraternity submit to the institution, for the specified academic year, by July 1, 2023, and annually thereafter, all of the following:

i) The number of active members in the organization.

ii) The number of new members added to the organization

iii) The grade point average (GPA) of the membership and new members of the campus-recognized sorority or fraternity.

iv) The number of community service hours completed as an organization.

v) The total amount of money earned through fundraising by the organization.

vi) Its current recognition status as determined by the institution.

vii) Its current conduct status as determined by the institution.

viii) The addresses of all chapter houses affiliated with the organization.

ix) The location, date, and time of any sanctioned event.

x) Any additional information the institution may require.

b) A requirement that campus-recognized sorority or fraternity that does not comply with reporting requirements be suspended from campus recognition.

2) Provides that a sorority or fraternity that satisfies both of the following is encouraged to comply with the reporting requirements in the bill:

a) The sorority or fraternity has more than 50 percent of its members enrolled at the institution.

b) The sorority or fraternity is not recognized as an affiliated sorority or fraternity of the institution by the official authorizing body of that institution.

Accessibility of the Report

3) Requires, beginning October 1, 2023, the institutions to compile and maintain, as specified, the information reported pursuant to the bill into a publicly accessible annual report published on each campus Greek Life internet homepage or its equivalent in a prominent location and that:

a) The report be sent through a campus-wide email to all enrolled students, as specified.

b) The report include a list of available mental health resources.

c) The report include the residence addresses of all campus-recognized sorority and fraternity chapter houses.

Reporting of Disciplinary Action

4) Requires an institution of higher education to include in the annual report the following for each campus recognized sorority and fraternity and participating sorority or fraternity for the academic year immediately preceding the reporting deadline:

a) The number of citations, or disciplinary actions taken, relating to misconduct at a chapter house or sanctioned event.

b) The addresses of chapter houses and sanctioned events and names of sororities and fraternities where misconduct occurred.

5) Exempts institutions that do not have campus-recognized sororities or fraternities from the requirements outlined in the analysis in 4) above.

Adherence to Privacy Laws

6) Requires, notwithstanding the bill's provisions, that the report comply with all applicable state and federal privacy laws, including, but not limited to, the federal Family Educational Rights and Privacy Act.

Definitions

7) Defines various terms for the purposes of this bill including all of the following:

a) "Campus-recognized sorority or fraternity" to mean a sorority or fraternity that has officially met the formal chartering and recognition requirements at the institution where it operates. The definition does not include a collegiate honor society.

b) "Chapter house" to mean any residence located on or off-campus that is owned by the institution of higher education but occupied by a campus-recognized sorority or fraternity, or any residence located on or off-campus that is owned and occupied by the campus-recognized sorority or fraternity.

c) "Institution of higher education" or "institution" to mean a campus of the California Community Colleges, the CSU, or the UC, a private

postsecondary educational institution, or an independent institution of higher education.

d) "Misconduct" to mean any conduct in violation of institutional policies reportable under section 1092 (f)(1)F(II) and (IX) of Title 20 of the USC, as it read January 1, 2022, or hazing as defined in subdivision (b) of Section 245.6 of the Penal Code.

e) "Participating sorority or fraternity" means a sorority or fraternity that has more than 50 percent of its members enrolled at an institution of higher education and is not recognized as an affiliated sorority or fraternity.

f) "Sanctioned event" to mean any event in which one of the following occurs:

   i) The institution deems the event to be sanctioned by a fraternity or sorority according to their campus policies and practices.

   ii) The name of a campus-recognized sorority or fraternity or participating sorority or fraternity is used to market or publicize or is displayed at the event.

   iii) A campus-recognized or participating sorority or fraternity's physical or digital media or other means of distribution is used to invite attendees or publicize the event.

   iv) Official funds of a campus-recognized or participating sorority or fraternity are used for the purchase and reimbursement of specified costs associated with the event.

   v) A campus-recognized or participating sorority or fraternity or a benefactor officially affiliated with the sorority or fraternity, receives any portion of funds raised from attendance fees, ticket sales, or other forms of admission fees associated with the event.

Comments

1) *Need for this bill.* According to the author, "Current law does not disaggregate information on individual organizations, including the violations, citations, or other misconduct. Throughout the country and state, a growing number of universities and colleges have voluntarily take on a scorecard system. These standardized reports allow students and their families to compare student organizations across their universities or colleges for membership honors and misconduct.

"As California colleges and universities continue to grapple with developing policies and procedures to protect students, data suggests more can be done to curb behavior related to assaults, sexual assaults, hazing and general misconduct. In the National Study of Hazing: Examining and Transforming Campus Hazing Cultures, the study found that 55 percent of students involved in clubs, teams and organizations experienced hazing. Misconduct jeopardize the health and safety of students and disrupt the learning environments in higher education institutions. Too many lives have been impacted by sexual violence and hazing at California colleges and universities. For example, a news outlet reported that one in five women are sexually assaulted in four years at school – and evidence suggests campus sexual violence is underreported. While progress has been made in curbing sexual violence and excessive drinking, there is still a culture on campuses and within some organizations, which must change. With more transparency, students and families can make informed decisions about the social and professional organizations they choose to invest time, resources, and personal safety into joining."

2) *Reporting disciplinary action.* This bill requires, for the proposed annual report, the inclusion of citations and disciplinary actions taken against each sorority or fraternity for misconduct that occurred at specific locations and information about that location. Specifically, citations and disciplinary actions for hazing or sex offenses and liquor law violations, drug-related violations, and weapons possession reportable under the federal Clery Act. The Clery Act requires colleges and universities that receive federal funding to disseminate a public annual security report to all current faculty, staff, and students. It includes statistics concerning reported crimes that occurred on campus, and in certain off-campus buildings. This bill would require a new report that would have several pieces of information that overlap with campus Clery reports. The proposed report, however, would solely feature the membership of sororities and fraternities and member misconduct at sanctioned events whether those events occur on or off-campus.

3) *Disclosure of non-criminal activity and student privacy.* In addition to the information mentioned above, fraternities and sororities would be required to provide other data as a condition for campus recognition. This includes, in part, community service hours completed by the organization, the average GPA of its membership, and the address of each chapter house. Student privacy laws generally prohibit the improper disclosure of personally identifiable information derived from education records.

4) *Sanctioned events*. Reporting activity that occurred at a sanctioned event as defined in this measure could have implementation challenges. This bill's provisions hold organizations and not the college responsible for submission of the location, date, and time of any sanctioned event for reporting purposes. Arguably, self-reported data is not reliable however, failure of the organization to comply with these provisions could result in its suspension.

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

SUPPORT: (Verified 6/20/22)

Students Against Sexual Assault

OPPOSITION: (Verified 6/20/22)

None received

ASSEMBLY FLOOR: 64-0, 1/24/22
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Cervantes, Choi, Cooley, Cunningham, Daly, Davies, Flora, Fong, Friedman, Gabriel, Cristina Garcia, Gipson, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Arambula, Mia Bonta, Carrillo, Chen, Cooper, Megan Dahle, Gallagher, Eduardo Garcia, Gray, Mayes, Voepel, Waldron

Prepared by: Olgalilia Ramirez / ED. / (916) 651-4105
6/22/22 14:42:18

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

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THIRD READING

Bill No: AB 551
Author: Rodriguez (D)
Amended: 6/28/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 6/1/22
AYES: Cortese, Ochoa Bogh, Durazo, Laird, Newman

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 54-13, 1/27/22 - See last page for vote

SUBJECT: Disability retirement: COVID-19: presumption

SOURCE: SEIU California

DIGEST: This bill extends the sunset date on the public pension disability retirement COVID-19 presumption established last year by AB 845 (Rodriguez, Chapter 122, Statutes of 2021), from January 1, 2023, to January 1, 2024.

Senate Floor Amendments of 6/28/22 change the bill's sunset date from January 1, 2025, to January 1, 2024.

ANALYSIS:

Existing law:

1) Provides a non-service connected (i.e., non-industrial) disability retirement for members of the California Public Employees' Retirement System (CalPERS) who meet service requirements and are incapacitated for the performance of duty, as specified. (Government Code § 21150 et seq.)

2) Authorizes a service-connected (i.e., industrial) disability retirement benefit for specified CalPERS members (usually safety members but also certain miscellaneous members) greater than the non-service disability benefit that also carries certain potential federal tax advantages. (GC §21151 et seq.)

3) Allows 37 Act county retirement systems to offer a non-service connected disability retirement to their members who are permanently incapacitated for the performance of their duties but not because of injury or disease arising out of their employment. (GC § 31725.8 et seq.)

4) Authorizes 37 Act county retirement systems to provide a service-connected disability retirement to their members who are permanently incapacitated for the performance of duty resulting from employment and upon meeting service requirements. (GC § 31720 et seq.)

5) Provides members of the California State Teachers' Retirement System (CalSTRS) who meet service requirements one of two forms of non-industrial disability retirement depending on when they became members. (Education Code §24001 et seq.; ED §24100 et seq.)

6) Requires members (or employers on behalf of the member) generally to apply for a disability retirement and show that their injury, whether industrial or not, prevents them from performing their job duties. (see e.g., ED § 24102 et seq.)

7) Creates various rebuttable presumptions whereby the pension system must presume that the member's specified condition or injury arose out of and in the course of employment. Such a presumption is significant in those systems that offer an industrial disability retirement benefit because it may qualify the member for the industrial retirement benefit (which may eliminate service requirements, provide a higher monthly pension benefit, and result in federal tax exemption treatment). However, the pension system can rebut the presumption with evidence that the injury did not arise from an employment-related event. (see e.g., GC § 31720.5 et seq.)

8) Requires a public retirement system to presume that the disability of a member who retires for disability on the basis, in whole or in part, of a COVID-19-related illness arose out of, or in the course of, the member's employment. (GC § 7523.1)

9) Allows evidence to the contrary to rebut the presumption described above but unless controverted, the presumption shall bind the applicable retirement system governing board. (GC § 7523.1)

10) Defines "COVID-19" to mean "the 2019 novel coronavirus disease". (GC § 7523)

11) Defines "Member" for purposes of the COVID-19 disability retirement presumption to mean a member of a public retirement system who meets either of the following:

    a) The member's job classification is either described in Labor Code (LC) Section 3212.87 (a) or is the functional equivalent of a job classification described in that subdivision.[1]

    b) The member's job classification is neither described in LC Section 3212.87(a) nor is the functional equivalent of a job classification described in LC Section 3212.87(a), but the member tests positive during an outbreak at the member's specific place of employment pursuant to definitions set forth in LC Section 3212.88 (m).[2] (GC § 7523)

12) Restricts the definition of "member" for purposes of the COVID-19 disability retirement presumption only to a member of a public retirement system subject to the Public Employees' Pension Reform Act of 2013 (PEPRA). (GC § 7523)

13) Provides that the COVID-19 rebuttable presumption provisions shall remain in effect only until January 1, 2023, and as of that date is repealed. (GC § 7523.2)

This bill extends the sunset date of the COVID-19 disability retirement presumption that was authorized by AB 845 (Rodriguez, Chapter 122, Statutes of 2021), from January 1, 2023, to January 1, 2024.

Background

AB 845 (Rodriguez, 2021) Disability Retirement COVID-19 Presumption

AB 845 established a COVID-19 rebuttable presumption until January 1, 2023, for public employee disability retirement. The bill was modeled after SB 1159 (Hill, Chapter 85, Statutes of 2020), which created a rebuttable presumption, until 2023, that illness or death related to COVID-19 is an occupational injury and therefore, such an injury qualifies the employee for workers' compensation benefits. AB 551

[1] LC § 3212.87 lists a wide array of positions frequently described as "first responders" that qualify for Workers' Compensation benefits from injury caused, as specified, by COVID-19, including many employees that are not eligible for industrial disability retirement benefits from a California public retirement system, although some may qualify for non-industrial disability retirement benefits.

[2] LC § 3212.88 establishes the specified COVID-19 Workers Compensation presumption for general employees who are not "first responders". LC § 3212.88(m) defines the terms "COVID-19", "test" or "testing", "specific place of employment", and "outbreak", as specified.

extends AB 845's sunset date so the COVID-19 presumption for public employee disability retirement will be effective until January 1, 2024.

Distinction between Disability Retirement Benefits and Workers Compensation

Workers compensation benefits arise out of *employment-related* injuries and provide qualified employees with medical, temporary compensation, permanent compensation, supplemental job displacement, and death benefits. Because receipt of workers compensation benefits hinges on the condition or injury arising from employment, a presumption that the condition or injury is job-related is very significant.

Although public pension systems generally have some form of *non-industrial* disability retirement benefit, not all public pension systems have *industrial disability* retirement benefits (i.e., for employment-related injury). For those that do, not all members are eligible for the industrial retirement benefits. Generally, industrial disability benefits are restricted to firefighters, peace officers, and other safety members although some related miscellaneous members are also statutorily eligible. For those members who *are* eligible, the presumption makes their application and eventual approval process easier. For those who are only eligible for *non-industrial* disability, a presumption that their condition or injury is employment-related is relatively irrelevant.

Disability benefits offered by public pension funds are generally not dependent on the injury being job-related. A member will receive a disability retirement benefit if the member meets specified service requirements (i.e., time in membership) and the injury prevents the member from performing the duties of the member's position. Thus, a presumption that the injury is employment-related is not determinative for receiving the disability benefit. *Some* members may be eligible for a better benefit or may not have to meet the service requirements if the injury is employment-related (i.e., an industrial disability). Statute specifies which member classifications are eligible for this industrial disability retirement benefit.

For members who are eligible, this bill's COVID-19 presumption would be beneficial because they would not have to prove their injury was job-related (unless the employer offered evidence that the injury was not COVID-19 related). For other members who are not eligible for industrial disability retirement benefits, the presumption cannot make them eligible.

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

SUPPORT: (Verified 6/21/22)

SEIU California (source)
Cal Fire Local 2881
California Association of Highway Patrolmen
California Federation of Teachers
California Professional Firefighters
California Retired Teachers Association
California State Teachers' Retirement System
California Teachers Association
Faculty Association of California Community Colleges

OPPOSITION: (Verified 6/21/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "The symptoms of COVID-19 itself has negatively impacted the long-term health of those who contract it. Front line workers infected on the job and who need to retire due to COVID-19 and COVID-19-related illnesses should be protected. AB 551 is needed because we are still seeing COVID-19 infections in the workplace, as front line workers should continue to be protected."

According to the sponsor, SEIU California, "We are just discovering the lingering disabling effects of "Long Haul" COVID-19 patients and AB 551 Rodriguez is necessary to protect workers should these effects prove so disabling the worker may not be able to return to work. Workers and their dependents who contract COVID in the workplace will be protected from having to fight for benefits they paid for and are entitled to under long standing pension law. It is only fair that we treat them accordingly when they fall ill from a workplace COVID injury."

ASSEMBLY FLOOR: 54-13, 1/27/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Cervantes, Cooley, Cooper, Cunningham, Daly, Friedman, Gabriel, Gallagher, Cristina Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Choi, Davies, Flora, Fong, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Voepel

NO VOTE RECORDED: Mia Bonta, Bryan, Carrillo, Chen, Megan Dahle, Eduardo Garcia, Mayes, O'Donnell, Waldron

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
6/29/22 23:28:52

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

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THIRD READING

Bill No: AB 558
Author: Nazarian (D), Kalra (D), Quirk-Silva (D) and Luz Rivas (D), et al.
Amended: 8/1/22 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 4-1, 6/22/22
AYES: Leyva, Glazer, McGuire, Pan
NOES: Dahle
NO VOTE RECORDED: Ochoa Bogh, Cortese

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 47-7, 1/27/22 - See last page for vote

SUBJECT: School meals: Child Nutrition Act of 2022

SOURCE: Factory Farming Awareness Coalition
Friends of the Earth
Social Compassion in Legislation

DIGEST: This bill requires the California Department of Education (CDE) to develop guidance for local educational agencies (LEAs) participating in the federal School Breakfast Program that maintain any of grades K-6 on how to serve eligible non-schoolaged children breakfast or a morning snack at an LEA schoolsite.

ANALYSIS:

Existing law:

1) Requires all of the following, beginning with the 2022–23 school year:

    a) A school district, charter schools, and county superintendent of schools maintaining any of grades K-12 to provide two school meals free of charge during each schoolday to any student who requests a meal, without consideration of the student's eligibility for a federally funded free or

reduced-price meal. Meals must be nutritiously adequate meals that qualify for federal reimbursement.

b) An LEA that has a reimbursable school breakfast program to not charge any student, and to provide a breakfast free of charge to any student who requests one, without consideration of the student's eligibility for a federally funded free or reduced-price meal. The meals provided free of charge pursuant to this paragraph shall be nutritiously adequate, and shall count toward the total of two school meals required to be provided each schoolday. (Education Code (EC) § 49501.5)

2) Prohibits an LEA from denying a meal to any free or reduced-price eligible students, and requires that these students receive the same meal as all other students. (EC § 49550 and § 49557)

This bill:

1) Requires CDE to develop guidance for LEAs participating in the federal School Breakfast Program that maintain any of grades K-6 on how to serve eligible non-schoolaged children breakfast or a morning snack at an LEA schoolsite.

2) Requires the guidance to highlight opportunities to maximize federal reimbursement through the federal School Breakfast Program and the federal Child and Adult Care Food Program.

3) Requires that a guardian of an eligible non-schoolaged child be present at the LEA schoolsite in order for the non-schoolaged child to receive breakfast or a morning snack at the schoolsite.

4) Requires the CDE to develop the guidance in a manner that does not jeopardize federal funding for school meal programs and that maximizes federal meal reimbursement.

5) Requires CDE to post the guidance on its website by July 1, 2023, and provides that CDE is not required to mail the guidance to LEA.

6) Provides that provisions related to this guidance does not require an LEA to take any action.

7) Requires CDE to evaluate the guidance and the impact of the guidance on LEA breakfast programs, and requires CDE to submit the evaluation to the Legislature by January 1, 2025.

8) Requires an LEA that chooses to implement the CDE guidance to submit to CDE specified information and any other relevant information CDE requires in a manner determined by CDE.

9) Defines:

   a) "Eligible non-schoolaged child" to mean a child who is not enrolled in school and who is a sibling, half sibling, or stepsibling of, or a foster child residing with, a student who meets the federal eligibility criteria for a free or reduced-price breakfast at an LEA participating in the federal School Breakfast Program that maintains any of grades K-6.

   b) "Guardian" to mean a parent, stepparent, grandparent, or other adult family member or caretaker who is caring for an eligible non-schoolaged child.

   c) "Local educational agency" to mean a school district, county office of education, or charter school.

10) States findings and declarations relative to the benefits to children who eat breakfast.

Comments

Need for this bill. According to the author, "Hunger among children is known to have significant short and long-term repercussions. In the short term, a child experiencing hunger is less likely to be able to focus in school, avert school disciplinary action, or participate in extra-curricular activities. In the long-term, childhood hunger increases the likelihood that the child will experience developmental delays, cognitive deficiencies, and adult auto-immune diseases that are both costly and painful.

"There is no federal prohibition to serving younger siblings of school-age children a morning snack through the Child and Adult Care Food Program at the same time and location as school-aged children receive their federally reimbursed school breakfast program. Ultimately, school districts need the appropriate resources and guidelines to ensure that siblings of enrolled students who qualify for the free or reduced lunch program will continue to receive the food security that they are already receiving due to the federal waiver signed in 2020.

"This bill will require the CDE to issue instructions to school districts participating in the Child and Adult Care Food Program on how to serve eligible nonschoolaged children breakfast or a morning snack at a school site."

Feeding siblings. This bill requires the CDE to issue guidance about how a school district, COE, or charter school could voluntarily serve younger siblings a federally reimbursable meal at a school site that their older sibling attends. Currently, schools may operate the School Breakfast Program, as well as the Child and Adult Care Food Program (CACFP), which allows but does not require younger, non-schoolage children to be served. Schools may serve younger, non-schoolage children through the CACFP at the same time and location as serving schoolage children through the School Breakfast Program. Until July 1, 2022, schools were authorized, through federal waivers, to serve meals to anyone under the age of 18; the federal waivers that allowed this expired on June 30, 2022.

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

SUPPORT: (Verified 8/9/22)

Factory Farming Awareness Coalition (co-source)
Friends of the Earth (co-source)
Social Compassion in Legislation (co-source)
California Cattlemen's Association
California Farm Bureau Federation
California Poultry Federation
Dairy Institute of California
Physicians Committee for Responsible Medicine
Teamsters Public Affairs Council
Western United Dairymen

OPPOSITION: (Verified 8/9/22)

None received

ASSEMBLY FLOOR: 47-7, 1/27/22
AYES: Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Cervantes, Friedman, Gabriel, Cristina Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Voepel, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Flora, Gallagher, Mathis, Patterson, Seyarto, Smith
NO VOTE RECORDED: Aguiar-Curry, Mia Bonta, Carrillo, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Fong, Eduardo Garcia,

Kiley, Lackey, Mayes, Nguyen, Quirk, Blanca Rubio, Valladares, Villapudua, Waldron

Prepared by: Lynn Lorber / ED. / (916) 651-4105
8/10/22 14:12:37

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

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

THIRD READING

Bill No: AB 631
Author: Bloom (D)
Amended: 6/29/22 in Senate
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 14-0, 6/14/22
AYES: Dodd, Nielsen, Allen, Becker, Borgeas, Bradford, Hertzberg, Hueso, Jones, Kamlager, Melendez, Portantino, Roth, Wilk
NO VOTE RECORDED: Glazer

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 1/31/22 - See last page for vote

SUBJECT: Alcoholic beverage control: licenses: nonprofit cultural film exhibition companies

SOURCE: Author

DIGEST: This bill authorizes the Department of Alcoholic Beverage Control (ABC) to issue a special on-sale general license to a nonprofit cultural film exhibition company, as defined.

ANALYSIS:

Existing law:

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

2) Establishes various alcoholic beverage license categories and a schedule of annual fees charged to the licensees.

3) Authorizes the Department of ABC to issue a special on-sale general license to any nonprofit theater company. A theater company holding such a license may sell and serve alcoholic beverages to ticket holders only during, and two hours prior, and one hour after a bona fide theater performance of the company.

4) Authorizes the Department of ABC to issue a special on-sale general license to Saint Joseph's Church in San Francisco.

5) Authorizes the Department of ABC to issue a special on-sale general license to the Hollywood Forever Cemetery.

6) Defines an "on-sale" license as authorizing the sale of all types of alcoholic beverages: namely, beer, wine and distilled spirits, for consumption on the premises (such as at a restaurant or bar). An "off-sale" license authorizes the sale of all types of alcoholic beverages for consumption off the premises in original, sealed containers.

This bill:

1) Authorizes the Department of ABC to issue a special on-sale general license to a nonprofit cultural film exhibition company.

2) Defines a "nonprofit cultural film exhibition company" to mean a company that predominantly exhibits classic, foreign, independent, or rare movies by means of digital or film projection equipment for its members or the general public, or both, in a theater with a seating capacity of at least 100 seats, at least three days a week.

3) Provides that nonprofit cultural film exhibition companies may sell and serve alcoholic beverages to ticketholders only during, and two hours before and one hour after, a bona fide film exhibition of the company.

4) Exempts nonprofit cultural film exhibition companies from the definition of "public premises" in current law.

Background

Purpose of this bill. According to the author's office, "AB 631 would extend the existing exemption to allow nonprofit cultural film exhibition companies in California to serve alcoholic beverages. The sale of alcoholic beverages can provide significant revenue stream for nonprofit cinemas, who are often dependent on ticket and concession sales to fund their operations. The arts community in its entirely, but specifically nonprofit cultural film exhibition companies, have taken a huge hit financially since the start of the pandemic. Being able to make up some of that lost revenue by way of the sale of alcoholic beverages can help these cinemas be successful upon reopening. Ultimately, this will increase attendance and enhance the audience's overall experience."

Current Authorization. Under current law, the Department of ABC is authorized to issue a special on-sale general license, (Type 64), to any nonprofit theater company to provide alcoholic beverages to its patrons under specified requirements. A licensed nonprofit theater company may only sell and serve alcoholic beverages to ticketholders during, and two hours prior to and one hour after, a bona fide theater performance of the company. There are currently approximately 122 Type 64 licenses in California.

Currently, there is no alcohol license for "nonprofit cultural film exhibition companies" in California. Any film exhibition company that wants to apply for a beer and wine license or a full liquor license has to meet restaurant style requirements for substantial food service. Food service requirements are often difficult to meet for art-house theaters in historic venues that weren't designed to accommodate kitchen and food storage areas with appliances such as refrigerators and ovens.

This bill would authorize the Department of ABC to issue a special on-sale general license to a "nonprofit cultural film exhibition company." After obtaining a license, the licensee would be able to serve alcoholic beverages to ticketholders only during, and two hours before and one hour after, a bona fide film exhibition of the company.

Related/Prior Legislation

SB 1370 (Pan, 2022) authorizes the Department of ABC to issue a special on-sale license to a nonprofit radio broadcasting company that would allow the licensee to

sell and serve alcoholic beverages to ticketholders, as specified. (Pending on the Assembly Floor)

AB 1370 (Chiu, Chapter 191, Statutes of 2019) authorized the Department of ABC to issue a special on-sale general license to Saint Joseph's Church in San Francisco.

AB 1217 (Santiago, Chapter 474, Statutes of 2018) authorized the Department of ABC to issue a special on-sale general license to the Hollywood Forever Cemetery.

AB 1670 (Dodd, Chapter 347, Statutes of 2016), among other things, authorized the Department of ABC to issue a special on-sale general license to the operator of any for-profit theater located within the County of Napa (Uptown Theater).

AB 525 (Ting, Chapter 235, Statutes of 2013) created a new special on-sale general license in the ABC Act that enabled the operator of any for-profit theater, as specified, to serve alcoholic beverages during certain hours in specified areas of the theater.

AB 2793 (Governmental Organization Committee, Chapter 273, Statutes of 2010), among other things, authorized a licensed winegrower to serve on the board of trustees of a nonprofit theater company operating a theater in the City of Livermore, as specified. Also, authorized the Department of ABC to issue a club license to nonprofit lawn bowling clubs that do not discriminate or restrict membership, as specified.

AB 23 (Ma, Chapter 23, Statutes of 2008) allowed those licensees operating a cabaret theater to admit persons under 21 years of age to theater performances at any time, provided that alcoholic beverages are not sold, served, or consumed on the premises during those performances.

AB 1429 (Governmental Organization, Chapter 567, Statutes of 2001), among other things, deleted the requirement that a nonprofit theater company must be in existence for at least ten years in order for ABC to issue a special on-sale general license.

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

According to the Senate Appropriations Committee, staff notes that the Department of ABC's activities are funded by regulatory and license fees and generally the department does not receive support from the General Fund. New

legislative mandates, although modest in scope, may in totality create new cost pressures and impact the department's operating costs and future budget requests.

SUPPORT: (Verified 6/27/22)

American Cinematheque
Vidiots Foundation

OPPOSITION: (Verified 6/27/22)

Alcohol Justice
California Alcohol Policy Alliance

ARGUMENTS IN SUPPORT: According to American Cinematheque, "we looked into the possibility of applying for an alcoholic beverage license for our Aero Theatre location in Santa Monica as a means of generating additional revenue and adding to the movie-going experience for our customers. Unfortunately, the substantial food service requirement to qualify for a liquor license under current California law is extremely difficult if not impossible to meet for many nonprofit cinemas. We are hoping the current amendment will pass to allow nonprofit cultural film exhibition organizations in California to be covered as well under this exemption, which would provide a much-needed boost to our revenue and allow us to continue presenting unique and diverse film programs to our audiences."

ARGUMENTS IN OPPOSITION: According to Alcohol Justice, "according to the Center for Disease Control, California already suffers more annual alcohol-related harm than any other state: over 10,500 alcohol-related deaths, $35 billion in total costs, $14.5 billion in state costs. If California is ever going to reduce this grisly toll, it has to encourage socially responsible business practices that do not harm the public. Allowing businesses other than bars, restaurants, breweries, distilleries, and wineries, to sell alcohol to remain profitable takes us in the opposite direction."

ASSEMBLY FLOOR: 76-0, 1/31/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca

Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
6/29/22 23:28:53

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

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

THIRD READING

Bill No: AB 649
Author: Bennett (D), et al.
Amended: 3/11/21 in Assembly
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 4-0, 6/1/22
AYES: Wieckowski, Cortese, Gonzalez, Skinner
NO VOTE RECORDED: Bates, Dahle, Stern

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-0, 1/27/22 (Consent) - See last page for vote

SUBJECT: Department of Resources Recycling and Recovery: Office of Environmental Justice and Tribal Relations

SOURCE: Author

DIGEST: This bill establishes the Office of Environmental Justice and Tribal Relations within the Department of Resources Recycling and Recovery (CalRecycle).

ANALYSIS:

Existing law:

1) Establishes CalRecycle within the California Environmental Protection Agency to administer and oversee the Integrated Waste Management Act, the Beverage Container Recycling and Litter Reduction Act, and related laws pertaining to solid waste management.

2) Requires the Office of Environmental Health Hazard Assessment (OEHAA) to develop and update the California Communities Environmental Health Screening Tool (CalEnviroScreen), the state's tool to help identify communities that are disproportionately impacted by multiple sources of

pollution.

3) Establishes the Environmental Justice Task Force within CalEPA to coordinate the compliance and enforcement efforts of the boards, departments, and offices under CalEPA. The goals of the Task Force are:

   a) Increase compliance in areas disproportionately impacted by health and environmental factors to prevent and reduce burdens on those communities by targeting compliance assistance and enforcement in those areas.

   b) Identify disproportionately impacted areas for targeted compliance assistance and enforcement efforts using CalEnviroScreen and other information.

   c) Provide communities with meaningful opportunities for input on potential environmental justice concerns and the implementation of proposed remedies.

   d) Increase coordination among CalEPA boards and departments with local, state, and federal regulatory and law enforcement agencies to facilitate compliance and enforcement efforts across all media (i.e. air, water, toxics, solid waste, and pesticides) in disproportionately impacted areas.

This bill establishes the Office of Environmental Justice and Tribal Relations (Office) within CalRecycle. Duties of the Office include, but are not limited to:

1) Ensuring that CalRecycle's programs effectively address the needs of disadvantaged communities, low-income communities, California Native American tribes, and farmworkers.

2) Providing an evaluation of a range of strategic, scientific, technological, regulatory, and economic issues for CalRecycle related to environmental justice and tribal relations.

3) Integrating environmental justice considerations into department programs, policies, and initiatives.

4) Lessening the environmental impacts on communities disproportionately burdened by environmental harm and risks.

5) Addressing environmental justice by ensuring meaningful involvement of disproportionately burdened communities in CalRecycle decisionmaking, building capacity to address environmental impacts in disproportionately burdened communities, and promoting collaborative problem solving for issues involving environmental justice.

6) Strengthening partnerships with other governmental agencies at the federal, city, county, and tribal level regarding environmental justice issues.

7) Enhancing research and assessment approaches related to environmental justice.

8) Collaborating with impacted communities and governmental agencies to promote equitable data collection regarding environmental burdens.

9) Improving access to technical resources for disadvantaged communities.

10) Enhancing protections for vulnerable communities.

Background

1) *Environmental Justice in California.* Since 1999, the Legislature has enacted several laws to advance consideration of environmental justice; as defined in state law, environmental justice means the fair treatment of people of all races, cultures, incomes, and national origins, with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies. SB 115 (Solis, Chapter 690, Statutes of 1999) designated the Governor's Office of Planning and Research (OPR) as the lead state agency on environmental justice matters. Subsequently, AB 1553 (Keeley, Chapter 762, Statutes of 2001) required OPR to adopt recommendations in its general plan guidelines that local governments may use to address environmental justice issues. Recognizing the importance of local planning in environmental justice issues, SB 244 (Wolk, Chapter 513, Statutes of 2011) required consideration of specific water, wastewater, and fire protection needs for disadvantaged communities in general plans as well as in some proceedings that determine local government boundaries. SB 535 (de León, Chapter 830, Statutes of 2012) provided that 25% of the revenue from the state's "cap-and-trade" program for greenhouse gas emissions must benefit disadvantaged communities, as identified by the California Environmental Protection Agency (CalEPA), based on geographic, socioeconomic, public health, and

environmental hazard criteria. SB 1000 (Leyva, Chapter 587, Statutes of 2016) requires cities and counties to address environmental justice in their general plans, by either adopting a separate environmental justice element or to integrate environmental justice goals, policies, and objectives into their general plans.

One of the leading factors behind the disparity in environmental impacts across California is the degree to which communities can access government services and advocate for their needs. Due to their economic status, many environmental justice communities have been unable to garner the attention of state policy makers at the same level as their richer neighbors. Due to the lack of engagement with environmental justice communities, too frequently, local planners opted to site environmentally damaging facilities in these communities. An overwhelming number of California's waste disposal sites, heavy manufacturing facilities, and trade corridors are in close proximity with environmental justice communities. This in turn, degrades the quality of life in these areas and exposes local residents to greater risks of health impacts stemming from pollution and other environmental hazards.

2) *CalRecycle's Environmental Justice Program.* The purpose of the Environmental Justice Program is to ensure environmental justice concepts, values, and objectives are thoroughly implemented within CalRecycle's programmatic activities. Through its program, CalRecycle addresses the different communication, environmental health, and economic needs within the state, including those of Native Americans and disadvantaged communities. To that end, the program has identified the following objectives:

- Increase protection of public health and safety, and the environment, within disadvantaged communities.
- Expand CalRecycle's awareness of, and services to, Californian's varied cultures.
- Address language barriers to best serve communities.
- Ensure CalRecycle's vision for solid waste recycling infrastructure includes minimizing negative impacts to disadvantaged communities.
- Increase community knowledge and capacity through environment-based education.
- Highlight each person's responsibility to preserve the earth's natural and cultural resources and to protect equal access, rights, and enjoyment for future generations.

- Advance opportunities for community members to participate in the decision-making process, so they have a say in decisions that affect their well-being.
- Ensure Environmental Justice interests are prioritized in CalRecycle grant funding decisions and other economic opportunities.
- Continue research that promotes healthier lives and communities.

3) *Tribal Consultations*. CalEPA and some of its boards, departments, and offices have established tribal consultation protocols in an effort to improve their communication and working relationships with California Native American tribes. CalEPA's first tribal consultation policy was adopted in 2009, and was later followed by its tribal consultation protocol in 2020. The protocol is intended to provide guidance to CalEPA and its boards, departments, and offices when conducting government-to-government consultations and engaging with California Native American tribes. The State Water Resources Control Board (State Water Board), the Department of Pesticide Regulation, California Air Resources Board, DTSC, and OEHHA have also adopted tribal consultation policies. According to the CalEPA website, CalRecycle is in the process of developing a tribal consultation policy.

   The CalEPA Tribal Advisory Committee (TAC) was established in 2010 to discuss environmental issues and projects involving California Native American Tribes. The TAC includes representatives from federally-recognized and non-federally recognized California Native American Tribes. The TAC meets with the Secretary of CalEPA, the directors of each CalEPA Board, Department, and Office, at least quarterly.

Comments

1) *Purpose of Bill.* According to the author, "Environmental justice is an important perspective that needs to be a part of any solution on climate change, recycling, or any other environmental issue. The needs of communities of color and tribal communities are unique and are often overlooked by decision makers. AB 649 will ensure that the needs and concerns of those that are disproportionately affected have a voice in the decision making process."

2) *Need for the bill*. CalRecycle administers and provides oversight for all of California's state-managed non-hazardous waste handling and recycling programs such as the California Beverage Container Recycling and Litter Reduction plan, electronic-waste recycling, organics management, used tires, used motor oil, paint, carpet, mattresses, construction and demolition debris,

medical sharps waste, and food-scrap composting. While the Office of Environmental Justice and Tribal Relations may overlap with some of the objectives of the existing Environmental Justice Program, according to the author, the new office will help add much needed attention directly to tribes and tribal relations. According to the author, tribal land is often used to host environmentally-harmful projects. The office will help ensure that CalRecycle is incorporating tribal communities' needs and concerns when implementing future projects.

Creating an Office of Environmental Justice and Tribal Relations will strengthen the Environmental Justice Program in the administration of its programs. The bill will help CalRecycle continue to administer these programs in a way that will not disproportionately impact disadvantaged communities, including the implementation of SB 1383 regulations, which will require new facilities to manage the state's organic waste stream.

Related/Prior Legislation

AB 1001 (C. Garcia, 2022) amends the California Environmental Quality Act (CEQA) to require mitigation to compensate for adverse air quality impacts on disadvantaged communities and requires all public agencies, in implementing CEQA, to give consideration to the principles of environmental justice by ensuring the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins. AB 1001 has been referred to the Senate Environmental Quality Committee.

AB 2108 (R. Rivas, 2022) requires one member of the State Water Board and one member of each Regional Water Quality Control Board to have a proven history of advocating for the environmental justice or tribal rights of communities, and requires the State Water Board and regional water boards to take various actions to address environmental justice and racial equity in their planning and permitting processes.

AB 345 (Muratsuchi, 2020) would have created an environmental justice program within the Natural Resources Agency to identify and address any gaps in existing programs, policies, or activities that may impede the achievement of environmental justice. AB 345 would have also required the Geologic Energy Management Division to adopt regulations to establish a minimum setback distance between oil and gas production and related operations activities and sensitive receptors. AB 345 failed passage out of the Senate Natural Resources and Water Committee.

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

SUPPORT: (Verified 8/1/22)

California Catholic Conference
California Environmental Justice Alliance Action
California Environmental Voters
Californians Against Waste
City of Los Angeles
Northern California Recycling Association

OPPOSITION: (Verified 8/1/22)

None received

ASSEMBLY FLOOR: 61-0, 1/27/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Cervantes, Choi, Cooley, Cooper, Cunningham, Daly, Davies, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Gipson, Grayson, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Ward, Wicks, Wood, Rendon
NO VOTE RECORDED: Mia Bonta, Carrillo, Chen, Megan Dahle, Flora, Eduardo Garcia, Gray, Irwin, Maienschein, Mayes, Blanca Rubio, Villapudua, Voepel, Waldron, Akilah Weber

Prepared by: Genevieve M. Wong / E.Q. / (916) 651-4108
8/3/22 14:22:34

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

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

THIRD READING

Bill No: AB 657
Author: Cooper (D)
Amended: 8/1/22 in Senate
Vote: 21

PRIOR VOTES NOT RELEVANT

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 10-4, 6/27/22
AYES: Roth, Archuleta, Becker, Dodd, Eggman, Hurtado, Leyva, Min, Newman, Pan
NOES: Melendez, Bates, Jones, Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Healing arts: expedited licensure process: applicants providing abortions

SOURCE: American College of Obstetricians and Gynecologists – District IX

DIGEST: This bill requires the Medical Board of California (MBC), the Osteopathic Medical Board of California (OMBC), the Board of Registered Nursing (BRN), and the Physician Assistant Board (PAB) to expedite the licensure process for an applicant who demonstrates that they intend to provide abortions.

ANALYSIS:

Existing law:

1) Establishes various practice acts in the Business and Professions Code (BPC) governed by various boards within the Department of Consumer Affairs (DCA) which provide for the licensing and regulation of health care professionals including: physicians and surgeons (under the Medical Practice Act); osteopathic physicians and surgeons (under the Osteopathic Medical Practice Act); nurse practitioners (NPs) and certified nurse-midwives (CNMs) (under the Nursing Practice Act); and physician assistants (PA) (under the Physician

Assistant Practice Act). (Business and Professions Code (BPC) §§ 2000 et seq.; 2099.5 et seq.; 2700 et seq.; 3500 et seq.)

2) Establishes the Reproductive Privacy Act, which finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions, and states that it is the public policy of the State of California that:

   a) Every individual has the fundamental right to choose or refuse birth control;

   b) Every woman has the fundamental right to choose to bear a child or to choose and to obtain an abortion, except as specifically limited by law; and,

   c) The state cannot deny or interfere with a woman's fundamental right to choose to bear a child or to choose to obtain an abortion, except as specifically permitted by law. (Health and Safety Code (HSC) § 123462)

3) Defines the following for purposes of the Reproductive Privacy Act:

   a) "Abortion" means any medical treatment intended to induce the termination of a pregnancy except for the purpose of producing a live birth;

   b) "Pregnancy" means the human reproductive process, beginning with the implantation of an embryo;

   c) "State" means the State of California, and every county, city, town and municipal corporation, and quasi-municipal corporation in the state; and,

   d) "Viability" means the point in a pregnancy when, in the good faith medical judgment of a physician, on the particular facts of the case before that physician, there is a reasonable likelihood of the fetus' sustained survival outside the uterus without the application of extraordinary medical measures. (HSC § 123464)

4) Provides that the State may not deny or interfere with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the woman. (HSC § 123466)

5) Provides that failure to comply with the Reproductive Privacy Act in performing, assisting, procuring or aiding, abetting, attempting, agreeing or offering to procure an illegal abortion constitutes unprofessional conduct. (BPC § 2253(a))

6) Requires all DCA boards to expedite and assist the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant has served as an active duty member of the Armed Forces of the United States and was honorably discharged, or is the spouse or domestic partner of an active duty member of the Armed Forces who is currently assigned to a duty station in California under official active duty military orders and if the spouse or domestic partner holds a current license another state, district, or territory of the United States in the profession or vocation for which the applicant seeks a license. (BPC §§ 115.4; 115.5)

7) Requires all DCA boards to expedite and assist the initial licensure process for an applicant who supplies satisfactory evidence to the board that they have been admitted to the United States as a refugee under Section 1157 of Title 8 of the United States Code, have been granted asylum by the Secretary of Homeland Security or the Attorney General of the United States pursuant to Section 1158 of Title 8 of the United States Code, or they have a special immigrant visa (SIV) that has been granted a status under Section 1244 of Public Law 110-181, under Public Law 109-163, or under Section 602(b) of Title VI of Division F of Public Law 111-8. (BPC § 135.4)

8) Requires the MBC to develop a process to give priority review status to the application of an applicant for a physician and surgeon's certificate who can demonstrate that he or she intends to practice in a medically underserved area or serve a medically underserved population. (BPC § 2092)

This bill:

1) Requires the MBC, the OMBC, the BRN, and the PAB to expedite the licensure process for an applicant who demonstrates that they intend to provide abortions, within the scope of practice of their license.

2) Specifies that an applicant demonstrate their intent to provide abortion services by providing documentation, including a letter from an employer or health care entity indicating that the applicant has accepted employment or entered into a contract to provide abortions, the applicant's starting date, and the location where the applicant will be providing abortions, and that the applicant will be providing abortion services within the scope of practice of their license.

3) Specifies that nothing in this section shall be construed as changing existing licensure requirements. Requires an applicant applying for expedited licensure to meet all applicable statutory and regulatory licensure requirements.

4) States several finding and declarations regarding the need to expand abortion care in California.

Background

Reproductive Privacy Act. The Reproductive Privacy Act codified the constitutional principles of *Roe v. Wade* and replaced in its entirety the Therapeutic Abortion Act. In 1967, Governor Ronald Reagan signed the Therapeutic Abortion Act, which expanded legal abortion in California under very restrictive criteria. Most of those restrictions were subsequently ruled unconstitutional in the 1972 California Supreme Court case, *People v. Barksdale* (1972) 8 Cal.3d 320, 105 Cal.Rptr 1. The United States Supreme Court issued its landmark *Roe v. Wade* (1973) 410 U.S. 959, 35 L.Ed.2d 694, and *Doe v. Bolton*, decisions in 1973, which invalidated two of the three remaining provisions of the Therapeutic Abortion Act.

Although *Roe* and *Barksdale* rendered much of the Therapeutic Abortion Act obsolete, the Therapeutic Abortion Act itself was not repealed by the Legislature until 2003, pursuant to SB 1301 (Kuehl, Chapter 385, Statutes of 2002), the Reproductive Privacy Act. One rationale for the passage of this Act was the concern that the United States Supreme Court may overturn *Roe v. Wade*, and it would, therefore, be important to have a state law which would protect reproductive rights in the State of California. The Reproductive Privacy Act expressly granted every woman in California with the fundamental right to choose to bear a child or to choose and to obtain an abortion. Under the Reproductive Privacy Act, the state may not deny or interfere with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the woman.

The Supreme Court ruled to overturn *Roe* in *the Dobbs v. Jackson Women's Health Organization* decision on June 24, 2022, but even prior to this controversial ruling, recent judicial action in the United States cast uncertainty on the security of the protections memorialized in *Roe*. In 2021, the Texas Legislature passed Senate Bill 8, referred to as the Texas Heartbeat Act. This bill criminalized abortion after the detection of embryonic or fetal cardiac activity, essentially banning abortion after approximately six weeks. The constitutionality of this bill was challenged in *Whole Woman's Health v. Jackson*, which sought to enforce the *Roe* precedent and overturn SB 8. However, the Court declined to enjoin the law, which many pro-choice advocates viewed as portents of the recent decision by the Court to overturn the protections outlined in *Roe*. Now with *Roe* overturned by the Court, protections for reproductive rights must be decided solely by the states.

Since the overturning of *Roe*, 14 states now have full or six-week abortion bans in place, two states have 15 or 18 week gestational limits for abortion (Florida and Utah), and three states (Idaho, Indiana, and Tennessee) are expected to ban abortion in the near future. Bans on abortion have been temporarily blocked in five states. Abortion is still tentatively legal in seven states, and legally protected in 21 states (including California) and the District of Columbia. In most states where abortion is banned, performing an abortion is considered a punishable felony, where health practitioners may be sued or fined, lose their license, and potentially face imprisonment.

MBC, OMBC, BRN, and PAB Licensing. Each board has their own procedures to issue licensees or certificates within their respective professions. However, each board generally requires a multi-step examination or proof of competency process. Documentation that an applicant meets all criteria must be sent to each board, which includes educational records, examination scores, application questionnaires, personal information, and information required for relevant background checks. Many boards note that a significant portion of initial applications are found to be deficient or incomplete and need to be sent back to the applicant for revision. Many boards may require applicants to obtain fingerprint criminal record checks Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI). Boards may also query the National Practitioner Databank (NPDB), a confidential information clearinghouse created by Congress to improve health care quality, protect the public, and reduce health care fraud and abuse in the U.S., for certain applicants with issues of concern disclosed on the application or during the application process as well as applicants who disclose that he or she holds a license in another state, territory or province. The MBC and OMBC also query all applicants in the Federation of State Medical Boards (FSMB) database, which contains a record of disciplinary actions taken by other states and jurisdictions, as well as any inappropriate behavior in another state or jurisdiction during an examination. Reciprocity or license endorsement requirements for applicants from other states vary between boards.

Expedited and Priority Licensing. The DCA currently requires that three populations receive priority review for licensure from DCA entities: (1) members of the Armed Forces who have served on active duty and were honorably discharged, (2) spouses or domestic partners of active duty members of the Armed Forces who are currently assigned to a duty station in California under official active duty military orders, and (3) refugees who have been granted asylum by the Secretary of Homeland Security or the Attorney General of the United States or those with an SIV. In addition, the MBC also grants expedited licensure review to physician and surgeon’s certificate applicants who can demonstrate that they

intend to practice in a medically underserved area or serve a medically underserved population.

Despite statutory attempts to ensure swifter licensing timeframes for specified applicants, factors beyond a program's control (deficiencies in applications, the length of time fingerprint clearance is provided, delays in receiving transcripts and education program completion verification, and more) can lead to lengthy holdups in the process, regardless of the program's internal efforts to expedite processing.

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

SUPPORT: (Verified 8/9/22)

American College of Obstetricians & Gynecologists - District IX (source)
Board of Registered Nursing
California Medical Association
California Nurse Midwives Association
California Women's Law Center
Naral Pro-choice California
Planned Parenthood Affiliates of California

OPPOSITION: (Verified 8/9/22)

Right to Life League

ARGUMENTS IN SUPPORT: The American College of Obstetricians and Gynecologists - District IX sponsors this bill and notes, "In 2022, there have been over 500 abortion restrictions introduced across 41 states. Also this year, the U.S. Supreme Court will decide on a case that directly challenges the constitutional right to abortion established under Roe v. Wade. If the Court upholds Mississippi's abortion ban, thereby overturning Roe, people in over half of the states across the country – over 36 million women and other people who may become pregnant – will lose access to abortion. In fact, millions of Texans are already experiencing this lack of access. Since Texas' S.B. 8 went into effect last fall, Texans needing abortion have been denied. The ban in Texas disproportionately impacts Black, Brown, Indigenous and other people of color, people with low-income, people living in rural areas, and other historically marginalized communities who are most likely to be forced to continue pregnancies against their will, rather than be able to travel to already overburdened clinics in neighboring states, like Oklahoma. Making matters worse, Oklahoma politicians have since introduced several extreme abortion bans. According to a report released by the Guttmacher Institute, if Roe v. Wade is overturned, as many legal and health experts now anticipate, 26

states are certain or likely to ban abortion almost immediately, increasing the number of out-of-state patients who would find their nearest abortion provider in California from 46,000 to 1.4 million – an increase of nearly 3,000%.

"As California prepares to see more an more patients seeking abortion services and reproductive health care in our state, we must ensure the State has the appropriate providers qualified to assist in access and ready to provide that care. AB 657 helps in this effort by ensuring qualified providers who wish to become licensed in this state to provide abortion services will have their application prioritize so they may meet this demand."

Supporters assert that this bill will ensure that California is ready to meet the increase in patients seeking abortions in California from states with banned or restricted abortion access.

ARGUMENTS IN OPPOSITION: The Right to Life League writes in opposition to the bill and notes, "AB 657 will expedite the licensure process for an applicant who demonstrates that they intend to provide abortions – not any other form of reproductive health care such as fertility, obstetrical care for delivering babies or neonatal care for babies born in California – AB 657 only seeks to expedite the licensing process for abortions.

"There is no crisis in obtaining abortions in California. The bill's introductory statement omits the latest Gutmacher Institute showing that abortions in California are up 16% from 2015 to 2020, reversing a thirty year decline. Guttmach attributes the shift to fewer number of pregnancies, and a larger proportion number of abortions. This data shows there is no lack of abortion access in our state.

"If we are concerned with reproductive choice to the exclusion of all other businesses in our state, why is this bill focused exclusively on abortion? According to the most recent data available, the Legislative Analyst's Office (LAO) shows that more than 400,000 babies were born in California."

Prepared by: Sarah Mason / B., P. & E.D. /
8/10/22 14:12:31

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

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THIRD READING

Bill No: AB 682
Author: Bloom (D)
Amended: 6/23/22 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 7-0, 6/13/22
AYES: Wiener, Caballero, Cortese, McGuire, Skinner, Umberg, Wieckowski
NO VOTE RECORDED: Bates, Ochoa Bogh

SENATE GOVERNANCE & FIN. COMMITTEE: 4-1, 6/22/22
AYES: Caballero, Durazo, Hertzberg, Wiener
NOES: Nielsen

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 52-8, 1/27/22 - See last page for vote

SUBJECT: Planning and zoning: density bonuses: shared housing buildings

SOURCE: CityLab UCLA

DIGEST: This bill grants a density bonus for shared housing developments, as specified.

ANALYSIS:

Existing law:

1) Requires each city and county to submit an annual progress report (APR), annually by April 1, to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes data points and updates on housing plans and approvals.

2) Requires each city and county to adopt an ordinance that specifies how it will implement state Density Bonus Law (DBL). Requires cities and counties to

grant a density bonus when an applicant for a housing development of five or more units seeks and agrees to construct a project that will contain at least one of the following:

a) 10% of the total units of a housing development for lower income households;

b) 5% of the total units of a housing development for very low-income households;

c) A senior citizen housing development or mobile home park;

d) 10% of the units in a CID for moderate-income households;

e) 10% of the total units for transitional foster youth, disabled veterans, or homeless persons; or

f) 20% of the total units for lower-income students in a student housing development.

g) 100% of the units of a housing development for lower-income households, except that 20% of units may be for moderate-income households.

3) Requires a city or county to allow an increase in density on a sliding scale from 20% to 50%, depending on the percentage of units affordable to low- and very low-income households, over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan. Requires the increase in density on a sliding scale for moderate-income for-sale developments from 5% to 50% over the otherwise allowable residential density.

4) Provides that upon the request of a developer, a city or county shall not require a vehicular parking ratio, inclusive of disabled and guest parking, that meets the following ratios:

a) Zero to one bedroom — one onsite parking space.

b) Two to three bedrooms — one and one-half onsite parking spaces.

c) Four and more bedrooms — two and one-half parking spaces.

5) Notwithstanding (4) above, provides that a city or county shall not impose a parking ratio higher than 0.5 spaces per unit, nor any parking standards, for a project that is:

   a) Located within one-half mile of a major transit stop and the residents have unobstructed access to the transit stop; or

   b) A for-rent housing development for individuals who are 62 years or older and the residents have either access to paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

6) Notwithstanding (4) and (5) above, provides that a city or county shall not impose any minimum parking requirement on a housing development that consists solely of rental units for lower income families and the is either a special needs or a supportive housing development.

7) Provides that the applicant shall receive the following number of incentives or concessions:

   a) One incentive or concession for projects that include at least 10% of the total units for moderate-income households, 10% of the total units for lower-income households, or at least 5% for very low-income households.

   b) Two incentives or concessions for projects that include at least 20% of the total units for moderate-income households, 17% of the total units for lower income households, or least 10% for very low income households.

   c) Three incentives or concessions for projects that include at least 30% of the total units for moderate-income households 24% of the total units for lower-income households, or at least 15% for very low-income households.

   d) Four incentives or concessions for projects where 100% of the units of a housing development for lower-income households, except that 20% of units may be for moderate-income households, as well as a height increase up to 33 feet if the project is located within one-half mile of a transit stop.

This bill:

1) Defines “unit” as one cohousing unit and its prorate share of associated common area facilities.

2) Defines "shared housing building" as a residential or mixed-use structure with five or more shared units and one or more common kitchens and dining areas designed for permanent residence of more than 30 days be its tenants. The kitchens and dining areas within the shared housing building shall be able to accommodate housing.

3) Defines "shared housing unit" as one or more habitable rooms, not contained within another dwelling unit, that includes a bathroom, sink, refrigerator, and microwave, is used for permanent residence, that meets the "minimum room area" definition of the California Residential Code, and complies with the definition of "guestroom" pursuant to the California Residential Code.

4) Requires cities and counties to grant a density bonus when an applicant for a housing development of five or more units seeks and agrees to construct a shared housing building that will contain either the following:

   a) 10% of the units of a shared housing building for lower income households.

   b) 5% of the units of a shared housing building for very low-income households.

5) Provides that, when an applicant proposes to construct a housing development that conforms to the requirements of (4) above, the local government shall not require any minimum unit size requirements or minimum bedroom requirements.

6) Provides that a shared housing building may include other dwelling units that are not shared housing units, provided that those units do not occupy more than 25% of the floor area of the shared housing building. A shared housing building may include 100% shared housing units.

7) Provides that a shared housing building may include incidental commercial uses, provided that those commercial uses are otherwise allowable and are located only on the ground floor or the level of the shared housing building closest to the street or sidewalk of the shared housing building.

Background

Given California's high land and construction costs for housing, it is extremely difficult for the private market to provide housing units that are affordable to low-

and even moderate-income households. Public subsidy is often required to fill the financial gap on affordable units. DBL allows public entities to reduce or even eliminate subsidies for a particular project by allowing a developer to include more total units in a project than would otherwise be allowed by the local zoning ordinance, in exchange for affordable units. Allowing more total units permits the developer to spread the cost of the affordable units more broadly over the market-rate units. The idea of DBL is to cover at least some of the financing gap of affordable housing with regulatory incentives, rather than additional subsidy. Under existing law, if a developer proposes to construct a housing development with a specified percentage of affordable units, the city or county must provide all of the following benefits: a density bonus; incentives or concessions (hereafter referred to as incentives); waiver of any development standards that prevent the developer from utilizing the density bonus or incentives; and reduced parking standards.

To qualify for benefits under DBL, a proposed housing development must contain a minimum percentage of affordable housing. If one of these options is met, a developer is entitled to a base increase in density for the project as a whole (referred to as a density bonus) and one regulatory incentive. Under DBL, a developer is entitled to a sliding scale of density bonuses, up to a maximum of 50% of the maximum zoning density and up to four incentives, as specified, depending on the percentage of affordable housing included in the project. At the low end, a developer receives 20% additional density for 5% very low-income units and 20% density for 10% low-income units. The maximum additional density permitted is 50%, in exchange for 15% very low-income units and 24% low-income units. The developer also negotiates additional incentives, reduced parking, and design standard waivers, with the local government. This helps developers reduce costs while enabling a local government to determine what changes make the most sense for that site and community.

Comments

1) *Student housing density bonuses*. In 2018, the legislature created a density bonus incentive program for student housing developments (ie dorm-style housing) in order to facilitate their construction. That bill, SB 1227 (Skinner, Chapter 937, Statutes of 2018) allowed a developer to seek and receive a 35% increase in density if they agree to restrict 20% of the units in the development to low-income students, with a priority for homeless students. To qualify to live in lower income units students would be required to provide proof that their

household income qualifies them for a Cal Grant. The developer is also entitled to one concession and incentive.

This bill would incentivize the development of shared housing development, which contemplate any unit size that includes a bathroom, sink, refrigerator, and microwave, with a common area. These projects are entitled to unlimited so long as 10% low income or 5% very low-income units.

2) *So are these legal?* The California Building Code defines "efficiency dwelling unit" as a unit with not less than 220 square feet and an additional 100 square feet for each additional occupant in excess of two occupants. These unit types must also have a separate bathroom and specified kitchen appliances. While there is no specific mandate, these standards are intended to apply to detached units. To that end, depending on the project, it is not clear that the projects incentivized by this bill will meet existing building standards.

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

SUPPORT: (Verified 7/29/22)

CityLab UCLA (source)
Abundant Housing LA
American Planning Association, California Chapter
California Apartment Association
City of Santa Monica
East Bay for Everyone
People Assisting the Homeless

OPPOSITION: (Verified 7/29/22)

City of Lafayette

ARGUMENTS IN SUPPORT: According to the author, "Despite its potential, California's other major cities and major developers have been slow to embrace co-housing buildings. Stringent density requirements limit the number of units developers can build on an already costly parcel of land. Parking requirements add additional construction costs that can make co-housing financially infeasible, especially for projects that aim to house more than 100 units. AB 682 aims to ease the roadblocks that have long stifled the construction of these affordable housing units. By expanding the state's density bonus law to incentivize co-housing apartments, AB 682 will provide more affordable units without the need for public subsidies. As the state grapples with the housing shortage, AB 682 will help

diversify the housing stock, offering both affordable housing and the option for communal living."

ARGUMENTS IN OPPOSITION: The City of Lafayette is opposed because the units contemplated by this bill may be considered "group quarters" and thus, ineligible to be counted towards a local governments regional housing needs allocation targets.

ASSEMBLY FLOOR: 52-8, 1/27/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Bryan, Burke, Calderon, Cervantes, Cooley, Cooper, Cunningham, Daly, Friedman, Gabriel, Cristina Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Voepel, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Choi, Davies, Gallagher, Mathis, Nguyen, Seyarto, Smith
NO VOTE RECORDED: Boerner Horvath, Mia Bonta, Carrillo, Chen, Megan Dahle, Flora, Fong, Eduardo Garcia, Kiley, Lackey, Maienschein, Mayes, O'Donnell, Patterson, Valladares, Waldron

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
8/3/22 14:22:35

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

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THIRD READING

Bill No: AB 738
Author: Nguyen (R)
Amended: 6/2/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 9-0, 6/1/22
AYES: Pan, Melendez, Gonzalez, Grove, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Eggman, Hurtado

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-0, 1/27/22 (Consent) - See last page for vote

SUBJECT: Community mental health services: mental health boards

SOURCE: Author

DIGEST: This bill requires at least one member of a mental health board to be a veteran or veteran advocate, as specified.

ANALYSIS:

Existing law:

1) Establishes the Bronzan-McCorquodale Act (BMA) to organize and finance community mental health (MH) services for those with MH disorders in every county through locally administered and controlled community MH programs. [WIC §5600, et seq.]

2) Specifies that community MH services should be organized to provide an array of treatment options in the following areas, to the extent resources are available: precrisis and crisis services; comprehensive evaluation and assessment; individual service plans; medication education and management; case management; 24-hour treatment services; rehabilitation and support services;

vocational rehabilitation; residential services; services for the homeless; and group services. [WIC §5600.4]

3) Requires each community MH service to have a MH board (MHB) consisting of 10 to 15 members, depending on the preference of the county, appointed by the governing board, with added requirements for counties depending on the size of its population and the size of its board of supervisors. Requires 50% of the MHB membership to be consumers, or the parents, spouses, siblings, or adult children of consumers, who are receiving or have received mental health services, and at least 20% of the total membership to be consumers, and at least 20% to be families of consumers. Encourages counties to appoint individuals to a MHB with specified knowledge and experience, such as those who engage with individuals living with mental illness in the course of daily operations. [WIC §5604]

4) Requires a local MHB to do the following:
   a) Review and evaluate the community's public MH needs, services, facilities, and special problems;
   b) Review any county agreements, as specified;
   c) Advise the governing body and local MH director as to any aspect of the local MH program;
   d) Review and approve procedures used to ensure citizen and professional involvement in all stages of the planning process, a specified;
   e) Submit an annual report to the governing body on the needs and performance of the county's MH system;
   f) Review and make recommendations on applicants for the appointment of a local director of MH services, and be included in the selection process prior to the vote of the governing body;
   g) Review and comment on the county's performance outcome data and communicate its findings to the California Behavioral Health Planning Council;
   h) Perform any other duties transferred by the governing body; and,
   i) Assess the impact of the realignment of services from the state to the county on services delivered to clients and on the local community.

5) Establishes the Mental Health Services Act (MHSA), enacted by voters in 2004 as Proposition 63, to provide funds to counties to expand services, develop innovative programs, and integrate service plans for mentally ill children, adults, and seniors through a 1% income tax on personal income above $1 million. [WIC §5890, et seq.]

6) Requires each county MH program (CMHP) to prepare and submit a three-year program and expenditure plan for MHSA funds, with annual updates, adopted by the county board of supervisors, to the Mental Health Services Oversight and Accountability Commission and the Department of Health Care Services (DHCS) within 30 days after adoption. [WIC §5847]

7) Requires a MHB to conduct a public hearing on the draft MHSA three-year plan and annual updates at the close of the 30-day comment period, as specified. Requires each adopted three-year plan and update to include any substantive written recommendations for revision, and a summary and analysis of the recommended revisions. Requires the MHB to review the adopted plan or update, and to make recommendations to the county MH department for revisions. [WIC §5848]

8) Requires specified MHSA allocations to counties to include funding for annual planning costs, including funds for county MH programs to pay for various costs of consumers, family members, and other stakeholders to participate in the planning process and for the planning and implementation required for private provider contracts to be significantly expanded to provide additional services. [WIC §5604.3, 5892]

This bill:

1) Requires at least one member of an MHB to be a veteran or veteran advocate in counties with a population of 100,000 or more. Requires counties with a population of fewer than 100,000 to give a strong preference to appointing at least one member of an MHB who is a veteran or veteran advocate.

2) Requires a county to notify its county veterans service officer about vacancies on the MHB, if a county has a veterans service officer.

Background

AB 1288 (Bronzan, Chapter 89, Statutes of 1991), known as the BMA, significantly changed community MH services, with more of the focus and responsibility passing to the counties, including the requirements for MHBs. The MHBs remain the primary vehicle for residents to have oversight of the administration and provision of the services funded by their tax dollars. The composition of MHBs are required to represent the populations and stakeholders interested in MH services. The creation of the MHBs was intended to provide community input into the development and adoption of community MH service

plans and to act as a checks and balances to plans that are developed by the local MH/behavioral health (BH) departments and approved by the county boards of supervisors. For decades the MHBs existed throughout the state, yet according to reports from members of MHBs, they were relegated to the background, input was ignored, and some work being done by the MHBs was being censored. AB 1352 (Waldron, Chapter 460, Statutes of 2019) made various updates to law, including authorizing MHBs to make their recommendations directly to the governing body rather than to the local MH/BH agencies. It further required the local MH/BH agency, as applicable, to provide an annual report of written explanations to the local governing body and DHCS for any substantive recommendations made by the local MHB that are not included in the CMHP's final MHSA three-year plan or update, thus ensuring the MHB's input into the MHSA plan are fully vetted and considered prior to final adoption.

Veterans and mental health. According to the federal Substance Abuse and Mental Health Services Administration's (SAMHSA) website, there are an estimated 23.4 million veterans in the United States, and about 2.2 million military service members and 3.1 million immediate family members. A 2017 Legislative Analyst's Office report estimates about 1.8 million veterans live in California, more than in any other state. The demanding environments of military life and experiences of combat, during which many veterans experience psychological distress, can be further complicated by substance use and related disorders. Many service members face such critical issues as trauma, suicide, homelessness, and/or involvement with the criminal justice system. SAMHSA states that although active duty troops and their families are eligible for care from the U.S. Department of Defense, a significant number choose not to access those services due to fear of discrimination or the harm receiving treatment for behavioral health issues may have on their military career or that of their spouse.

Comments

Author's statement. According to the author, the COVID-19 pandemic has had an undeniable impact on the lives of all Californians. A recent study by the Centers for Disease Control and Prevention and a survey conducted by the U.S. Census Bureau have shown a 31% increase from the previous year in people who have reported symptoms or feelings of anxiety and depression. Now is the time to ensure that people who need help are able to get the resources and assistance they need. This bill requires counties to appoint a veteran or veteran advocate to a local public MHB. The addition of a veteran or veteran advocate to public MHBs will help ensure that veterans are informed of and have access to available local mental health resources.

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

SUPPORT: (Verified 8/8/22)

American Legion-Department of California
California Association of County Veterans Service Officers
California State Association of Psychiatrists
California State Commanders Veterans Council
Depression and Bipolar Support Alliance
Military Officers Association of America-California Council of Chapters

OPPOSITION: (Verified 8/8/22)

California State Association of Local Behavioral Health Boards and Commissions

ARGUMENTS IN SUPPORT: The California State Association of Psychiatrists (CSAP) states that a recent survey revealed data showing a widening disparity in veterans receiving mental health care resources or services. As reported, approximately 85% of veterans reported some form of a substance use disorder, 53% reported having general mental illness or condition, and 26% reported having a severe mental illness and were receiving no treatments or care. Between 2008 and 2019, there was a notable spike in severe mental illness reported in veterans between the ages of 26-49. CSAP states that this bill will help ensure that our veterans are part of the conversation on mental health and wellness.

ARGUMENTS IN OPPOSITION: The Governing Board of the California Association of Local Behavioral Health Boards and Commissions (CALBHB/C) states that members of MHBs are volunteers who are appointed by local governing bodies (usually boards of supervisors), and MHBs already have specific membership requirements in regard to number of members and required percentages of individuals with lived experience, their family members, and the requirement for one board of supervisor member. CALBHB/C is opposed to this bill unless it is amended to instead include veterans or a veteran advocate in the section of current law that encourages counties to appoint specified individuals to MHBs.

ASSEMBLY FLOOR: 61-0, 1/27/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Cervantes, Choi, Cooley, Cooper, Cunningham, Daly, Davies, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Gipson, Grayson, Holden, Jones-Sawyer, Kalra, Kiley, Lackey,

Lee, Levine, Low, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Ward, Wicks, Wood, Rendon

NO VOTE RECORDED: Mia Bonta, Carrillo, Chen, Megan Dahle, Flora, Eduardo Garcia, Gray, Irwin, Maienschein, Mayes, Blanca Rubio, Villapudua, Voepel, Waldron, Akilah Weber

Prepared by: Reyes Diaz / HEALTH / (916) 651-4111
8/10/22 14:21:53

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

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THIRD READING

Bill No: AB 777
Author: McCarty (D)
Amended: 9/3/21 in Senate
Vote: 21

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

SENATE APPROPRIATIONS COMMITTEE: 6-1, 8/26/21
AYES: Portantino, Bradford, Jones, Kamlager, Laird, McGuire
NOES: Bates

ASSEMBLY FLOOR: 75-0, 6/2/21 - See last page for vote

SUBJECT: State property: transfer: housing

SOURCE: Author

DIGEST: This bill authorizes the Department of General Services (DGS) to transfer, without charge, a parcel of property in Sacramento, California, if that parcel is reported as excess, to the Regents of the University of California (UC Regents) to be used by the University of California Davis (UC Davis) for prescribed purposes, including using the majority of the property to provide affordable student housing.

Senate Floor Amendments of 9/3/21 (1) delete the requirement that the majority of the property be used to provide affordable housing and instead require that the majority of the property be used to provide affordable housing, which may include affordable student housing, (2) delete the "skilled and trained workforce" language in the bill, and (3) require UC Davis to reimburse DGS for all actual costs incurred as a result of the transfer.

ANALYSIS:

Existing law:

1) Authorizes DGS, subject to legislative approval, to sell, lease, exchange, or transfer various specified properties for current market value, or upon such other terms and conditions that DGS determines are in the best interest of the state.

2) Establishes criteria for state agencies to use in determining and reporting excess lands. A state agency must report land as excess that is:

   a) Not currently utilized, or is underutilized, for any existing or ongoing programs;

   b) Land for which the agency cannot identify a specific utilization relative to future needs; and,

   c) Land not identified by the state agency within its master plan for facility development.

3) Requires DGS to dispose of surplus state real property in a specified manner, and prescribes the priority of disposition of the property before DGS may offer it for sale to private entities or individuals.

4) Authorizes DGS to sell surplus real property to a local agency or to a nonprofit affordable housing sponsor for affordable housing projects at a sales price less than fair market value if DGS determines that such a discount will enable housing for persons and families of low or moderate income.

5) Requires, under the California Constitution, that the proceeds from the sale of surplus state property be used to pay the principal and interest on bonds issued pursuant to the Economic Recovery Bond Act, until the principal and interest on those bonds are paid in full, the final payment of which was made in the 2015-16 fiscal year, after which these proceeds are required to be deposited into the Special Fund for Economic Uncertainties.

6) Exempts the sale of surplus property sold "as is" from designated provisions of the California Environmental Act (CEQA). However, the buyer or transferee of a parcel is subject to CEQA as well as any local governmental entitlement or land use approval requirements.

This bill:

1) Authorizes DGS to transfer, without charge, a parcel of property in Sacramento, California, to the UC Regents to be used by UC Davis for the following purposes:

   a) Affordable student housing.

   b) Childcare space.

   c) Academic and research programs.

   d) Ancillary student services.

2) Requires the majority of the property to be used to provide affordable housing, which may include affordable student housing.

3) Requires UC Davis to reimburse DGS for all actual costs incurred as a result of the transfer, as specified.

4) Provides that if the UC Regents have not begun a formal planning process within a year of the transfer, or if the UC Regents indicate that they will not use the property for its intended purpose, the property shall revert to DGS.

5) Provides that if the property reverts to DGS, the property shall be reviewed to determine if the land is in excess according to current law.

Comments

Purpose of the bill. According to the author's office, "the college affordability crisis isn't just about high tuition costs – housing accounts for almost half the total cost of attending college at the UC. Nearly one in every three college students in California faces housing insecurity. In order for students to succeed, their basic needs must be met. This bill takes concrete steps to address this need at the UC Davis Sacramento campus by providing affordable student housing to support enrollment growth."

Existing law already authorizes DGS to transfer excess lands between state agencies. However, because the University of California is not included in the state definition of Government Code that DGS's transfer of jurisdiction authority relies upon this bill is needed to allow for the transfer of this property to the UC Regents.

The property. The Department of Justice (DOJ) building is located at 4949 Broadway, in Sacramento and was constructed in 1982. It is two stories with approximately 355,000 square feet on approximately 23.85 acres. It is uniquely positioned adjacent the UC Davis Medical Center. This property has the potential to create affordable housing however, there are many steps and decisions that would still need to occur. First and foremost, DGS would first need to identify the property as excess.

It is uncertain whether the DOJ will vacate the property entirely and whether DGS will find another state agency to use the property. As this bill is written, if the land is reported as excess, the land could be transferred to the UC Regents to be developed for affordable housing near the UC Davis Medical Center. If within a year the UC Regents have not begun a formal planning process within a year of the transfer, or if the UC Regents indicate that they will not use the property for its intended purpose, the property would revert back to DGS.

Disposal of state property. Existing law requires state agencies to annually report to DGS excess lands that are not currently utilized, or are underutilized, for any existing or ongoing programs by that state agency. Once the land is declared excess by a state agency, DGS is responsible for notifying other state agencies that might have use for that property. If no state agency has a need for that property, existing law sets up a very specific process for disposal of that property.

DGS is currently responsible for the disposition of state-owned property that has been declared surplus to future state needs. The Legislature must declare the property to be surplus and must authorize the Director of DGS to sell, exchange, lease, or transfer the surplus property according to specified procedures set forth in law.

Generally, current law requires surplus property to be transferred or sold at market value, or upon such other terms and conditions that DGS determines are in the best interest of the state. Current law gives right of first refusal on any surplus property to a local agency and then to a nonprofit affordable housing sponsor, prior to being offered for sale to private entities or individuals in the open market. In addition, DGS is authorized to sell surplus property to a local agency or to a nonprofit affordable housing sponsor at a sales price less than fair market value if DGS determines that such a discount will enable housing for individuals or families of low or moderate income.

Related/Prior Legislation

SB 828 (Committee on Governmental Organization, 2021) authorizes the DGS to dispose of four specified state properties, as specified. (Pending on the Governor's Desk)

AB 518 (Calderon, Chapter 43, Statutes of 2020) authorized DGS, until January 1, 2025, to sell the Southern Youth Correctional Reception Center and Clinic to the City of Norwalk at fair market value upon terms and conditions DGS determines are in the best interest of the state.

SB 501 (Hurtado, 2019) would have required DGS to transfer ownership of the Reedley Armory to the City of Reedley for the purpose of providing services that improve the quality of life for veterans and their families, as specified. (Never Heard in the Assembly Veteran Affairs Committee)

SB 20 (Dodd, Chapter 240, Statutes of 2019) extended the sunset date, which expired on January 1, 2015, to January 1, 2026, for the state to sell the area known as the Skyline Wilderness Park in the County of Napa.

SB 281 (Wiener, 2019) would have, among other things, required DGS to enter into negotiations with the newly created Cow Palace Authority for the purchase of the Cow Palace. (Never Heard in the Assembly Local Government Committee)

AB 653 (Bloom, Chapter 263, Statutes of 2019) authorized DGS, with the approval of the Adjutant General, to lease, for a term of 25 years, approximately 1.3 acres of the real property of the real property located at 1300 Federal Avenue, Los Angeles, California, known as the West Los Angeles National Guard Armory to the County of Los Angeles.

AB 1198 (Petrie-Norris, Chapter 824, Statutes of 2019) required DGS, if any land within the grounds of the Fairview Developmental Center is reported as excess and DGS determines that the land is needed by more than one state agency, to conduct a public hearing, as specified.

SB 922 (Nguyen, 2018) would have authorized, until January 1, 2029, the DGS to dispose of surplus state property located within two miles of a campus of the UC, California State University, or California Community Colleges by first offering the property to a local agency or a nonprofit organization for the development of affordable student housing. (Failed Passage in the Senate Governmental Organization Committee)

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

According to the Senate Appropriations Committee, to the extent that DGS determines that the property located at 4949 Broadway is reported as excess, and there are costs related to early termination of power purchase agreements for the property, fees could total up to $7.95 million if terminated in 2022. The DGS noes that some termination costs could be avoided if the UC Davis takes over the power to purchase agreement.

In addition, the DGS estimates staff costs of approximately $35,000 to execute the transfer of the property, which would be borne by the UC. Additional costs related to environmental site investigations and legal and consultant expenses as well as associated staff time are unknown at this time.

SUPPORT: (Verified 8/2/22)

City of Sacramento

OPPOSITION: (Verified 8/2/22)

None received

ARGUMENTS IN SUPPORT: According to the City of Sacramento, "AB 777 paves the way for the identified property to be used for affordable student and employee housing as an integral part of the UC Davis Sacramento campus – including the 1.4 million sq. ft. Aggie Square project. Located on the UC Davis Sacramento Campus, along the Stockton Boulevard corridor, Aggie Square will be an innovation hub for the Sacramento region, driving commercialization of university research, growing local companies, bringing new employment opportunities to Sacramento, and adding vitality to the Stockton Boulevard corridor. The project offers tremendous opportunity to connect UC Davis students with expanded academic and research offerings occurring at Aggie Square."

ASSEMBLY FLOOR: 75-0, 6/2/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Irwin, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz

Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Bryan, Lorena Gonzalez, Jones-Sawyer

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
8/2/22 10:02:25

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

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THIRD READING

Bill No: AB 826
Author: Irwin (D)
Amended: 8/3/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 7/12/21
AYES: Cortese, Durazo, Laird, Newman
NOES: Ochoa Bogh

ASSEMBLY FLOOR: 64-9, 5/27/21 - See last page for vote

SUBJECT: County Employees Retirement Law of 1937: compensation and compensation earnable

SOURCE: County of Ventura
Service Employees International Union, California

DIGEST: This bill amends the County Employees Retirement Law (37 Act) definition of "compensation" and "compensation earnable" for legacy members of the Ventura County Employee Retirement Association (VCERA) who retire on or before December 31, 2025, to include an employee's flexible benefit allowance.

Senate Floor Amendments of 8/3/22 specify that the bill's provisions apply to VCERA members who retire on or before December 31, 2025, who are not new members under PEPRA; require VCERA employers to refund contributions paid on remuneration excluded by VCERA to members who retire after December 31, 2025, and to credit any contributions made by the employer; and delete the provision that erroneously references this bill's provisions as declarative of existing law.

ANALYSIS:

Existing law:

1) Establishes the County Employees Retirement Law of 1937 Act (referred to as "37 Act" or "CERL") consisting of twenty county retirement systems to provide defined benefit pension benefits to public county or district employees, as specified. (Government Code § 31450 et seq.)

2) Provides that 37 Act retirement system members are entitled, upon retirement for service, to receive a retirement allowance consisting of their service retirement annuity, their current service pension, and their prior service pension, as specified. (GC § 31673)

3) Establishes benefit provisions for the general defined benefit plan that each member county can adopt by resolution. Existing law also provides specific plan elements by statute to particular systems, as specified. Thus, while 37 Act retirement systems have similar characteristics each has its own particular benefit structure and requirements. (e.g., GC § 31461.1)

4) Defines "compensation earnable", as specified, in the 37 Act, as amended by PEPRA and "pensionable compensation", as specified, in PEPRA. Both terms refer to a member's compensation that a pension system may include in calculating the member's pension benefit. (The former applies to legacy members and the latter to PEPRA members.) Existing law also specifically excludes certain forms of compensation from pension benefit calculations in order to prevent manipulation of pension benefits in contravention of the theory and successful operation of a pension system. (GC § 31461 and GC § 7522.34)

5) Establishes PEPRA, a comprehensive reform of public pension law designed to stabilize public pension systems while preserving the objective of ensuring that public employees who dedicate a lifetime of service to California receive retirement security in their old age (GC § 7522 et seq.).

6) Excludes the following forms of compensation from compensation earnable:

    a) Any compensation determined by the board to have been paid to enhance a member's retirement benefit under that system, including:

(1) Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member, and which was converted to and received by the member in the form of a cash payment in the final average salary period.
(2) Any one-time or ad hoc payment made to a member, but not to all similarly situated members in the member's grade or class.
(3) Any payment that is made solely due to the termination of the member's employment, but is received by the member while employed, except those payments that do not exceed what is earned and payable in each 12-month period during the final average salary period regardless of when reported or paid.

b) Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, in an amount that exceeds that which may be earned and payable in each 12-month period during the final average salary period, regardless of when reported or paid.

c) Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.

d) Payments made at the termination of employment, except those payments that do not exceed what is earned and payable in each 12-month period during the final average salary period, regardless of when reported or paid. (GC § 31461)

7) Provides that the average compensation during any period of service as a member of the Public Employees' Retirement System, a member of the Judges' Retirement System or Judges' Retirement System II, a member of a 37 Act county retirement system in another county, a member of the State Teachers' Retirement System, or a member of a retirement system of any other public agency of the state that has established reciprocity as specified, shall be considered compensation earnable or pensionable compensation by a 37 Act county member for purposes of computing final compensation for that member provided certain conditions are met, as specified. (GC § 31835)

This bill:

1) Provides that its provisions apply only to Ventura County. (Although by including remuneration that is currently excludable, the bill could affect other 37 Act systems who employ former employees of VCERA who have reciprocity between that system and VCERA).

2) Amends the definition of "compensation" and "compensation earnable" to include flexible benefits plan allowances (FBA) paid by a county or a district on behalf of its employees as part of a cafeteria plan, as specified, for legacy VCERA members who retire on or before December 31, 2025.

3) Sets the following requirements that the FBA must meet to be included in compensation and compensation earnable:

   a) The employer makes the FBA available to any person in the same grade or class of positions. "Grade or class of positions" means a number of employees considered together because they share similarities in job duties, work location, collective bargaining unit, or other logical, work-related grouping. The retirement system and employer shall not consider a single employee a grade or class of positions.
   b) Existing law, as specified, does not expressly exclude the FBA from compensation earnable.
   c) The retirement system included the FBA as part of compensation earnable as of July 30, 2020, and the employer and employee paid contributions to the retirement system, based on the FBA as of that date.
   d) The employer and employee pay the required contributions to the retirement system as the employee continues to earn the FBA.

4) Provides that where the FBA monetary amount is the same for all employees regardless of dependents, the entire amount is includable in compensation earnable.

5) Provides that where the FBA monetary amount varies among employees according to the number of the employee's dependents, the amount includable in compensation earnable is the amount provided to an employee with no dependents.

6) Makes the bill's provisions inapplicable to "new members" of VCERA as defined by PEPRA (i.e., there is a distinction between "new members" and

"new employees" who have legacy membership in another reciprocal retirement system and through that reciprocity establish legacy membership in VCERA. The latter group would be eligible for this bill's benefits).

7) Makes the bill's provision applicable to eligible VCERA members who retire on or before December 31, 2025.

8) Provides that, for members who retire after December 31, 2025, to the extent the retirement system excludes any remuneration from compensation earnable, VCERA shall refund contributions to the member, and shall credit contributions to the employer, that were made based on the excluded remuneration in accordance with requirements under the Internal Revenue Code.

9) Declares that a special statute is necessary and a general statute cannot be made applicable because of the unique circumstances of the retirement system in Ventura County.

Background

PEPRA limited the types of compensation that public employers can include for purposes of calculating their employees' pension allowance. PEPRA, as upheld by the California Supreme Court in its 2020 *Alameda* decision, excluded certain items of pay - *to legacy employees as well as PEPRA employees* – as part of efforts to end pension spiking (i.e., the practice of padding compensation at the end of the employee's career to inflate the life-long pension benefit the employee would get upon retirement). PEPRA provided express examples of remuneration that are excluded per se and also examples of remuneration that a retirement board may exclude if it determined the compensation was paid to enhance a member's pension benefit.[1]

After PEPRA became law in 2013, some 37 Act members and employers believed that its provisions regarding the kinds of remuneration excludable from compensation earnable for *legacy* members were constitutionally infirm. They pursued litigation while their systems waited for the outcome of the litigation before unwinding the contested remuneration from their members' pension benefit

[1] Per se exclusions include, for example, payments for excess unused leave, payments for additional services outside normal work hours, and termination payments made at time of termination. Examples of potential exclusions for compensation to enhance pension benefits include conversions of third party cash or in-kind payments to direct cash payments to the member during the final compensation period, one-time or ad hoc payments made to individuals, and excess termination payments made prior to termination and during the final compensation period. (GC §31461)

calculations, believing that PEPRA's provisions affecting legacy members violated those systems' previous contracts and settlement agreements with those members. However, the Supreme Court in *Alameda* upheld PEPRA's provisions. The court found, in part, that the pension systems' past practices and settlement agreements did not prevent the Legislature from revising the law to achieve the permissible purpose of conforming pension benefits to the theory underlying the 37 Act plans by closing loopholes and proscribing potentially abusive practices.

Thus, 37 Act systems that continued to include affected compensation practices from their legacy members' pension calculations began the laborious and unpopular task of reversing compensation calculations, recovering from retirees up to 8 years of pension overpayments, and refunding contributions that those retirees and active members, and their employers, paid on the contested compensation.

Ventura County. This bill seeks to provide clarification that a specific kind of remuneration, Ventura County's FBA, is includable in compensation and compensation earnable and thus must be included in calculating a legacy member's pension benefit if it meets specified conditions.

According to the author, Ventura County includes the FBA in their pension calculations because members receive the full cash value; it is a regular, set amount paid every pay period; and is not subject to pension spiking or any other manipulation. Both the employer and employees have planned for and paid into these pension accounts. The bill's supporters argue that these elements of the FBA show that it is not the sort of compensation practice subject to pension spiking and thus, VCERA should not exclude the FBA where the practice was long-standing and its inclusion was part of the expectation of both employee and employer.

Potential Effect on other retirement systems through reciprocity. Other 37 Act county retirement systems, including those of Sonoma, Kern, and San Bernardino Counties have previously expressed concerns regarding the bill and whether it creates instability and inequity in the law by weakening the finality of PEPRA and *Alameda*. In particular, the Sonoma system raised concerns that the bill could lead to revisions in actuarial valuations for other retirement systems that have reciprocity with VCERA.

Under reciprocity, an employee's prior retirement system calculates the employee's pension for service with the prior employer using the compensation earned at the employee's subsequent employer, subject to certain conditions, as reported by the subsequent employer.

To the extent this bill results in including compensation that VCERA would otherwise exclude from compensation earnable or that other retirement systems estimated in their actuarial calculations could not be included in compensation, the bill may result in increased retirement liabilities for those systems that have reciprocity with VCERA and whose members received FBA at VCERA. On the other hand, this bill clarifies for all 37 Act counties that Ventura's FBAs are includable for VCERA legacy members who retire before December 31, 2025, and thus, reduces the potential for future conflict and litigation on the matter.

Applicable Effective Date It is unclear whether the author intends the bill to apply retroactively to members who have retired before this bill becomes effective, on January 1, 2023, should it become law. Although the bill provides that the FBA is includable in the compensation earnable for VCERA legacy members who retire before December 31, 2025, VCERA members who retire prior to January 1, 2023, would normally have their retirement benefits based on the law as it exists prior to the implementation of this bill's provisions.

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

SUPPORT: (Verified 8/5/22)

County of Ventura (co-source)
Service Employees International Union, California (co-source)

OPPOSITION: (Verified 8/2/22)

Govern for California
Howard Jarvis Taxpayers Association
Merced County Employees' Retirement Association

ARGUMENTS IN SUPPORT: According to the author,

> "AB 826 is a district bill that will ensure specified public employees hired prior to January 1, 2013 do not have their pensions unfairly reduced. For members of the Ventura County Employee Retirement Association (VCERA) only, the bill clarifies the definition of "compensation earnable" to include an employee's flexible benefit allowance, subject to certain criteria."

ARGUMENTS IN OPPOSITION: According to Govern for California,

> We are a nation of laws, not of nullification. Ventura County had no right not to comply with PEPRA upon its effective date. The Legislature should reject AB 826, and Ventura County should get to work complying with a law that it should have complied with more than eight years ago.

According to the Merced County Employees Retirement Association,

> "AB 826 opens the door for groups to simply legislate their way around PEPRA and the 'Alameda Decision'. MercedCERA feels this sets a bad precedent and creates an environment where Supreme Court decisions are ignored and eroded, which consequently would directly impact our members and their benefits, as well as the administration of our System. MercedCERA also feels AB 826 would thwart the actuarial process, as we would constantly be readjusting our assumptions regarding what is pensionable and what is not."

ASSEMBLY FLOOR: 64-9, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Cunningham, Daly, Flora, Fong, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Megan Dahle, Davies, Gallagher, Kiley, Lackey, Seyarto, Smith, Voepel
NO VOTE RECORDED: Chen, Choi, Maienschein, Mathis, Patterson

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
8/5/22 13:01:56

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

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THIRD READING

Bill No: AB 847
Author: Quirk (D)
Amended: 6/20/22 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 11-0, 6/6/22
AYES: Roth, Archuleta, Bates, Becker, Dodd, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Melendez, Eggman, Hurtado

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 63-0, 1/20/22 - See last page for vote

SUBJECT: Electrically conductive balloons

SOURCE: San Diego Gas & Electric

DIGEST: This bill requires a person who sells or manufactures foil balloons to ensure that those foil balloons pass a standard test developed by the Institute of Electrical and Electronics Engineers (IEEE) to ensure that the balloon does not cause a fault at high-voltage electric distribution levels. This bill requires foil balloons to become compliant with the provisions of this bill according to a phase-in period, as specified, and prohibits the sale or manufacturing of noncompliant foil balloons after completion of this phase-in period.

ANALYSIS:

Existing law:

1) Requires a person who manufactures a balloon in California that is constructed of electrically conductive material to permanently mark each balloon with a printed statement that warns the consumer about the dangerous risk of fire if the balloon comes in contact with an electrical power line and to mark each

balloon with the identity of the manufacturer. (Business & Professions Code (BPC) § 22942(a))

2) Requires a person who sells or distributes a balloon constructed of electrically conductive material that is filled with a gas lighter than air to affix an object of sufficient weight to each balloon or its appurtenance to counter the lift capability of the balloon and to not attach the balloon to an electrically conductive string, tether, or streamer, to a balloon constructed of electrically conductive material, or to any other electrically conductive object. (BPC § 22942(b))

3) States that these requirements do not apply to manned hot air balloons, or to balloons used in governmental or scientific research projects. (BPC § 22942(c))

4) Prohibits any person or group from releasing balloons made of electrically conductive material and filled with a gas lighter than air, outdoors as part of a public or civic event, promotional activity, or product advertisement. Makes a violation punishable by an infraction with a fine of not more than $100, unless the person has twice been convicted and specifies that a third or subsequent conviction is a misdemeanor. States that this prohibition does not apply to manned hot air balloons, or to balloons used in governmental or scientific research projects. (Penal Code §§§ 653.1(a) (b) (c))

This bill:

1) Adds to existing law to require a business that sells or manufactures a celebratory balloon in California that is constructed of electrically conductive material to comply with all of the following:

   a) Permanently mark each balloon with a printed statement that warns the consumer about the dangers of releasing balloons which may contact overhead power lines.

   b) Permanently mark each balloon with the identity of the manufacturer.

   c) Permanently mark each balloon that it complies with existing law and the provisions of this bill.

2) Requires that a person who sells, offers for sale, or manufactures for sale any foil balloon in California to ensure that those foil balloons pass a standard test performed by a reputable electric testing center without causing a fault at high-voltage electric distribution levels, which could cause an outage or ignition.

3) Specifies that this standard test shall be the IEEE standard for testing foil balloons at electric distribution voltages without causing an electrical fault when the standard is approved by IEEE, or by an equivalent body.

4) Specifies that this requirement for foil balloons to meet the IEEE standard is subject to a phase-in period.

5) Prohibits a person from selling, offering for sale, or manufacturing for sale any foil balloon unless the balloon complies with these provisions following the completion of the phase-in period, as specified.

6) States that a person who violates or threatens to violate the provisions of this bill may be enjoined in any court of competent jurisdiction.

7) Specifies that a person who has violated the provisions of this bill is liable for a civil penalty in the amount of fifty dollars ($50) for each foil balloon that was sold, offered for sale, manufactured for sale, or distributed in violation of the provisions of this bill. This civil penalty shall not exceed two thousand five hundred dollars ($2,500) per day, in addition to any other penalty established by law. This civil penalty may be assessed and recovered in a civil action brought in any court of competent jurisdiction.

8) Allows for violations of the provisions of this bill to be brought by the Attorney General in the name of the people of the state, by a district attorney, by a city attorney, or by a city prosecutor in a city or city and county having a full-time city prosecutor.

9) Specifies that civil penalties collected pursuant to these provisions shall be paid to the office of the city attorney, city prosecutor, district attorney, or Attorney General, whichever office brought the action.

Background

Mylar balloons, power outages, and fires. Mylar balloons are made with Mylar nylon, a non-biodegradable material, and are typically coated with a metallic finish that conducts electricity. If Mylar balloons are not sufficiently weighted and are released into the air, they have the potential to contact power lines, which can result in power outages and fires. Mylar balloons are commonly released for celebrations, such as birthdays or memorials, and sometimes in mass releases for larger events.

According to the author, “In 2020, Pacific Gas & Electric (PG&E) reported 453 balloon-caused outages affecting over 250,000 customers, a 30% increase from

2019. Every year since 2017, Southern California Edison reported over 1,000 balloon-caused outages, including incidents that resulted in dangerous downed power lines. In 2020, Southern California Edison reported that balloon related outages were responsible for 420,000 hours of interrupted service and affected 1.5 million customers. SDG&E reported that foil balloons cause around 100 power outages each year and an average of 3.6 fires every year from 2015 to 2019. Cal Fire documented two fires caused by metallic balloons in 2013 and 2015, which burned over 11,000 acres and cost millions of dollars to suppress."

Bans on Mylar balloons. Due to the power outage and fire risk caused by Mylar balloons coming in contact with power lines, other states and jurisdictions have considered bans of Mylar balloons. In 2019, the Massachusetts legislature introduced a bill that would ban all balloons, including metallic foil balloons. In California, the cities of Glendale, Hermosa Beach, Malibu, and others enacted bans or restrictions on the sale of metallic foil balloons. In Glendale, the sale of metallic balloons that are not filled with lighter-than-gas air and thus will not float and of balloons anchored to a pole or other structure is still allowed. A violation is punishable by either a fine of up to $1,000, or up to 180 days of jail time or both. In Hermosa Beach, the sale and the use or distribution of metallic balloons on public property was banned. Malibu banned all balloons, both foil and latex balloons, due to environmental concerns.

Development of non-conductive foil balloons. SDG&E has collaborated with balloon manufacturers and other stakeholders to develop a foil balloon that resists conducting electricity. This non-conductive balloon was tested by placing the prototypes in contact with 12 kilovolt (kV), 21kV, and 33kV power lines under typical grid-like conditions. These tests demonstrate the potential for safer alternatives to traditional metallic foil balloons. This bill seeks to strike a balance between allowing consumers to purchase celebratory foil balloons filled with lighter-than-air gas and the need for foil balloons to be made of safer, minimally conductive materials.

Institute of Electrical and Electronics Engineers' balloon standards. IEEE is a professional association for electronic engineering and electrical engineering and a leading developer of international standards that underpin telecommunications, information technology, and power-generation products and services. According to the Author, the IEEE is "creating a draft trial-use standard to test whether foil balloons are safe for overhead electrical power lines in California and across North America. IEEE engages stakeholders and experts to create industry standards that impact ubiquitous products such as home Wi-Fi networks. The energy industry

widely recognizes IEEE. For example, the U.S. Energy Policy Act of 2005 used an IEEE standard (IEEE 1547) as the national standard for the interconnection of distributed generation resources. Stakeholders including California utilities, professional engineers, industry experts, and California Public Utilities Commission (CPUC) staff provide input on these standards. IEEE's draft trial use standard could help identify balloon designs, like SDG&E's, which can withstand overhead power lines without causing a power outage or fire."

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

SUPPORT: (Verified 8/2/22)

San Diego Gas & Electric (source)
California State Association of Electrical Workers
City of Glendale
City of Long Beach
Coalition of California Utility Employees
Edison International and Affiliates, Including Southern California Edison
Pacific Gas and Electric Company
Sempra Energy Utilities
Southern California Public Power Authority

OPPOSITION: (Verified 8/2/22)

None received

ARGUMENTS IN SUPPORT: San Diego Gas and Electric, is the Sponsor of this bill and notes, "…a respected industry organization – the Institute of Electrical and Electronics Engineers (IEEE) – is developing a trial use test and performance standard for balloons to measure conductivity of celebratory foil balloons when interacting with overhead electrical lines. This industry standard may be used to measure celebratory foil balloons and determine if the balloons are harmful or benign to the electric grid. AB 847 would require the Office of Energy Infrastructure Safety to adopt regulations using the IEEE performance standard for celebratory foil balloons manufactured and/or sold in the state and would specifically prohibit the sale of celebratory foil balloons that do not pass the standard and as such, could spark a fire or cause outages. Celebratory foil balloons that pass the standard could be manufactured or sold in the state. The successful test results of the non-conductive foil balloons provide a path forward to preserve the festive and celebratory nature that metallic celebratory foil balloons bring while also making California a safer place to live."

Supporters of this bill note that this bill will improve safety conditions for utility workers working on high voltage power lines, improve public safety by decreasing wildfire and power outage risk, and reduce infrastructure damage caused by mylar balloon-related power line ignitions.

ASSEMBLY FLOOR: 63-0, 1/20/22
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Cervantes, Cooley, Cunningham, Daly, Davies, Flora, Fong, Gabriel, Gallagher, Cristina Garcia, Gipson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Arambula, Burke, Carrillo, Chen, Choi, Cooper, Megan Dahle, Friedman, Eduardo Garcia, Gray, Grayson, Mayes, Voepel

Prepared by: Hannah Frye / B., P. & E.D. /
8/3/22 14:22:35

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

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THIRD READING

Bill No: AB 895
Author: Holden (D)
Amended: 6/29/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 9-0, 6/1/22
AYES: Pan, Melendez, Gonzalez, Grove, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Eggman, Hurtado

SENATE HUMAN SERVICES COMMITTEE: 5-0, 6/27/22
AYES: Hurtado, Jones, Cortese, Kamlager, Pan

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-0, 1/27/22 (Consent) - See last page for vote

SUBJECT: Skilled nursing facilities, intermediate care facilities, and residential care facilities for the elderly: notice to prospective residents

SOURCE: Author

DIGEST: This bill requires nursing homes and residential care facilities for the elderly to provide a written notice to a prospective resident, or their representative, that includes the contact information for the local long-term care ombudsman, and links to specified websites governing licensing and quality of care.

ANALYSIS:

Existing law:

1) Licenses and regulates long-term care (LTC) facilities by the California Department of Public Health (CDPH). LTC facilities include skilled nursing facilities (SNFs), intermediate care facilities (ICFs), ICF/developmentally disabled (ICF/DD), ICF/DD-habilitative, ICF/DD-nursing, and congregate living health facilities. [HSC §1250, et seq., and §1418]

2) Establishes a civil penalty structure for LTC facilities, categorized into "AA," "A," and "B" violations: "A" violations are where CDPH determines that the violation presents either imminent danger of death or serious harm, or a substantial probability that death or serious harm to residents would result; "AA" violations (the most severe) are those that meet the criteria for a class "A" violation that CDPH determines was a direct proximate cause of the death of a resident of an LTC facility; and "B" violations are those that CDPH determines have a direct or immediate relationship to the health, safety, or security of LTC facility residents. [HSC §1424]

3) Establishes the SNF and ICF Patient's Bill of Rights, which requires policies regarding the rights of patients to be made available to the patient, to any guardian, next of kin, sponsoring agency or representative payee, and to the public. Requires these policies to ensure that each patient admitted to the facility has certain specified rights, such as adequate qualified personnel, quality food, activity programs, and for the facility to be clean, sanitary, and in good repair, and requires patients to be notified of the specified facility obligations, in addition to those specified in regulation. [HSC §1599]

4) Requires all SNFs and ICFs to use a standard admission agreement developed and adopted by CDPH, and requires a comprehensive Patient's Bill of Rights to be a mandatory attachment to all SNF, ICF, and nursing facility contracts. [HSC §1599.61]

5) Licenses and regulates residential care facilities for the elderly (RCFEs) by the Department of Social Services (DSS), and defines RCFEs as a housing arrangement chosen voluntarily by persons 60 years of age or over, where varying levels and intensities of care and supervision, protective supervision, personal care, or health-related services are provided, based upon their varying needs, as determined in order to be admitted and to remain in the facility. Defines "health-related services" as services that are directly provided by an appropriate skilled professional, including a registered nurse, licensed vocational nurse, physical therapist, or occupational therapist. [HSC §1569.2(p)]

6) Establishes the Long-Term Care Ombudsman Program (LTC Ombudsman Program), within the Department of Aging (CDA), pursuant to a grant from the federal government under the Older Americans Act, as specified, to hear, investigate, and resolve complaints made by or on behalf of patients or residents of long-term care facilities relating to matters that may affect the health, safety,

welfare, and rights of these patients or residents, among other duties. [WIC §9700, et seq.]

This bill:

1) Requires an SNF and an ICF, or an RCFE, to provide to a prospective resident, or the resident's representative, if any, a written notice including the telephone number, Internet website address, and email address for the local LTC ombudsman. For SNFs and ICFs, requires the notice to also include links to CDPH's licensing and certification website, the California Health Facility Information Database (Cal Health Find) page, and to CalLongTermCareCompare.org.

2) Permits the notice in 1) above to be incorporated into the SNF and ICF standard admission agreement required under existing law.

3) Requires the notice in 1) above to be included in, or as an attachment to, all RCFE admission agreements, and to include a link to DSS' Community Care Licensing Division.

4) Requires the notice required in 1) above to also state that the ombudsman is intended as a resource for both of the following purposes:

   a) Accessing additional information regarding resident care at the facility; and,
   b) Reporting resident care complaints.

5) Requires the notice required in 1) above to be in addition to any other notice an SNF, ICF, or RCFE is required by law to provide.

6) Requires that the grievance form for SNFs and ICFs to include contact information for the local LTC ombudsman and CDPH, and instructions on how to file a grievance with both entities.

Background

1) *CDA and the LTC Ombudsman role.* CDA administers programs that serve older adults, adults with disabilities, family caregivers, and residents in long-term care facilities throughout the state. It administers funds allocated under the federal Older Americans Act (OAA), the state Older Californians Act (OCA), and through the Medi-Cal program. CDA's mission is to promote the independence and well-being of older adults, adults with disabilities, and families through access to information and services to improve the quality of their lives, opportunities for community involvement, support for family

members providing care, and collaboration with other state and local agencies. The LTC Ombudsman, which exists within CDA, has a role in advocating for residents rights. The Ombudsman program was created by the federal OAA and the state's OCA. The Ombudsman Program is charged with resolving problems and advocating for the rights of residents in long-term care facilities and RCFEs. These services are provided locally by contracted agencies. All LTC facilities are required to post, in a visible location, the phone number for the local Ombudsman office. Local LTC ombudsman representatives assist residents in LTC facilities with issues related to day to day care, health, safety, and personal preferences, and identify, investigate, and resolve complaints made by, or on behalf of, LTC residents. The LTC ombudsman representatives are required to make quarterly visits to facilities to provide regular and timely access to their services. Additionally, the LTC ombudsman analyzes, comment on, and monitor the development and implementation of laws and regulations pertaining to LTC residents, and recommends changes to relevant laws, regulations, policies or actions that are deemed to be appropriate.

2) *Cal Quality Care is now Cal Long Term Care Compare.* In 2002, the California Health Care Foundation (CHCF) first began publishing ratings of SNFs online at the site "California Nursing Home Search." In 2004, CHCF added similar profiles and ratings of home health care agencies and hospice services, and later congregate living health facilities, assisted living/RCFEs, continuing care retirement communities, adult day health care programs, and adult day care centers. In 2009, CHCF launched CalQualityCare.org, upgrading and updating the California Nursing Home Search site based on in-depth research conducted among key audiences, including consumers and long-term care providers. In early 2010, CHCF transitioned ownership of the Cal Quality Care website to the University of California at San Francisco (UCSF). However, the Cal Quality Care site was last updated in late 2016 due to challenges securing ongoing funding to support ongoing data refreshes. In 2021 Cal Hospital Compare (a related multi-stakeholder, nonprofit organization focused on hospital quality), with support from UCSF, took back ownership of the Cal Quality Care website. In January of this year, the Cal Quality Care website was relaunched as Cal Long Term Care Compare, focusing initially on nursing home performance. In addition, Cal Healthcare Compare was creating as the governing entity over both Cal Hospital Compare and Cal Long Term Care Compare.

3) *California State Auditor report on SNFs.* At the request of the Joint Legislative Audit Committee, the California State Auditor published an audit of SNFs in May of 2018, subtitling the report "Absent Effective State Oversight, Substandard Quality of Care Has Continued." The report concluded that the

State has not adequately addressed ongoing deficiencies related to the quality of care that SNFs provide, and that from 2006 to 2015, the number of substandard care deficiencies that SNFs received increased by 31%, while deficiencies that caused or were likely to cause serious injury, harm, or death increased by 35%. The auditor stated that CDPH has not fulfilled many of its oversight responsibilities meant to ensure that nursing facilities meet quality-of-care standards, that its licensing decisions appear inconsistent due to poorly defined review processes and its failure to document adequately its rationale for approving or denying applications, and that it has not performed all of the state inspections of nursing facilities that it is required to perform and has not issued citations in a timely manner.

Comments

1) *Author's statement.* According to the author, the pandemic showed the lack of oversight and transparency of long-term care homes in California. After over 12,000 deaths in LTC facilities due to COVID-19, many family are asking themselves where is there a facility they can trust to take care of loved ones. Both for families with loved ones currently in LTC facilities and those who are considering placing a loved one, there are few trustworthy sources of information. LTC ombudsmen are directed by the state to gain a level of intimate knowledge that is not found in other agencies that provide oversight. They regularly visit their local facilities and have unfettered access. They may have knowledge of the facility that the facility itself will not divulge to potential clients and CDPH cannot divulge due to ongoing investigations and appeals. Ensuring families looking for answers to critical safety questions about a facility know that their local ombudsman is a resource, is an efficient and effective use of a valuable, but under recognized, state resource.

2) *CDPH regulation of SNFs and ICFs and the California Health Facility Information Database.* According to CDPH, there are currently 1,205 licensed SNFs, and eight licensed ICFs (which do not include the much more numerous ICF-DDs). SNFs are defined as health facilities that provide skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis, and ICFs are defined as health facilities that provide inpatient care to ambulatory or non-ambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require the availability of continuous skilled nursing care.

   According to CDPH, an individual can file a complaint against a health care facility or provider in a number of ways, including through the California

Health Facility Information Database (Cal Health Find) on CDPH's website. The Cal Health Find page on CDPH's website allows consumers to find and compare health facilities, and to file a complaint against CDPH licensees. Cal Health Find allows consumers to search for facilities by name, facility type, or location; view provider details, including facility ownership, licensing and certification status, and performance history such as state enforcement actions and deficiencies identified by CDPH. Consumers can compare up to three facilities at a time.

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

SUPPORT: (Verified 8/1/22)

AARP
California Commission on Aging
California Senior Legislature
Office of the State Long-Term Care Ombudsman Program
Retired Public Employees Association

OPPOSITION: (Verified 8/1/22)

None received

ARGUMENTS IN SUPPORT: The Office of the State Long-Term Care Ombudsman Program states in support that the Ombudsman program is the only program that focuses solely on addressing the needs of residents of LTC facilities. The unique charge of the local Ombudsmen representatives allowed them to go into SNFs and other residential care facilities to be the voice, eyes, and ears, or human connection during the worst public health emergency in our generation. Although each LTC facility is required to prominently display a poster with the contact information about the LTC Ombudsman Program, this is not enough and may not be accessible to all residents. Therefore, this bill would provide another more direct channel to inform a resident up-on admission to be given information about the local LTC Ombudsman office.

AARP California states in support that COVID-19 has made clear the urgent need for reform by exposing the chronic, ongoing issues in California's nursing homes, as well as severe problems in the state's oversight of these facilities. AARP California states that this bill will ensure residents and their representatives know how to contact their local LTC ombudsman and file a grievance with both the ombudsman and CDPH.

The California Senior Legislature states in support that it is imperative that LTC residents know their rights, and providing contact information and resources should a resident need to file a complaint is imperative.

ASSEMBLY FLOOR: 61-0, 1/27/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Cervantes, Choi, Cooley, Cooper, Cunningham, Daly, Davies, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Gipson, Grayson, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Ward, Wicks, Wood, Rendon
NO VOTE RECORDED: Mia Bonta, Carrillo, Chen, Megan Dahle, Flora, Eduardo Garcia, Gray, Irwin, Maienschein, Mayes, Blanca Rubio, Villapudua, Voepel, Waldron, Akilah Weber

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
8/3/22 14:22:36

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

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

THIRD READING

Bill No: AB 916
Author: Salas (D) and Quirk-Silva (D), et al.
Amended: 6/23/22 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 6-1, 6/13/22
AYES: Wiener, Caballero, Cortese, Skinner, Umberg, Wieckowski
NOES: Bates
NO VOTE RECORDED: McGuire, Ochoa Bogh

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/29/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rules 28.8

ASSEMBLY FLOOR: 61-0, 1/27/22 (Consent) - See last page for vote

SUBJECT: Zoning: accessory dwelling units: bedroom addition

SOURCE: California Rental Housing Association

DIGEST: This bill makes changes to existing law governing accessory dwelling units (ADUs) to allow for additional residential square footage on existing residential properties.

ANALYSIS:

Existing law:

1) Requires a local agency to ministerially approve, within 60 days, in an area zoned for residential or mixed-use, an application for a building permit to create an ADU and a Junior Accessory Dwelling Unit (JADU) as follows:

a) The ADU or JADU that is within a proposed or existing structure, or the same footprint as the existing structure, provided the space has exterior access from the proposed or existing structure and the side and rear setbacks are sufficient for fire and safety.

b) One detached ADU that is within a proposed or existing structure or the same footprint as the existing structure, along with one JADU, that may be subject to a size limit of 800 square feet, a height limit of 16 feet, and side and rear yard setbacks of four feet.

2) Requires a local agency to ministerially approve, within 60 days, on a lot with a multifamily dwelling:

a) Multiple ADUs within the existing structures that are not used as livable space, if each unit complies with state building standards for dwellings.

b) Two detached ADUs that are subject to a height limit of 16 feet and rear and side yard setbacks of four feet.

This bill:

1) Prohibits a city or county from adopting or enforcing an ordinance requiring a public hearing for reconfiguring existing space to increase the bedroom count within an existing dwelling unit, as specified.

2) Increases the height limit allowance for ADUs to 18 feet, except as follows:

a) A height limitation of not less than 25 feet if within one-half mile walking distance of a major transit stop or a high-quality transit corridor.

b) A height limitation of not less than 25 feet or the height limitation in the local zoning ordinance that applies to the primary dwelling, whichever is lower, if ADU is attached to a primary dwelling.

Background

According to HCD, "ADUs are an innovative, affordable, effective option for adding much needed housing in California." ADUs, also known as accessory apartments, accessory dwellings, mother-in-law units, or granny flats, are additional living spaces on single-family or multifamily lots that have a separate kitchen, bathroom, and exterior access independent of the primary residence.

These spaces can either be attached to, or detached from, the primary residence. Local ADU ordinances must meet specified parameters outlined in existing state law.

Local governments may also adopt ordinances for JADUs, which are no more than 500 square feet and are bedrooms in a single-family home that have an entrance into the unit from the main home and an entrance to the outside from the JADU. The JADU must have cooking facilities, including a sink and stove, but is not required to have a bathroom.

Comments

1) *Housing crisis*. California's housing crisis is a half century in the making. Decades of underproduction underscored by exclusionary policies have left housing supply far behind need and costs soaring. California currently has 13 of the 14 least affordable metropolitan areas for homeownership in the nation; it also has the second highest rate of renter households paying more than 30% of their income for housing at 52%. According to the 2022 Statewide Housing Plan, published by HCD, California must plan for more than 2.5 million homes over the next eight-year cycle, and no less than one million of those homes must meet the needs of lower-income households. This represents more than double the housing planned for in the last eight-year cycle. The lack of housing supply is the primary factor underlying California's housing crisis.

   During the 1990's, California averaged only 110,000 new housing units per year. During the early 2000's, production increased significantly, reaching a peak of 212,000 units in 2004 before plummeting to historic lows during the recession. Unfortunately, the downward trend continues; the fact is that California has under-produced housing every single year since 1989.

   As a result, millions of Californians, who are disproportionately lower income and people of color, must make hard decisions about paying for housing at the expense of food, health care, child care, and transportation—one in three households in the state doesn't earn enough money to meet their basic needs.

2) *Encouraging ADU construction.* According to a UC Berkeley study, *Yes in My Backyard: Mobilizing the Market for Secondary Units,* second units are a means to accommodate future growth and encourage infill development in developed neighborhoods. Despite state law requirements for each city in the state to have a ministerial process for approving second units, local regulations often impede

development. In response, several bills, including SB 1069 (Wieckowski, 2016), SB 13 (Wieckowski, 2019) and AB 68 (Ting, 2019), have relaxed multiple requirements for the construction and permitting of ADUs and JADUs.

According to a 2020 UCLA Working Paper, "state ADU and JADU legislation has created the market-feasible potential for nearly 1.5 million new units."

Since 2013, the number of permitted ADUs increased from 799 to 12,813 in 2020, for a total of almost 44,000 ADUs permitted statewide. With localities across the state facing large regional housing needs allocations for the sixth housing element cycle, ADUs and JADUs represent a key tool in the housing production toolbox.

3) *Allowable ADU height limit*. Currently, state law requires that jurisdictions cannot set a height limit of less than 16 feet for newly constructed ADUs. At that height, it is impossible to have two stories with ceilings of at least eight feet in height—a best practice for residential units—without creative and expensive workarounds. This bill would raise the minimum height limit for ADUs by two feet, up to 18 feet, or, in instances of nearby high quality transit access or if the ADU is attached to the primary dwelling, up to 25 feet. This additional height allowance would better enable two stories, and thus facilitate an extra habitable floor of the ADU.

4) *Maximizing space.* Another way to facilitate more housing is to maximize the utilization of existing space within residential units. This approach has gained heightened importance during the COVID-19 pandemic, due to both health concerns and the need for social distancing, as well as the increased time spent at home.

   This bill facilitates the improved utilization of existing space by prohibiting public hearings in the instance where the space within existing units is reconfigured to add bedrooms. This prohibition would not affect other requirements – such as bedroom-based impact fees and parking requirements, nor with the requirement to comply with building standards. However, it would remove bureaucratic and time hurdles from making changes within an existing unit.

7) *Another ADU bill?* Earlier this year, the Senate heard SB 897 (Wieckowski), another bill that makes changes to the law governing ADUs. The primary overlap between this bill and SB 897 are in the provisions relating to ADU

height. A third bill making changes to ADU law, AB 2221 (Quirk-Silva), is also making its way through the Legislature.

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

SUPPORT: (Verified 7/29/22)

California Rental Housing Association (source)
Apartment Association of Greater Los Angeles
Apartment Association of Orange County
Berkeley Property Owner's Association
California Apartment Association
California Association of Realtors
California YIMBY
Casita Coalition
City of Santa Monica
City of Santa Rosa
East Bay Rental Housing Association
Nor Cal Rental Property Association
North Valley Property Owners Association
San Francisco Bay Area Planning & Urban Research Association (SPUR)
Santa Barbara Rental Property Association
Small Property Owners of San Francisco
Southern California Rental Housing Association

OPPOSITION: (Verified 7/29/22)

City of Beverly Hills
City of Pleasanton
City of Rancho Palos Verdes
City of Santa Clarita
City of Thousand Oaks
Mission Street Neighbors
San Francisco Land Use Coalition
South Bay Cities Council of Governments
One individual

ARGUMENTS IN SUPPORT: According to the author, "We are facing a housing crisis in California with both a lack of affordable housing and a pandemic of homelessness, especially for low- and moderate-income communities and communities of color. ADU's enable the creation of easy-to-build housing on land that is already utilized for housing, thus bringing down the cost of creating new

housing – an opportunity to build for the "missing middle". It is critical that we ensure that ADU creation is streamlined and that more bedrooms can be created in the state without being held up by the public hearing process. Reallocating underutilized space for legal bedrooms, will increase density thus bringing down the average price per occupant in a dwelling. Furthermore, by repurposing habitable space in a manner that is more efficient will reduce the cost of creating more housing."

ARGUMENTS IN OPPOSITION: Written opposition received came from a few cities, local organizations, and community associations concerned about local control and opposing the increased height limit for ADUs. A letter from the City of Beverly Hills stated, "AB 916 goes too far to inhibit the City's ability to review projects that add bedrooms to existing residential dwellings."

ASSEMBLY FLOOR: 61-0, 1/27/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Cervantes, Choi, Cooley, Cooper, Cunningham, Daly, Davies, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Gipson, Grayson, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Ward, Wicks, Wood, Rendon
NO VOTE RECORDED: Mia Bonta, Carrillo, Chen, Megan Dahle, Flora, Eduardo Garcia, Gray, Irwin, Maienschein, Mayes, Blanca Rubio, Villapudua, Voepel, Waldron, Akilah Weber

Prepared by: Mehgie Tabar / HOUSING / (916) 651-4124
8/3/22 14:22:36

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

SENATE RULES COMMITTEE AB 960
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 960
Author: Ting (D)
Amended: 8/1/22 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 6/28/22
AYES: Bradford, Kamlager, Skinner, Wiener
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 45-24, 6/3/21 - See last page for vote

SUBJECT: Compassionate release

SOURCE: California Coalition for Women Prisoners
Families Against Mandatory Minimums
Root & Rebound
UnCommon Law
Union of American Physicians and Dentists
White Coats for Black Lives

DIGEST: This bill makes a number of changes to the compassionate release process.

ANALYSIS:

Existing law:

1) Establishes the compassionate release process and authorizes the Secretary of the California Department of Corrections and Rehabilitation (CDCR) to recommend to the court that an inmate's sentence be recalled if the Secretary determines that the inmate satisfies the eligibility criteria. (Pen. Code, § 1170, subd. (e)(1).)

2) Provides that the court has the discretion to resentence or recall if the court finds either of the following to be true:

   a) The inmate is terminally ill with an incurable condition caused by an illness or disease that would produce death within 12 months, as determined by a physician employed by the department, and the conditions under which the inmate would be released or receive treatment do not pose a threat to public safety.

   b) The inmate is permanently medically incapacitated with a medical condition that renders them permanently unable to perform activities of basic daily living, and results in the prisoner requiring 24-hour total care, including, but not limited to, coma, persistent vegetative state, brain death, ventilator-dependency, loss of control of muscular or neurological function, and that incapacitation did not exist at the time of the original sentencing, and the conditions under which the inmate would be released or receive treatment do not pose a threat to public safety. (Pen. Code, § 1170, subd. (e)(2).)

3) Requires the court to hold a hearing to consider whether the inmate's sentence should be recalled within 10 days of receipt of a positive recommendation by the Secretary. (Pen. Code, § 1170, subd. (e)(3).)

4) Requires any physician employed by CDCR who determines that an inmate has 12 months or less to live to notify the chief medical officer of the prognosis. Requires the chief medical officer to notify the warden if the chief medical officers concurs with the prognosis. (Pen. Code, § 1170, subd. (e)(4).)

5) Requires the warden or the warden's representative to notify the prisoner of the recall and resentencing procedures within 48 hours of receiving notification, and to arrange for the inmate to designate a family member or other outside agent to be notified as to the inmate's medical condition and prognosis, and as to the recall and resentencing procedures. Requires the warden or the warden's representative to contact the inmate's emergency contact if the inmate is deemed mentally unfit. (Pen. Code, § 1170, subd. (e)(4).)

6) Requires the warden or the warden's representative to provide the inmate and their family member, agent, or emergency contact, updated information throughout the recall and resentencing process with regard to the inmate's medical condition and the status of the inmate's recall and resentencing proceedings. (Pen. Code, § 1170, subd. (e)(5).)

7) Authorizes the inmate or their family member or designee may independently request consideration for recall and resentencing by contacting the chief medical officer at the prison or the secretary. Provides that the Secretary may recommend to the court that the inmate's sentence be recalled if the Secretary determines that the inmate satisfies the eligibility criteria. Requires the Secretary to submit a recommendation for release within 30 days. (Pen. Code, § 1170, subd. (e)(6).)

8) Requires any recommendation for recall submitted to the court by the Secretary to include one or more medical evaluations, a postrelease plan, and findings regarding the eligibility criteria. (Pen. Code, § 1170, subd. (e)(7).)

9) Provides that the matter should be heard before the same judge of the court who sentenced the inmate if possible. (Pen. Code, § 1170, subd. (e)(8).)

10) Requires the inmate to be released by CDCR within 48 hours of receipt of the court's order if the court grants the recall and resentencing application, unless a longer time period is agreed to by the inmate. Requires the warden or the warden's representative to ensure that the inmate has each of the following in their possession at the time of release: a discharge medical summary, full medical records, state identification, parole or postrelease community supervision medications, and all property belonging to the prisoner. (Pen. Code, § 1170, subd. (e)(9).)

11) Requires the Secretary to issue a directive to medical and correctional staff employed by the department that details the guidelines and procedures for initiating a recall and resentencing procedure. Requires the directive to clearly state that any inmate who is given a prognosis of 12 months or less to live is eligible for recall and resentencing consideration, and that recall and resentencing procedures are required to be initiated upon that prognosis. (Pen. Code, § 1170, subd. (e)(10).)

12) Provides that compassionate release is available to an inmate who is sentenced to a county jail for a realigned felony. Clarifies that for purposes of those inmates, "Secretary" or "warden" means the county correctional administrator and "chief medical officer" means a physician designated by the county correctional administrator for this purpose. (Pen. Code, § 1170, subd. (e)(11).)

13) Excludes an inmate sentenced to death or a term of life without the possibility of parole from eligibility for compassionate release. (Pen. Code, § 1170, subd. (e)(12).)

This bill:

1) Authorizes the chief medical officer of the facility, instead of the Secretary, to determine that an incarcerated person satisfies the medical criteria for compassionate release. Requires CDCR recommend to the court that the person's sentence be recalled if the person meets the criteria.

2) Creates a presumption favoring recall and resentencing if the court finds that the person meets the eligibility criteria. Provides that the presumption may only be overcome if a court finds the person is an unreasonable risk of danger to public safety, as defined in subdivision (c) of Section 1170.18, based on the incarcerated person's current physical and mental condition.

3) Provides that a person is eligible for compassionate release if the person:

    a) Has an incurable disease or medical condition with an end-of-life trajectory; or,

    b) Is permanently medically incapacitated with a medical condition or functional impairment that renders them unable to complete one or more basic activities of daily living, or has progressive dementia or related cognitive impairment, and that incapacitation did not exist at the time of the original sentencing.

4) Requires the referral process to be consistent with the following timelines:

    a) Requires the chief medical officer, or chief medical executive to review and sign off on the primary physician's, or their designee's, diagnosis and referral within five working days.

    b) Requires the signed designated form to be submitted to the institution's Classification and Parole Representative (C&PR) within three working days of approval by the chief medical officer or chief medical executive.

    c) Requires the C&PR to submit the matter to an incarcerated person's case worker within three working days of receipt of the designated form. Requires the case worker to prepare the evaluation report within five working days of receipt of the designated form from the C&PR.

    d) Requires the C&PR to submit the evaluation report to the warden or chief deputy warden within three working days.

e) Requires the warden or chief deputy warden to review and sign the evaluation report and send the report to the Statewide Chief Medical Executive within three working days.

f) Requires the Statewide Chief Medical Executive to review the referral to affirm medical eligibility. Requires the Statewide Chief Medical Executive to send the referral and evaluation report to the department's classification services unit within five working days.

g) Provides that CDCR's classification services unit has 14 days to review the evaluation report for completeness. Requires the classification services unit to refer the matter to the court for recall and resentencing upon finding that the referral and report is complete.

5) Requires that the referring physician or their designees from the department be available to the court or defense counsel as necessary throughout the recall and resentencing proceedings.

6) Provides, upon recommendation to the court for recall of sentence, that the incarcerated person has the right to counsel and, if indigent, the right to court appointed counsel.

7) Requires the Judicial Council to publicly release an annual report on the compassionate release program beginning January 1, 2024. Requires the report to include all of the following:

a) The number of people who were referred to the court for recall and resentencing disaggregated by race, ethnicity, age, gender identity and further disaggregated by the type of criteria on which the referral was based. The report shall identify the following categories of criteria for recall and resentencing referrals: incurable disease or condition with an end-of-life trajectory; functional impairment; and cognitive impairment.

b) The number of people released by the court pursuant to this subdivision, disaggregated by race, ethnicity, age, and gender identity.

c) The number of people denied resentencing sought pursuant to this subdivision disaggregated by race, ethnicity, age, and gender identity.

d) Number of people who pass away before completing the recall and resentencing process disaggregated by race, ethnicity, age, and gender identity.

e) Number of people denied resentencing sought pursuant to this subdivision for lack of release plans with data disaggregated by race, ethnicity, age, and gender identity.

f) Number of cases pending decision with data disaggregated by race, ethnicity, age, and gender identity.

8) Makes other conforming changes, including removing references to the Secretary of CDCR and replacing it with chief medical officer.

Background

Existing law establishes the compassionate release process. (Pen. Code, § 1170, subd. (e).) A person is eligible for compassionate release if they are terminally ill with an incurable condition caused by an illness or disease that would produce death within 12 months or permanently medically incapacitated with a medical condition that renders them permanently unable to perform activities of basic daily living, and results in the prisoner requiring 24-hour total care, including, but not limited to, coma, persistent vegetative state, brain death, ventilator-dependency, loss of control of muscular or neurological function, and that incapacitation did not exist at the time of the original sentencing. In addition, release must not pose a threat to public safety. (Pen. Code, § 1170, subd. (e)(2).) Individuals who are sentenced to death or life without the possibility of parole are not eligible for compassionate release. (Pen. Code, § 1170, subd. (e)(12).)

Existing law delineates the procedures related to compassionate release. Any physician employed by CDCR who determines that an incarcerated person has 12 months or less to live is required to notify the chief medical officer of the prognosis. (Pen. Code, § 1170, subd. (e)(4).) The chief medical officer is require to notify the warden if the chief medical officer concurs with the prognosis. (*Ibid*.) The Secretary of CDCR is authorized to recommend to the court that an incarcerated person's sentence be recalled if the Secretary determines that the person satisfies the eligibility criteria. (Pen. Code, § 1170, subd. (e)(1).) Any recommendation for recall submitted to the court by the Secretary must include one or more medical evaluations, a postrelease plan, and findings regarding the eligibility criteria. (Pen. Code, § 1170, subd. (e)(7).)

The court is required to hold a hearing to consider whether the incarcerated person's sentence should be recalled within 10 days of receipt of a positive recommendation by the Secretary. (Pen. Code, § 1170, subd. (e)(3).) The incarcerated person must be released by CDCR within 48 hours of receipt of the

court's order if the court grants the recall and resentencing application, unless a longer time period is agreed to by the inmate. (Pen. Code, § 1170, subd. (e)(9).)

Existing law also authorizes the incarcerated person or their family member or designee to independently request consideration for recall and resentencing by contacting the chief medical officer at the prison or the Secretary. (Pen. Code, § 1170, subd. (e)(6).) The Secretary may recommend to the court that the incarcerated person's sentence be recalled if the Secretary determines that the inmate satisfies the eligibility criteria. Existing law further provides that the Secretary is required to submit a recommendation for release within 30 days. (*Ibid*.)

A person whose sentence is recalled via Penal Code Section 1170, subdivision (e), is no longer subject to the jurisdiction of the department and is not placed on supervision, and cannot be returned to prison if the person's health improves.

This bill makes a number of changes to the compassionate release process. First, this bill authorizes the chief medical officer of the facility, instead of the Secretary, to determine whether an incarcerated person satisfies the medical criteria for compassionate release. Next, this bill requires CDCR recommend to the court that the person's sentence be recalled if the person meets the eligibility criteria. This bill additionally creates a presumption favoring recall and resentencing if the court finds that the person meets the eligibility criteria, and provides that the presumption may only be overcome if the court finds the person is an unreasonable risk of danger to public safety based on the incarcerated person's current physical and mental condition. This bill also changes the eligibility criteria for compassionate release and provides detailed timelines for the referral process.

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

SUPPORT: (Verified 8/8/22)

California Coalition for Women Prisoners (co-source)
Families Against Mandatory Minimums (co-source)
Root & Rebound (co-source)
UnCommon Law (co-source)
Union of American Physicians and Dentists (co-source)
White Coats for Black Lives (co-source)
American Federation of State, County and Municipal Employees, AFL-CIO
Anti-Recidivism Coalition
California Public Defenders Association

Californians for Safety and Justice
Californians United for a Responsible Budget
Chinese for Affirmative Action
Dream Corps Justice
Essie Justice Group
Initiate Justice
Los Angeles County District Attorney's Office
National Association of Social Workers, California Chapter
Prosecutors Alliance of California
San Francisco Public Defender
Smart Justice California

OPPOSITION: (Verified 8/8/22)

California Narcotics Officers Association

ASSEMBLY FLOOR: 45-24, 6/3/21
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bloom, Bryan, Burke, Calderon, Carrillo, Chau, Chiu, Daly, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, McCarty, Medina, Mullin, Nazarian, O'Donnell, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Boerner Horvath, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Frazier, Gallagher, Irwin, Kiley, Lackey, Mathis, Mayes, Muratsuchi, Nguyen, Patterson, Petrie-Norris, Seyarto, Smith, Valladares, Voepel
NO VOTE RECORDED: Arambula, Cervantes, Cooley, Cooper, Gray, Maienschein, Ramos, Rodriguez, Salas, Waldron

Prepared by: Stephanie Jordan / PUB. S. /
8/10/22 14:24:52

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 972
Author: Berman (D)
Introduced: 2/18/21
Vote: 21

SENATE ELECTIONS & C.A. COMMITTEE: 3-1, 6/13/22
AYES: Newman, Hertzberg, Leyva
NOES: Nielsen
NO VOTE RECORDED: Glazer

SENATE JUDICIARY COMMITTEE: 10-1, 6/21/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Laird, McGuire, Stern, Wiener
NOES: Jones

ASSEMBLY FLOOR: 54-3, 1/20/22 - See last page for vote

SUBJECT: Elections: deceptive audio or visual media

SOURCE: Author

DIGEST: This bill extends the sunset date, from January 1, 2023 to January 1, 2027, on a provision of law that prohibits the distribution of materially deceptive audio or visual media with actual malice with the intent to injure a candidate's reputation or to deceive a voter into voting for or against a candidate, unless the materially deceptive audio or visual media includes a disclosure that it has been manipulated.

ANALYSIS:

Existing federal law:

1) Provides, pursuant to Section 230 of the federal Communications Decency Act, that no provider or user of an interactive computer service shall be treated as the

publisher or speaker of any information provided by another information content provider.

2) Provides, pursuant to the federal Communications Act of 1934, for the federal regulation of telephone, telegraph, television, and radio communications.

Existing state law:

1) Prohibits a person, committee, or other entity, until January 1, 2023, from distributing with actual malice, within 60 days of an election at which a candidate for elective office will appear on the ballot, materially deceptive audio or visual media of a candidate with the intent to injure the candidate's reputation or to deceive a voter into voting for or against the candidate.

   a) Defines "materially deceptive audio or visual media" as an image or an audio or visual recording of a candidate's appearance, speech, or conduct that has been intentionally manipulated in a manner that both of the following are true about the image or audio or video recording:

      i) It would falsely appear to a reasonable person to be authentic

      ii) It would cause a reasonable person to have a fundamentally different understanding or impression of the expressive content of the image, audio, or video recording than the person would have if the person were hearing or seeing the unaltered, original version of the image, audio, or video recording.

   b) Provides that this prohibition does not apply if the audio or visual media includes a disclosure stating "This (image/video/audio) has been manipulated," and the disclosure complies with specified requirements.

   c) Permits a candidate whose voice or likeness appears in deceptive audio or visual media distributed in violation of this provision to seek the following relief:

      i) Injunctive or other equitable relief prohibiting the distribution of the materially deceptive audio or visual media, as specified. Provides that such an action is entitled to precedence in court, as specified.

ii) General or special damages against the person, committee, or other entity that distributed that audio or visual media. Permits the court to award reasonable attorney's fees and costs to a prevailing party in such an action.

d) Provides that in any civil action brought pursuant to these provisions, the plaintiff bears the burden of establishing the violation through clear and convincing evidence.

e) Provides that this prohibition shall not be construed to alter or negate any rights, obligations, or immunities of an interactive service provider under Section 230 of the federal Communications Decency Act.

f) Provides that this prohibition does not apply to any of the following:

i) A radio or television broadcasting station, as specified, in either of the following circumstances:

(1) When it broadcasts materially deceptive audio or visual media as part of a bona fide newscast, news interview, news documentary, or on-the-spot coverage of bona fide news events, if the broadcast clearly acknowledges through content or disclosure that there are questions about the authenticity of the audio or visual media, as specified.

(2) When it is paid to broadcast materially deceptive audio or visual media.

ii) An internet website, or a regularly published newspaper, magazine, or other periodical of general circulation, including an internet or electronic publication, that routinely carries news and commentary of general interest, and that publishes materially deceptive audio or visual media prohibited by this prohibition, if the publication clearly states that the media does not accurately represent the speech or conduct of the candidate.

iii) Materially deceptive audio or visual media that constitute satire or parody.

2) Prohibits a person, firm, association, corporation, campaign committee, or organization, beginning January 1, 2023, with actual malice, from producing,

distributing, publishing, or broadcasting campaign material, as defined, that contains either of the following types of pictures or photographs, as specified, unless the campaign material includes a disclosure that the picture is not an accurate representation of fact:

a) A picture or photograph of a person or persons into which the image of a candidate for public office is superimposed.

b) A picture or photograph of a candidate for public office into which the image of another person or persons is superimposed.

This bill extends the sunset date—from January 1, 2023 to January 1, 2027—on a provision of law that prohibits the distribution of materially deceptive audio or visual media with actual malice with the intent to injure a candidate's reputation or to deceive a voter into voting for or against a candidate, unless the materially deceptive audio or visual media includes a disclosure that it has been manipulated.

Background

Deepfakes Background and Previous Legislation. Deepfake technology refers to software capable of producing a realistic looking video of someone saying or doing something that they did not say or do. This technology has advanced rapidly in recent years thanks to the use of artificial intelligence to help train the software. Software applications that enable a user to make deepfake videos are now available for easy download.

In response to concerns that deepfakes could be used to spread misinformation in campaigns, in 2019, the Legislature approved and Governor Newsom signed AB 730 (Berman, Chapter 493, Statutes of 2019). AB 730 prohibited the distribution of materially deceptive audio or visual media with actual malice with the intent to injure a candidate's reputation or to deceive a voter into voting for or against a candidate, unless the materially deceptive audio or visual media includes a disclosure that it has been manipulated. AB 730 does not apply exclusively to deepfakes, but rather applies to any intentional manipulation of audio or visual images that results in a version that a reasonable observer would believe to be authentic. Nonetheless, the increasing availability and advancing capability of deepfake technology was the immediate impetus for that bill.

AB 730 was designed as an update to California's "Truth in Political Advertising Act," a law enacted in 1998 through the passage of AB 1233 (Leach, Chapter 718, Statutes of 1998). AB 1233 prohibited campaign material that contains a picture of

a person into which a candidate's image is superimposed, or contains a picture of a candidate into which another person's image is superimposed, except if a specified disclaimer was included. The Truth in Political Advertising Act was introduced in response to the use of photoshopped pictures in campaign materials, and accordingly was designed to target the manipulation of photographs in campaign materials. However, in the 20 years following its passage, it was never amended to update the law to address more modern techniques of manipulating campaign materials in a manner that can mislead voters. AB 730 replaced the Truth in Political Advertising Act with a law that regulates not only altered photographs in campaign materials, but also audio and video media that have been altered in a materially deceptive manner. The changes made thorough the passage of AB 730 are scheduled to sunset on January 1, 2023. If that sunset date is not repealed or extended, the original Truth in Political Advertising Act as enacted by AB 1233 of 1998 would go back into effect.

Joint Informational Hearing on Election Cybersecurity. In 2018, the Assembly Committee on Elections and Redistricting held a Joint Informational Hearing with the Senate Committee on Elections and Constitutional Amendments on the topic of Cybersecurity and California Elections. In light of the increased focus on election security since the 2016 elections, the purpose of the hearing was to explore California's policies for protecting the security of elections systems in an environment where the number and sophistication of threats to our election infrastructure continues to increase.

One of the witnesses at the hearing was Andrew Grotto, a former Senior Director for Cybersecurity Policy for The White House and then a Research Fellow at the Hoover Institution at Stanford University. Mr. Grotto provided recommendations for how candidates seeking office can help reaffirm the public’s confidence in the electoral system. One of the recommendations focused on fake videos and deepfakes. Mr. Grotto recommended that leaders and candidates for office should establish a clear norm of restraint around fake videos and deepfakes. In addition, Mr. Grotto stressed that candidates seeking office should also mutually agree not to produce, promote, or otherwise distribute fake videos or deepfakes, and to call out groups that defy this type of policy.

Comments

1) According to the author, deepfakes, which are fabricated photos and recordings of someone appearing to say or do something they did not, are a powerful and dangerous technology with the potential to sow misinformation and discord among an already hyper-partisan electorate. Deepfakes distort the truth,

making it difficult to distinguish between legitimate and fake media and more likely that people will accept content that aligns with their views. By blurring truth and fiction, deepfakes also make it easier to pass off fake events as real as well as dismiss real events as fake. Moreover, the Carnegie Endowment for International Peace notes that deepfakes have the potential to incite violence, alter election outcomes, and undermine diplomacy. In response, California enacted legislation in 2019 to protect voters from being tricked and influenced by manipulated videos, audio recordings, or images before the 2020 General Election. AB 972 would extend the sunset date of the law from January 1, 2023 to January 1, 2027, thereby ensuring that California law continues to dissuade the creation and distribution of nefarious election-related deepfakes and other manipulated content.

Related/Prior Legislation

AB 730 (Berman, Chapter 493, Statutes of 2019), prohibited the distribution of materially deceptive audio or visual media with actual malice with the intent to injure a candidate's reputation or to deceive a voter into voting for or against a candidate, unless the materially deceptive audio or visual media includes a disclosure that it has been manipulated, as specified.

AB 3075 (Berman, Chapter 241, Statutes of 2018), created the Office of Elections Cybersecurity and requires the office, among other provisions, to assess false or misleading information regarding the electoral process, mitigate the false or misleading information, and educate voters with valid information from elections officials such as a county elections official or the Secretary of State, as specified.

AB 1233 (Leach, Chapter 718, Statutes of 1998), prohibited campaign material that contains a picture of a person into which a candidate's image is superimposed, or contains a picture of a candidate into which another person's image is superimposed, except if a specified disclaimer was included.

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

SUPPORT: (Verified 6/24/22)

Silicon Valley Community Foundation

OPPOSITION: (Verified 6/24/22)

None received

ASSEMBLY FLOOR: 54-3, 1/20/22
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Cervantes, Cooley, Cunningham, Daly, Davies, Gabriel, Gallagher, Cristina Garcia, Gipson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Kiley, Lackey, Smith
NO VOTE RECORDED: Arambula, Bigelow, Carrillo, Chen, Choi, Cooper, Megan Dahle, Flora, Fong, Friedman, Eduardo Garcia, Gray, Grayson, Mayes, Nguyen, Patterson, Seyarto, Voepel, Waldron

Prepared by: Scott Matsumoto / E. & C.A. / (916) 651-4106
6/24/22 12:51:16

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

SENATE RULES COMMITTEE AB 975
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 975
Author: Luz Rivas (D)
Amended: 6/16/22 in Senate
Vote: 27

SENATE ELECTIONS & C.A. COMMITTEE: 4-0, 6/13/22
AYES: Newman, Nielsen, Hertzberg, Leyva
NO VOTE RECORDED: Glazer

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 72-0, 1/31/22 - See last page for vote

SUBJECT: Political Reform Act of 1974: filing requirements and gifts

SOURCE: Author

DIGEST: This bill requires public officials and candidates for whom the Fair Political Practices Commission (FPPC) is the filing officer to file their original statements of economic interests (SEIs) electronically with the FPPC, as specified. This bill also extends the time that a gift may be returned, reimbursed, or donated, as specified, and reduces the amount of time in which a lobbyist, lobbying firm, and lobbyist employer must provide a beneficiary of a gift certain information about that gift. This bill also permits filing officer who retains specified campaign statements to retain these statement with an electronic copy if certain conditions are met.

ANALYSIS:

Existing law:

1) Creates the FPPC, and makes it responsible for the impartial, effective administration and implementation of the Political Reform Act or 1974 (PRA).

2) Requires that candidates for, and current holders of, specified elected or appointed state and local offices and designated employees of state and local agencies file SEIs disclosing their financial interests, including investments, real property interests, and income.

3) Authorizes an agency to permit the electronic filing of an SEI, including amendments, in accordance with regulations adopted by the FPPC.

4) Permits the FPPC to develop and operate an online system for filing SEIs required by existing law, as specified.

5) Permits the FPPC to make all the data filed on a system developed available on the FPPC's internet website in an easily understood format that provides the greatest public access, and to provide assistance to those seeking public access to the information.

6) Requires the FPPC to redact private information, including, but not limited to, the signatures of filers, from the data that is made available on the Internet.

7) Defines a "gift," for the purposes of the PRA, to mean any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status.

8) Provides that the term "gift" does not include gifts which are not used and which, within 30 days after receipt, are either returned to the donor or delivered to a nonprofit entity exempt from taxation in accordance with existing law without being claimed as a charitable contribution for tax purposes.

9) Requires the following information to be provided when a lobbyist, lobbying firm, or lobbyist employer is required to report activity expenses pursuant to existing law:

    a) The date and amount of each activity expense.

    b) The full name and official position, if any, of the beneficiary of each expense, a description of the benefit, and the amount of benefit.

c) The full name of the payee of each expense if other than the beneficiary.

d) Any other information required by the commission consistent with the purposes and specified provisions of the PRA.

10) Requires each lobbyist, lobbying firm, and lobbyist employer filing a report pursuant to existing law who sends any written or printed invitation to an elected state officer, candidate for elective state office, legislative official, or agency official, to include on the invitation or on a letter attached to the invitation the following typed, printed, or handwritten statement that is at least as large and readable as 8-point Roman boldface type, in a color or print that contrasts with the background so as to be easily legible:

Attendance at this event by a public official will constitute acceptance of a reportable gift.

11) Provides that the notice specified above shall not be required to appear on any invitation wherein attendance at the event described in the invitation will not constitute acceptance of a reportable gift by an elected state officer, candidate for elective state office, legislative official, or agency official, pursuant to existing law.

12) Requires each lobbyist, lobbying firm, and lobbyist employer filing a report pursuant to existing law to provide each beneficiary of a gift listed within the report the following information within 30 days following the end of each calendar quarter in which the gift was provided, as specified:

a) The date and amount of each gift reportable by the beneficiary.

b) A description of the goods or services provided to the beneficiary.

13) Requires statements of organization, registration statements, and original campaign statements of persons holding elective state office, candidates for any such office, committees supporting any such officeholder or candidate, and committees supporting or opposing statewide measures, be retained by filing officers indefinitely.

14) Requires original campaign statements of mayors, city council members, county supervisors, candidates for any of these offices, and committees supporting any officeholder or candidate be retained indefinitely, except that

original campaign statements of candidates not elected to these offices and of committees supporting candidates not elected to these offices be retained by filing officers for a period of not less than five years.

15) Requires original campaign statements of all other persons not specified in 13) and 14) be retained by filing officers for a period of not less than seven years.

16) Requires original SEIs of persons holding statewide elective office be retained by filing officers indefinitely.

17) Requires copies of reports or statements be retained by the officer with whom they are filed for a period of not less than four years, provided, that a filing officer is not required to retain more than one copy of a report or statement.

18) Provides that after an original report or statement or a copy, as specified, has been on file for at least two years, the officer with whom it is filed may retain a copy on microfilm or other space-saving materials available for public inspection instead of the original report or statement or copy. Provides that, upon request, the officer shall provide copies of such statements, as specified.

This bill:

1) Revises and recasts provisions of law relating to SEIs and requires the following public officers and, if applicable, candidates for election to offices, as specified, to file their original SEIs electronically with the FPPC using the FPPC's electronic filing system, instead of allowing them to choose to file their SEIs on paper or electronically with the FPPC. Provides that the FPPC is the filing officer.

2) Requires a head of a local government agency, member of a local government board or commission, or member of a board or commission not under the jurisdiction of a local legislative body to file one original statement with the agency, board, or commission, which shall make and retain a copy and forward the original to the code reviewing body, as specified.

3) Prohibits the FPPC from making SEIs filed by officials other than officials specified in Government Code 87200 available on the internet, and requires the FPPC to redact personal addresses and telephone numbers of all filers from SEIs that are made available on the internet.

4) Provides a gift that meets any of the following criteria within 30 days following the end of the calendar quarter in which the gift was received is not included as a gift:

   a) The gift is returned to the donor, donor's agent, or donor's intermediary from whom the gift was received, unused and without having received anything of value in exchange for the returned gift.

   b) The gift is donated, unused, to an entity exempt from taxation under Section 501(c)(3) of the Internal Revenue Code with which the official, or a member of the official's immediate family, does not hold a position, or to a state, local, or federal government agency, without being claimed as a deduction for tax purposes.

   c) The official reimburses the donor, donor's agent, or donor's intermediary from whom the gift was received, in full, or for a portion thereof. If the donor is not reimbursed for the full value of the gift, the value of the gift the official has received is reduced by the amount of the reimbursement.

5) Reduces the amount of time that a lobbyist, lobbying firm, or lobbyist employer has to provide specified information to the beneficiary of a gift that was made by the lobbyist, firm, or employer, from 30 days to 15 days following the end of the calendar quarter in which the gift was provided.

6) Permits a filing officer to retain and make available for public inspection an electronic copy of an original report after an original report or statement or a copy has been on file for at least two years and filed in paper format instead of the original report or statement or copy, as specified.

7) Makes other technical and conforming changes.

Background

SEIs and Prior Legislation. As part of the PRA's comprehensive approach to prevent conflicts of interest by state and local public officials, existing law identifies certain elected and other high-level state and local officials who must file SEIs (commonly referred to as Form 700 filers). Candidates of these elected positions must also file SEIs. Other state and local public officials and employees are required to file SEIs if the position the employees holds is designated in an agency's conflict of interest code. A position is required to be designated in an agency's conflict of interest code when the position entails the making or

participation in the making of governmental decisions that may foreseeably have a material financial effect on the decision maker's financial interests.

The information that must be disclosed on an SEI, and the location at which an SEI is filed, varies depending on the position held by the individual who is required to file an SEI. Although there are some exceptions, individuals who are required to file an SEI typically must file that document with the agency of which they are an elected official or by which they are employed. In some cases, original SEIs or copies thereof are filed with the FPPC. The requirement for public officials to file SEIs serves two purposes. First, the SEI provides necessary information to the public about an official's personal financial interests so there is assurance that officials are making decisions that do not enhance their personal finances. Second, the requirement to file an SEI serves as a reminder to the public official of potential conflicts of interests so the official can recuse themselves from making or participating in governmental decisions that are deemed conflicts.

Although there is no statutory requirement for the FPPC to post SEIs online, in 2010, the FPPC adopted a regulation requiring it to post the SEIs of all elected officers who, in their elected capacities, are required to file their SEIs with the FPPC. As a result, the FPPC now posts SEIs for all constitutional officers, legislators, judges, members of county boards of supervisors, mayors, and city councilmembers. Additionally, the FPPC has chosen to post the SEIs of FPPC Commissioners and legislative candidates. When a person holding one of these positions files an SEI on paper, the FPPC must manually scan the SEI and redact certain information (such as addresses and signatures) before the SEI can be posted on the FPPC website.

Electronic v. Paper Filings. As mentioned previously, individual filers have the option to either submit their SEI by paper or using the FPPC's electronic system. According to the FPPC, below is number of SEI submissions in recent years and the method used (paper or electronic) for submission.

Year	Paper Statements	Electronic Statements	Total Statements
2017	12,779 (59.18%)	8,814 (40.82%)	21,593
2018	11,121 (45.33%)	13,415 (54.67%)	24,536
2019	8,539 (36.25%)	15,017 (63.75%)	23,556
2020	7,927 (33.28%)	15,893 (66.72%)	23,820
2021*	5,573 (23.77%)	17,875 (76.23%)	23,448

* As of May 26, 2022, and of those filed with the FPPC.

It should be noted these numbers are forms filed in the specific calendar year and consist of SEIs for individuals the assuming office for a specific/designated position, submitting an annual statement, leaving a specific/designated position, or is a candidate for office. Amendments to a submitted SEI are not included in these numbers. Additionally, the COVID-19 pandemic may have played a role in the increase in electronic filings because many filers may have been hesitant to submit a form by paper for health and safety reasons.

Gifts and Reporting Times. The PRA regulates the making of gifts to public officials. However, the PRA exempts from the definition of "gift," among other things, a gift to an official that, within 30 days of receipt, is returned to the donor, reimbursed, or delivered to a charitable organization without being claimed as a deduction for tax purposes

Quarterly reports filed with the Secretary of State disclose receipts and payments in connection with lobbying activity. For example, as mentioned above, lobbyists, lobbying firms, and lobbyist employers are required to provide each beneficiary of a gift with the date and amount of each gift reportable by the beneficiary and a description of the goods or services provided to the beneficiary within 30 days following the end of the calendar quarter in which the gift was provided.

Comments

1) According to the author, AB 975 will extend the period for exercising the return/reimbursement/donation exemption to within 30 days of the close of the calendar quarter in which the gift was received, and reduces the timeline for lobbying entities to notify beneficiaries of gifts to within 15 days following the end of the calendar in which the gift was received.

   This bill will also require public officials and candidates for whom the FPPC is the filing officer, to file their SEI electronically with the FPPC; and restrict the FPPC from making available on the internet, SEIs filed by certain nonelected officials.

2) *Eliminating an Option*. This bill eliminates the option for paper filings for SEIs. As a result, all filers would need to have access to the internet to file electronically. Any issue with the FPPC electronic filing system or any technological issue experienced by the filer could result in a violation of the PRA depending on when the issue occur and whether the issue created a delay in submitting a timely statement electronically. Currently, when an issue arises

with the FPPC electronic filing system, paper filings provide a good and viable backup option. Filing by paper may also provide a certain level of comfort for the filer because physically delivering in a paper format guarantees that their form was timely received by the FPPC.

Related/Prior Legislation

AB 409 (Quirk-Silva, Chapter 643, Statutes of 2013) permitted the FPPC to develop and operate an online system for filing SEIs.

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

SUPPORT: (Verified 6/27/22)

California Association of Clerks and Election Officials
County of San Luis Obispo Board of Supervisors

OPPOSITION: (Verified 6/27/22)

None received

ASSEMBLY FLOOR: 72-0, 1/31/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Gallagher, Gray, Mathis, Rodriguez

Prepared by: Scott Matsumoto / E. & C.A. / (916) 651-4106
6/28/22 14:28:07

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

SENATE RULES COMMITTEE AB 984
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 984
Author: Wilson
Amended: 8/2/22 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 13-0, 6/24/21
AYES: Gonzalez, Allen, Archuleta, Becker, Cortese, Dodd, McGuire, Min, Rubio, Skinner, Umberg, Wieckowski, Wilk
NO VOTE RECORDED: Bates, Dahle, Melendez, Newman

SENATE JUDICIARY COMMITTEE: 9-0, 7/13/21
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Skinner, Stern
NO VOTE RECORDED: Borgeas, Wieckowski

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

ASSEMBLY FLOOR: 59-2, 6/1/21 - See last page for vote

SUBJECT: Vehicle identification and registration: alternative devices

SOURCE: Reviver

DIGEST: This bill requires the Department of Motor Vehicles (DMV) to establish a program authorizing an entity to issue devices as alternatives to the conventional license plates, stickers, tabs and registration cards, subject to approval of the California Highway Patrol (CHP).

Senate Floor Amendments of 8/2/22 provide that vehicle location technology in passenger vehicles being used solely for personal use shall be capable of being manually disabled by a driver while in the vehicle.

Senate Floor Amendments of 9/3/21 strengthen the privacy provisions by including a requirement that all vehicle operators are aware of the GPS capability of the

device. They also revise provisions dealing with enforcement of the tracking of employees using these devices by clarifying that employees can file complaints about unlawful tracking with the Labor Commissioner. Penalties are $250 per employee per violation for an initial violation and $1,000 per employee for subsequent violations.

ANALYSIS:

Existing law:

1) Requires DMV to issue two reflectorized license plates for vehicles and specifies that:

   a) Each plate must display the word "California," the vehicle's registration number, and the year for which the vehicle's registration is valid; and,

   b) For license plates other than motorcycles, the license must be rectangular in shape, 12 inches in length, and six inches in width.

2) Prohibits DMV from contracting with any non-governmental entity for purposes of manufacturing license plates.

3) Authorizes DMV to issue one or more stickers, tabs, or other suitable devices in lieu of a license plate as specified.

4) Authorizes DMV to conduct a pilot program to evaluate alternatives to vehicle license plates, registration stickers, and registration cards until no later than January 1, 2020, and requires DMV to report on the results of the pilot program to the Legislature no later than July 1, 2020.

5) Requires the CHP to approve any DMV-selected alternative to license plates or registration stickers and cards.

This bill:

1) Requires the DMV to establish a program to authorize the use of alternatives to conventional license plates, stickers and registration cards with the following requirements:

   a) The alternative device is subject to approval by the DMV and the CHP.

   b) The alternative device shall be available in a form that does not include vehicle location technology, and it may be available in a form that includes

vehicle location at a higher price. The vehicle location capability shall be capable of being disabled by the user, and in passenger vehicles used solely for personal use, the location capability shall be capable of being manually disabled by the driver while in the vehicle. If the vehicle location technology is active there shall be a visible indication.

c) Data exchanged between the DMV and the device is limited to only that data needed to display evidence of registration. The DMV shall not receive information regarding the location of the device.

d) Use of the alternative device is optional and offered on an opt-in basis.

2) Requires the DMV to adopt regulations to implement the program. Those regulations shall include, but not be limited to, the following:

a) Standards for safe use.

b) Requirements for product oversight and customer support.

c) Requirements for product size, design, display and functionality.

d) Data sharing, privacy, and security protocols.

e) Reporting requirements.

f) Reasonable fees to cover the cost of program implementation.

g) Requirements to ensure that registered owners of the device are aware of the GPS capability and can deactivate the function.

h) Requirements to ensure that nonregistered vehicle operators are aware of the GPS capability.

3) Requires an entity seeking approval to issue an alternative device to submit a business plan to the DMV for approval which includes, but is not limited to, the following:

a) An administrative oversight plan.

b) A product support plan.

c) Security, privacy and cybersecurity evaluations and measures to protect against unauthorized access to information.

d) Procedures to comply with applicable privacy and security requirements, including the California Consumer Privacy Act of 2018.

4) Provides that an alternative device intended to substitute for a license plate shall be visible in the same way that conventional license plates are visible, as specified, and display only information and images approved by the department or deemed necessary by the department. If the alternative device malfunctions it may be deemed a correctable violation. The alternative device provider shall establish a process for frequent notification if the device becomes defective.

5) Prohibits the provider of the alternative device from sharing or selling the information obtained to provide the device, or any other information obtained by virtue of contracting with the DMV to provide the device, including, but not limited to, information collected by the device itself.

6) Prohibits an employer from using the alternative device to monitor employees except during work hours, and only if necessary for the performance of the employee's duties. Employees who believe they have been subject to a violation of this provision may file a complaint with the Labor Commissioner. The employer shall provide the employee with a notice stating that monitoring will occur along with other specified information about how the character of data collected and how the data will be used and stored. An employer who violates these provisions shall be subject to a civil penalty of $250 per employee per violation for the initial occurrence and $1000 per employee per violation for subsequent occurrences.

Comments

1) *Author's Statement.* AB 984 will give the Department of Motor Vehicles the authority to move forward with new vehicle registration technologies. After testing several products during the pilot program, the Department issued the required report in August 2019 to the Legislature, which recommended the DMV be able to move forward with the various products and devices. Some of these products will serve to reduce internal DMV workloads and allow vehicle registration renewal to become a completely remote transaction.

2) *Successful New Product Pilot*. In 2013, legislation was signed authorizing DMV to establish a pilot program to evaluate the use of alternatives to license plates, registration stickers, and registration cards. DMV has developed specifications and completed procurements for each of the three authorized alternatives. The procurement process ran longer than was anticipated and field testing for some of the technologies by the contracted vendors did not begin until as late as November 2015. As noted by the author, in its evaluation of the pilot program the DMV reported that "In general, there were no significant law enforcement, DMV, or customer concerns with any of the three pilot products. DMV recommends all three products be fully authorized in statute for permanent use." [1]

3) *Going Digital*. Two of the three new products are digital: a digital license plate and a digital vehicle registration. (The third new product is a lower-tech adhesive license plate that wraps around the bumper.) The digital nature of these two new products allows for over-the-air updating and renewal. However, this raises additional concerns about cybersecurity and hacking. The DMV pilot program report notes that the digital license plate is protected by encryption and is password protected. A feature of the digital license plate is that the lower area of the plate which lists the DMV's website on standard plates can have alternative messaging, such as a greeting (e.g. Have a Nice Day). One can imagine the opportunity for creativity and mischief, though this is mitigated by the requirement that the digital plate can only display information and images approved by the DMV.

4) *Why Go Digital?* A digital license plate will cost more than a traditional plate, $499 for a non-GPS enabled model. That it is digital may be reason enough for some individuals to switch. A digital plate will also make vehicle registration renewal easier as it can be done completely electronically without requiring the annual application of stickers. When coupled with GPS capability the digital plate can be used for location and security services. In any event, the marketing and financial risk (and reward) of these devices is on the shoulders of the 3rd party vendors.

5) *Your Choice*. The digital products offered as a result of this bill are optional. Individuals will only receive these digital products if they make an affirmative choice to do so. A digital license plate must be offered without GPS capability

[1] "REPORT ON ALTERNATIVE REGISTRATION PRODUCTS PILOT PROGRAM", August 2019.

and may be offered with such capability provided that capability may be disabled by the user.

6) *Privacy*. This bill contains privacy protections including limitations on the type of information that can be provided to the DMV, and on when and how the alternative device can be used to monitor employees. Employee monitoring is subject to comprehensive notification to the employee and violations are civil penalties subject to enforcement by the Labor Commissioner. Nevertheless, privacy advocates have been opposed to the bill, raising concerns about the location tracking capabilities of this digital equipment and how that potentially impacts passengers and employees. It is not clear how the latest amendments impact the views of the opposition.

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

According to the Senate Appropriations Committee:

- DMV estimates costs of $511,000 in 2022-23 and $945,000 annually thereafter for 7.0 PY of staff to establish a new unit charged with approval and oversight of alternative registration products, and to make technology changes to manage vendors and make record information available to law enforcement. Staff notes that DMV would incur upfront implementation costs prior to establishing and collecting fees from participating vendors and customers to partially or fully offset costs in the future. (Motor Vehicle Account)

- CHP estimates it would incur minor and absorbable costs to update departmental policies and procedures and conduct testing of digital license plates. (Motor Vehicle Account)

- Staff estimates likely minor costs for the Labor Commissioner and the Attorney General for enforcement of provisions that prohibit an employer from using an alternative device to monitor employees. (General Fund)

SUPPORT: (Verified 8/2/22)

Reviver (source)
California Black Chamber of Commerce
California New Car Dealers Association
Silicon Valley Leadership Group

OPPOSITION: (Verified 8/2/22)

ACLU California Action
Anti Police-Terror Project
California Partnership to End Domestic Violence
Communities United for Restorative Youth Justice
Consumer Federation of America
Consumer Federation of California
Electronic Frontier Foundation
Endtab
Justice Teams Network
National Network to End Domestic Violence
Oakland Privacy
Privacy Rights Clearinghouse
Safer Streets LA
Secure Justice
Youth Justice Coalition
Youth Justice Coalition LA

ASSEMBLY FLOOR: 59-2, 6/1/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cunningham, Daly, Davies, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Lackey, Voepel
NO VOTE RECORDED: Bigelow, Bryan, Cooper, Megan Dahle, Flora, Frazier, Gallagher, Mathis, Mayes, Muratsuchi, Nazarian, Nguyen, Patterson, Rodriguez, Salas, Seyarto, Smith, Valladares

Prepared by: Randy Chinn / TRANS. / (916) 651-4121
8/3/22 14:22:37

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

SENATE RULES COMMITTEE AB 1041
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1041
Author: Wicks (D), et al.
Amended: 8/8/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 6/21/21
AYES: Cortese, Durazo, Laird, Newman
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/26/21
AYES: Portantino, Bradford, Kamlager, Laird, McGuire
NOES: Bates, Jones

ASSEMBLY FLOOR: 53-16, 5/28/21 - See last page for vote

SUBJECT: Employment: leave

SOURCE: California Employment Lawyers Association
California Work and Family Coalition
Equal Rights Advocates
Equality California
Legal Aid at Work

DIGEST: This bill adds a "designated person" to the list of individuals for whom an employee may take leave to care for under the California Family Rights Act (CFRA) and the Healthy Workplaces, Healthy Families Act of 2014 (Paid Sick Days). This bill (1) defines "designated person" as a person identified by the employee at the time of the request, and (2) allows employers to limit the employee to one designated person per 12-month period. For leave under CFRA, this bill also defines "designated person" as an individual related by blood or whose association with the employee is the equivalent of a family relationship.

Senate Floor Amendments of 8/8/22 clarify, for purposes of the CFRA expansion, the definition of a "designated person" to include individuals related by blood or with specified family relationships. The amendments also strike out irrelevant chaptering out language.

ANALYSIS:

Existing law:

1) Makes it an unlawful employment practice, under CFRA, for an employer, as defined, to refuse to grant a request by an eligible employee to take up to 12 workweeks of *unpaid, job-protected* leave during any 12-month period to:

    a) Care for a child born to, adopted by, or placed for foster care with the employee.
    b) Care for the employee's child, parent, grandparent, grandchild, siblings, spouse, or domestic partner who has a serious health condition, as defined.
    c) Address an employee's own serious health condition rendering them unable to perform the functions of their job.
    d) 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. (Government Code §12945.2)

2) Specifies the following with regards to CFRA:

    a) Defines "employer" as any person who directly employs five or more employees, including the state and cities.
    b) Eligible employees must have at least 1,250 hours of service with the employer during the previous 12-month period.
    c) Requires the employer to maintain and pay for coverage under a "group health plan" for the duration of the leave at the same level and conditions.

3) Establishes the Healthy Workplaces, Healthy Families Act of 2014 (Paid Sick Days) requiring an employer to provide an employee a minimum of 24 hours or three days of paid sick leave per year to be used for the following reasons:

    a) Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member.
    b) For an employee who is a victim of domestic violence, sexual assault, or stalking to seek medical attention for injuries, obtain victim services, mental health service, and participate in safety planning.
    c) Defines "family member" to mean any of the following:
        i) A child, which for purposes of this article means a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis, regardless of age or dependency status.

ii) A biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or their spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.
iii) A spouse or registered domestic partner.
iv) A grandparent, grandchild, or sibling. (Labor Code §245-249)

This bill:

1) Expands the list of individuals for whom an employee can take leave under the CFRA and the Healthy Workplaces, Healthy Families Act of 2014 to include a "designated person" by the employee.

2) Defines, for purposes of CFRA leave, "designated person" as any individual related by blood or whose association with the employee is the equivalent of a family relationship. The designated person may be identified by the employee at the time the employee requests the leave and authorizes employers to limit an employee to one designated person per 12-month period.

3) Defines, for purposes of Paid Sick Days leave, a "designated person" as a person identified by the employee at the time the employee requests paid sick days and authorizes employers to limit employees to one designated person per 12-month period.

4) Strikes double jointing language from 2021 that addressed chaptering out issues between this bill and AB 1033 since both bills amended the same CFRA provisions. AB 1033 has since become law and this double jointing language is now irrelevant.

Background

Recent Changes to CFRA. California employees may be entitled to several medical leaves depending on the size of their employer and the reason for the leave. Last year, SB 1383 (Jackson, Chapter 86, Statutes of 2020) made historic changes to the CFRA after almost a decade of attempts to reform the act. Prior to 2021, CFRA (and its federal counterpart, the Family and Medical Leave Act) provided for up to 12 weeks per year of unpaid job protected leave for an employee who takes time for bonding or care, however, these protections were only available to employees of businesses with 50 or more workers. Effective January 1, 2021, among other things, SB 1383 extended CFRA's medical and family leave protections through the following policy changes:

1) Requires an employer with at least five employees (rather than at least 50 employees) to grant an employee request to take up to 12 weeks of unpaid leave for family care and medical leave, as specified.

2) Provides CFRA leave protections for employees to care for additional family members, including domestic partners, children of domestic partners, grandparents, grandchildren, siblings and parents-in-law.

Comments

Need for this bill? According to the author, "Due to cultural, economic and social forces, the overwhelming majority of households today depart from the "nuclear family" model of a married couple and their biological children—instead, they increasingly include close loved ones who aren't biologically or legally related. Still, California's family leave laws continue to reflect the outdated nuclear family model and only allow workers time off to care for certain narrowly defined family members. This policy gap disproportionately affects California's LGBTQI community. Many LGBTQI adults, especially older adults, do not have accessible relationships with biological relatives. As a result, they are less likely to have biological family or partner support when they need care and often rely on chosen family.

California also has a higher percentage of extended families living in multigenerational households and it is not uncommon for individuals in California to be living with cousins, aunts, uncles, and other relatives not covered by our leave laws, especially as families weather the COVID-19 pandemic. Aging adults also rely on a wide network of relationships for caregiving that are not recognized by current law. Many caregivers are partners, neighbors or friends. Among Americans who provide care to an adult age 65 or older, more than 23% provide care for a friend, neighbor, or other unrelated person. This has become even more important during the COVID-19 pandemic when many older adults live alone and have families who live far away."

This bill will allow workers to use existing time off to care for a "designated person," of their choosing, thereby creating equitable access to job protected family caregiving and sick leave for all of California's working families.

Related/Prior Legislation

AB 1949 (Low, 2022, pending in Senate Appropriations Committee) provides California workers with up to five days of job-protected bereavement leave in the event of the death of a specified family member.

SB 1383 (Jackson, Chapter 86, Statutes of 2020) expanded the CFRA to provide job-protected leave to additional employees (those working for employers with five or more employees instead of the previous 50 employee threshold) and expanded the list of family members for which an employee can take leave.

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

According to the Senate Appropriations Committee:

- This bill would result in additional workload to the Department of Fair Employment and Housing to investigate and adjudicate an increased (but unknown) number of complaints related to CFRA. Total costs would likely be in the hundreds of thousands of dollars annually (General Fund).

- The Division of Labor Standards Enforcement within the Department of Industrial Relations would incur an absorbable increase in workload resulting from additional wage claims and retaliation complaints related to paid sick day requests.

- The State as a direct employer would experience additional costs for state departments to the extent this bill increases use of CFRA or paid sick days. The magnitude of these costs is unknown (General Fund and special funds).

SUPPORT: (Verified 8/8/22)

California Employment Lawyers Association (co-source)
California Work and Family Coalition (co-source)
Equal Rights Advocates (co-source)
Equality California (co-source)
Legal Aid at Work (co-source)
AARP
Access Reproductive Justice
ACLU California Action
ACLU-Northern/Southern California/San Diego and Imperial Counties
Advocates for Peace & Justice at Irvine United Congregational Church
Alliance of Californians for Community Empowerment Action

Alzheimer's Association
American Federation of State, County and Municipal Employees, AFL-CIO
API Equality-LA
Asian Pacific Islander Forward Movement
Asian Resources, Inc.
Association of California Caregiver Resource Centers
BreastfeedLA
California Alliance for Retired Americans
California Faculty Association
California Labor Federation, AFL-CIO
California Latinas for Reproductive Justice
California Nurse-Midwives Association
California Pan - Ethnic Health Network
California Partnership to End Domestic Violence
California Teamsters Public Affairs Council
California Women's Law Center
Child Care Law Center
Consumer Attorneys of California
Drug Policy Alliance
Ella Baker Center for Human Rights
Empowering Pacific Islander Communities
Equality California
Family Caregiver Alliance
Family Caregiver Alliance, Bay Area Caregiver Resource Center
First 5 California
Friends Committee on Legislation of California
Having Our Say Coalition
Human Impact Partners
If/When/How: Lawyering for Reproductive Justice
Jewish Center for Justice
LA Best Babies Network
Los Angeles Alliance for a New Economy
Los Angeles LGBT Center
Mi Familia Vota
NARAL Pro-Choice California
National Association of Social Workers, California Chapter
National Council of Jewish Women Los Angeles
National Council of Jewish Women-California
National Women's Political Caucus of California
Orange County Equality Coalition

Organization of SMUD Employees
Our Family Coalition
Prevention Institute
Public Counsel
Queer Democrats of Sacramento
Religious Coalition for Reproductive Choice California
Restaurant Opportunities Centers of California
San Diego County Breastfeeding Coalition
The Central Valley Urban Institute
Voices for Progress Education Fund
Women For: Orange County
Women's Foundation of California
Work Equity Action Fund
Working Partnerships USA

OPPOSITION: (Verified 8/8/22)

Associated General Contractors
Beverly Hills Chamber of Commerce
Brea Chamber of Commerce
California Association of Joint Powers Authorities
California Beer and Beverage Distributors
California Building Industry Association
California Business Properties Association
California Chamber of Commerce
California Farm Bureau
California Food Producers
California Hospital Association
California Landscape Contractors Association
California Manufacturers and Technology Association
California Railroads
California Restaurant Association
California Retailers Association
California Special Districts Association
California State Association of Counties
California State Council of the Society for Human Resource Management
Carlsbad Chamber of Commerce
El Dorado Hills Chamber of Commerce
Family Business Association of California
Family Winemakers of California
Folsom Chamber of Commerce

Garden Grove Chamber of Commerce
Greater Bakersfield Chamber of Commerce
Greater Coachella Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Greater Riverside Chambers of Commerce
Housing Contractors of California
Long Beach Area Chamber of Commerce
Murrieta/Wildomar Chamber of Commerce
National Federation of Independent Business
North Orange County Chamber
North San Diego Business Chamber
Oceanside Chamber of Commerce
Official Police Garages of Los Angeles
Orange County Business Council
Oxnard Chamber of Commerce
Pleasanton Chamber of Commerce
Plumbing-Heating-Cooling Contractors of California
Public Risk Innovation, Solutions and Management
Rancho Cordova Area Chamber of Commerce
Redondo Beach Chamber of Commerce
San Gabriel Valley Economic Partnership
Santa Maria Valley Chamber of Commerce
Santa Rosa Metro Chamber of Commerce
Simi Valley Chamber of Commerce
South Bay Association of Chambers of Commerce
Southwest California Legislative Council
Torrance Area Chamber of Commerce
Tulare Chamber of Commerce
Western Carwash Association
Wilmington Chamber of Commerce

ARGUMENTS IN SUPPORT: According to the sponsors, "AB 1041 addresses this reality of caregiving relationships by allowing workers to take time off to care for a "designated person" identified by the employee at the time they request leave. The designated person need not be related by blood or legal relationship and an employer may limit an employee to one designated person per 12-month period. There is already significant precedent for an expanded understanding of family relationships in federal and state law. Paid family and medical leave laws in Oregon, Connecticut, New Jersey, and Colorado cover chosen family, and eight localities (including Los Angeles) have passed paid sick time laws that cover chosen family. It is time for California to join these other jurisdictions by ensuring

that all Californians have the right to be there for their loved ones when it matters most, regardless of blood or legal relationship."

ARGUMENTS IN OPPOSITION: A coalition of employer organizations, including the California Chamber of Commerce, argue in opposition that "the existing provisions of CFRA are already challenging, confusing, and burdensome, and small employers who are struggling as a result of this pandemic are overwhelmed by the current law. AB 1041 would expand CFRA even further and allow employees to take care of any person of their choosing. Under CFRA, if an employer were to question the status of the relationship of the person for whom the employee was taking the leave, this could be seen as interfering with or discouraging the employee from taking the leave, exposing the employer to litigation." Additionally, the coalition argues that (1) CFRA leave was just expanded this year and this bill imposes a significant burden on small employers; (2) CFRA and the Healthy Workplaces Healthy Family Act already cover time off for those individuals who stand in the shoes of an employee's parents or are like a child to the employee under the "loco parentis" provisions; (3) leave expansions expose employers to costly litigation; (4) California employers, especially small employers, cannot afford yet another mandated increase in benefits; and (5) instead of burdening employers with more costs, the Legislature should provide more flexible work options that benefit employers and employees."

ASSEMBLY FLOOR: 53-16, 5/28/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Cunningham, Friedman, Gabriel, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Choi, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Boerner Horvath, Chen, Daly, Frazier, Cristina Garcia, Maienschein, Nguyen, O'Donnell, Quirk-Silva, Ramos

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
8/10/22 16:04:46

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

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

THIRD READING

Bill No: AB 1078
Author: Patterson (R), et al.
Amended: 6/8/22 in Senate
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 8-0, 5/31/22
AYES: Hueso, Dahle, Dodd, Eggman, Grove, Hertzberg, McGuire, Rubio
NO VOTE RECORDED: Becker, Borgeas, Bradford, Gonzalez, Min, Stern

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-0, 1/27/22 (Consent) - See last page for vote

SUBJECT: Energy: building standards: photovoltaic requirements

SOURCE: Author

DIGEST: This bill extends by one year, from January 1, 2023 to January 1, 2024, an exemption from the state's solar requirement for residential construction intended to repair, restore, or replace a residential building that was damaged or destroyed as a result of a disaster. This bill also expands, by one year, eligibility for the exemption to homes affected in disasters in the year 2020.

ANALYSIS:

Existing law:

1) Authorizes the State Energy Resources Conservation and Development Commission (also known as the California Energy Commission (CEC)) to prescribe, by regulation, energy efficiency standards, including appliance efficiency standards. Under this authority, the CEC has established regulations requiring solar-ready buildings and for the installation of solar systems meeting certain requirements for low-rise residential buildings built on or after January 1, 2020. (Public Resources Code §25402)

2) Specifies, until January 1, 2023, that residential construction intended to repair, restore, or replace a residential building damaged or destroyed as a result of a disaster in an area in which a state of emergency has been proclaimed by the Governor, before January 1, 2020, is required to comply with the solar requirements, if any, that were in effect at the time the damaged or destroyed residential building was originally constructed and is not required to comply with any additional or conflicting solar requirements in effect at the time of repair, restoration, or replacement. Provides that this provision applies if certain requirements are met with respect to the owner's income and insurance coverage and the location and square footage of the construction. (Public Resources Code §25402.13)

3) Requires electric utilities to procure 60 percent of their retail sales of electricity from renewable energy by 2030. This is known as the Renewable Portfolio Standard (RPS). (Public Utilities Code §399.11 et seq.)

4) Requires every electric utility (other than a local public owned utilities that serves more than 750,000 customers and that also conveys water to its customers) to offer net-energy metering (NEM) to eligible customer-generators, upon request, on a first-come-first-served basis until the total rated generating capacity used by eligible customer-generators exceeds five percent of the electric utility's aggregate customer peak demand. (Public Utilities Code §2827)

5) Directs the California Public Utilities Commission (CPUC) to develop a standard tariff or contract, known as the "successor tariff," for eligible customer-generators with a renewable electrical generation facility no later than December 31, 2015. Requires, for each large electrical corporation, using the successor tariff, to continue to offer NEM to its customers on July 1, 2017, or upon reaching the five-percent NEM program limit, whichever is earlier. (Public Utilities Code §2827.1)

This bill:

1) Extends, by one year, the application of the exemption from the CEC's requirements for the installation of solar systems until January 1, 2024.

2) Expands the application of the exemption to include emergencies declared by the Governor in the 2020 calendar year.

3) Requires the CEC to collect data on the use and application of the exemption from local permitting agencies and, on or before March 1, 2023, and again on or

before March 1, 2024, to prepare and submit a report to the relevant policy committees of the Legislature concerning the exemption.

4) Imposes a state-mandated local program, because a local agency would be required to determine whether those requirements are met.

Background

California's building energy efficiency standards and solar mandate. California's building energy efficiency standards are updated approximately every three years. The 2019 Building Energy Efficiency Standards, which went into effect on January 1, 2020, are the first in the nation to require solar systems for new building construction. The standards also include improved insulation, residential and nonresidential ventilation requirements, and nonresidential lighting requirements. For residential buildings, according to the CEC, the standards will result in about 53 percent less energy use than under the 2016 standards. The CEC further estimates that the new standards will reduce greenhouse gas emissions by 700,000 metric tons over three years. CEC's energy efficiency standards are adopted by the Building Standards Commission as part of the *California Building Standards Code*, which serves as the basis for building and construction in California.

Statute requires that CEC's standards must be "cost-effective." CEC estimates that based on a 30-year mortgage, the 2019 standards will add about $40 per month in costs and result in about $80 per month in reduced energy costs. According to the CEC, on average, a solar system adds about $9,500 to the cost of a new home and will result in a savings of $19,000 in energy costs over 30 years. The up-front costs for solar have decreased over the past several years and many in the industry anticipate continued declines. However, more recently, costs for solar installations have seemed to inch upwards, with average installation costs reportedly between $16,000 to $27,000, before federal incentives. Nonetheless, there are many variables to the overall cost of solar installation, including the size of the panels. CEC established a few exemptions to the new solar requirement, including homes that are shaded by trees, hills, other structures. Homeowners in areas with community solar programs are also exempt from the requirement.

AB 178 (Dahle, Chapter 259, Statutes of 2019). AB 178 provides that homes being rebuilt, due to a disaster that occurred before January 1, 2020, are exempted from the state building standards requirement to install rooftop solar, if one, or more, additional requirement(s) is met. Specifically, residential properties that meet any of the following four criteria are exempted: the homeowner's income is below the county's average median income (AMI), the homeowner lacked code upgrade insurance coverage, the home is being built on the same plot as the home

that was destroyed, or the size of the new home is the same as the destroyed home. With regards to the AMI, the California Department of Housing and Community Development establishes the annual state income limits and the AMI varies by each county. Per AB 178, local building permit agencies would need to account for these requirements in processing building permit applications. In the case of the size of the home and whether the new home is on the same land as the destroyed home, the building permit agency could easily verify this information. However, in the case of the property owner's income and lack of insurance coverage for code upgrades, the building permit agency would likely need to provide the applicant with a document to self-certify and attest to the information.

Net Energy Metering. The vast majority of solar customers are enrolled in NEM (NEM 1.0) or NEM Successor (NEM 2.0) tariffs, established by statute and CPUC decisions. The NEM program supports onsite renewable energy (largely rooftop solar) installations designed to offset a portion, or all, of the customer's electrical energy usage. Under NEM, customers receive a bill credit (in dollars) based on the retail rate (including generation, transmission, and distribution rate components) for any excess generation (in kilowatt hours (kWh)) that is exported back to the grid. In periods when a customer's bill is negative (because the amount of energy the solar system exported to the grid exceeded the amount of energy consumed by the customer), this bill credits are carried forward up to one year, at which point customers may elect to receive net surplus compensation for any electricity produced in excess of on-site energy usage.

Solar system payback period likely affected. The CPUC has initiated a proceeding to develop a successor to the NEM 2.0 tariff, as part of its commitment in a previous decision to review the current tariff pursuant to a requirement in statute. The CPUC noted the need to address grid reliability shortfalls during net peak hours in the early evening when the sun is down and there is a greater reliance on fossil fuels to meet demand. CPUC further states that the current NEM program does not incentivize pairing storage systems with solar systems, which would help with addressing the net peak hours, when solar and wind resources are not available. Customers without solar energy systems, who are more likely to be low-income, pay higher electricity rates to pay for solar rates for customers with solar. The CPUC estimates that low-income households pay $67 to $128 more per year due to the costs of NEM systems, while non-low-income households pay $100 to $234 more annually.

CPUC issues proposed decision. In December 2021, the CPUC released a proposed decision which includes numerous changes to NEM that combined would suggest a change to the payback period for solar energy systems from the current

three to five years to 10 or more years. While these changes may provide equity for customers who are not able to install solar energy systems in the form of reduced electric rates, they will affect the pace of the payback period for customers installing solar systems, especially solar systems without storage, including for property owners who are required to install systems per the building codes. However, a revised proposed decision is pending as the CPUC is currently soliciting additional stakeholder comments after concerns were raised by the proposed decision issued in December.

Governor's proposed May Budget Revision proposes incentives for solar and storage. The May Revision proposes $970 million to the CPUC to provide residential solar and storage system incentives, including for low-income households. Specifically, the proposal consists of $670 million for solar and storage systems for low-income households and also includes $300 million for additional storage installations paired with existing residential solar systems.

Emergency declarations. Unfortunately, California has been no stranger to disasters in recent years. Within the past two years or so, the Governor has made over 30 declarations of emergency largely due to severe storms or fires which have affected all 58 of the state's counties, except Imperial County. This bill would apply to any home damaged or destroyed in a disaster in an area in which the Governor has declared a state of emergency as of January 1, 2021, instead of January 1, 2020. The additional year of declarations include several fires throughout the state, including Zogg, Valley, and other fires.

Comments

AB 1078. This bill extends, by one year, the current exemption from the CEC's solar mandate for residential properties affected by disasters and expand by an additional year the disasters that would qualify a property for the exemption to include residential properties affected in calendar year 2020. This bill also requires the CEC to collect data on use of the exemption and report this information annually to the Legislature.

Need for this bill. There are many variables to the costs of repairing or rebuilding a home or residential structure after a disaster, including costs related to labor, permitting, supplies, insurance coverage, and others. The author and proponents of this bill wish to alleviate victims of disasters, especially those affected by wildfires, by authorizing these victims to forgo the additional costs associated with installing solar systems when rebuilding their homes or residential properties after a disaster. The opponents of this bill contend that solar installations, in the long-term, provide homeowners with operational savings from reduced energy bills.

Related/Prior Legislation

AB 2143 (Carrillo, 2022) requires prevailing wages are paid for renewable energy installations with a generating capacity of more than 15 kWs that receives service pursuant to an electric utility's NEM tariff. The bill is pending in the Senate Committee on Labor, Public Employment, and Retirement.

AB 178 (Dahle, Chapter 259, Statutes of 2019) exempted, until January 1, 2023, residential construction from complying with the solar requirements in the recently adopted building standards when the construction is in response to a disaster in an area in which a state of emergency has been proclaimed by the Governor.

AB 217 (Bradford and De León, Chapter 609, Statutes of 2013) extended the low-income programs of the California Solar Initiative from 2016 until 2021, authorized the collection of an additional $108 million for these programs, and added additional standards to the program, as specified.

AB 327 (Perea, Chapter 611, Statutes of 2013) restructured the rate design for residential electric customers and revised the NEM program.

SB 1 (Murray, Chapter 132, Statutes of 2006) established the electric portion of the CSI with a 10-year budget of $2.2 billion collected from ratepayers.

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

SUPPORT: (Verified 6/21/22)

California Builders Alliance
County of Fresno
Pine Ridge Volunteer Fire Department
Rural County Representatives of California
Sacramento Regional Builders Exchange
Valley Contractors Exchange

OPPOSITION: (Verified 6/21/22)

350 Sacramento
California Solar & Storage Association
Natural Resources Defense Council
Sierra Club

ARGUMENTS IN SUPPORT: According to the author, "AB 1078 is an appropriate, fair, and limited measure to help ease the burden of rebuilding one's life after all was destroyed by a wildfire."

Rural County Representatives of California states:

> As these communities [those affected by wildfires] begin rebuilding, many insured homeowners are finding themselves underinsured. Rebuilding is even more difficult for uninsured homeowners. This is becoming an even larger problem because many insurers are canceling policies for those who live in high-fire risk areas and homeowners are finding that they cannot afford replacement policies.
>
> While it is admittedly less expensive to install solar panels on a newly-constructed home, even those reduced costs add up and make rebuilding harder and more expensive for those who have already lost everything and may not have the resources necessary to rebuild the life they once had.

ARGUMENTS IN OPPOSITION: In opposition to this bill, the California Solar & Storage Association states:

> While AB 1078 is purported to be relief to families needing to rebuild their homes, the reality of the bill is an attack on solar. Homes rebuilt after fires still need to follow the rest of the building standards – including today's requirements for attic insulation, double-paned windows, and energy efficient appliances – many of which carry high price tags.
>
> Singling out rooftop solar as a burden to rebuilding homes while continuing to require new energy efficiency features for rebuilt homes is unjustified. In reality, rooftop solar makes housing more affordable by allowing the homeowner or tenant to buy less electricity from the utility, thus lowering their energy bills.

ASSEMBLY FLOOR: 61-0, 1/27/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Cervantes, Choi, Cooley, Cooper, Cunningham, Daly, Davies, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Gipson, Grayson, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes,

Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Ward, Wicks, Wood, Rendon
NO VOTE RECORDED: Mia Bonta, Carrillo, Chen, Megan Dahle, Flora, Eduardo Garcia, Gray, Irwin, Maienschein, Mayes, Blanca Rubio, Villapudua, Voepel, Waldron, Akilah Weber

Prepared by: Nidia Bautista / E., U. & C. / (916) 651-4107
6/22/22 14:42:20

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

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

THIRD READING

Bill No: AB 1120
Author: Irwin (D)
Amended: 8/3/22 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 12-0, 6/13/22
AYES: Roth, Melendez, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Archuleta, Bates

ASSEMBLY FLOOR: 52-2, 1/27/22 - See last page for vote

SUBJECT: Clinical laboratories: blood withdrawal

SOURCE: BD and its affiliate, Velano Vascular

DIGEST: This bill authorizes a certified phlebotomy technician to collect blood through a peripheral venous catheter under specified conditions, including that the blood collection is performed using a device approved by the United States Food and Drug Administration (FDA).

Senate Floor Amendments of 8/3/22 correct drafting errors and make clarifying implementation changes.

ANALYSIS:

Existing law:

1) Provides for the licensure and regulation of clinical laboratories and various laboratory personnel under the California Department of Public Health (CDPH). (Business and Professions Code (BPC) §§ 1200-1327)

2) Establishes a category of laboratory personnel called certified phlebotomy technicians and specifies the education and scope of practice of certified phlebotomy technicians. (BPC § 1246)

3) Requires an application for certification as a phlebotomy technician by the CDPH to include proof of the following:

   a) The applicant holds a valid, current certification as a phlebotomist issued by a national accreditation agency approved by the department.

   b) The applicant completed education, training, and experience requirements as specified by regulations that shall include, but not be limited to, the following:

      i) At least 40 hours of didactic instruction.

      ii) At least 40 hours of practical instruction.

      iii) At least 50 successful venipunctures.

   c) The applicant completed least 3 hours per year, or 6 hours every 2 years, of continuing education (CE) or training.

   d) The applicant was found competent in phlebotomy by a licensed physician and surgeon or an individual licensed under the BPC Clinical Laboratory Technology Chapter.

   e) The applicant works under the general supervision of a licensed physician and surgeon, licensed registered nurse, or an individual licensed under the BPC Clinical Laboratory Technology Chapter (BPC § 1246(b)(2))

4) Authorizes a certified phlebotomy technician to draw blood using venipuncture or skin puncture to obtain a blood specimen for nondiagnostic tests assessing the health of an individual, for insurance purposes, under the general supervision of a physician and surgeon or the physician's delegate. (BPC § 1246(c)(1)(A))

5) Defines "general supervision" as requiring the supervisor of the technician to determine that the technician is competent to perform venipuncture or skin puncture before the technician's first blood withdrawal, and on an annual basis, and to determine monthly that the technician complies with appropriate policies and procedures, as specified. The supervisor, or another designated licensed physician and surgeon, registered nurse, or licensed clinical laboratory personnel, must be available for consultation with the technician at the time of blood withdrawal. (BPC § 1246(c)(1)(B))

6) Authorizes a certified phlebotomy technician under general supervision to draw blood under policies and procedures approved by a physician and surgeon, appropriate to the location where the blood is being drawn and in accordance with state regulations, at the request and in the presence of a peace officer for forensic purposes in a jail, law enforcement facility, or medical facility. (BPC § 1246(c)(2))

7) Provides for the licensure and regulation of clinics, hospitals, and other health facilities under the Department of Public Health and requires licensed facilities to develop standardized policies and procedures that ensure the competence of staff and quality of care. (Health and Safety Code (HSC) §§ 1200-1797.8)

8) Prohibits a licensed health facility from assigning unlicensed personnel to perform nursing functions, including the administration of medication, venipuncture, intravenous (IV) therapy, invasive procedures including inserting catheters, assessment of patient condition, education of patients and their families concerning the patient's health care problems, and moderate complexity laboratory tests unless authorized under the healing arts provisions of the BPC, which include the clinical laboratory provisions. (BPC § 2725.3)

This bill:

1) Removes outdated provisions specifying the conditions to allow an unlicensed person employed by a licensed clinical laboratory to perform venipuncture or skin puncture for the purpose of withdrawing blood.

2) Clarifies that an applicant for certification as a phlebotomy technician who has at least 1,040 hours of work experience that includes at least 50 successful venipunctures shall complete at least 20 hours of didactic instruction, as specified in regulations adopted by the department.

3) Authorizes a certified phlebotomy technician collect blood through a peripheral venous catheter if all of the following conditions are met:

   a) The blood collection is performed in a licensed health facility, such as a clinic or hospital.

   b) The blood collection procedures or protocols are developed and approved by the licensed health facility's supervising physician and surgeon or licensed clinical laboratory director and approved by the licensed facility.

   c) The certified phlebotomy technician has received a minimum of three hours of training by the supervising physician and surgeon or their delegate in the

proper procedures to be employed when collecting blood through a peripheral venous catheter. This training shall be conducted according to standardized training procedures developed and approved by the facility's supervising physician and surgeon or licensed clinical laboratory director. The instructor shall document the technician's successful completion of training. The facility shall maintain and make available to the department, upon request, these standardized procedures, documentation of training completed by a certified phlebotomy technician, as specified.

d) The blood collection is performed under the general supervision of a licensed physician and surgeon, and the licensed physician and surgeon may only delegate these supervision duties to a registered nurse. A physician and surgeon or a registered nurse may restrict or limit a technician's ability to collect blood from a peripheral venous catheter of a patient.

e) The blood collection is performed using a device approved by the licensed health facility and the United States FDA for blood collection.

4) Specifies that the technician is not authorized to manage, stop, or restart a patient's active IV infusion, or to insert or remove a peripheral IV catheter.

5) Specifies a phlebotomy technician is not authorized to withdraw blood through a peripherally inserted central catheter or central venous catheter.

6) Makes other technical and nonsubstantive changes.

Background

Certified Phlebotomy Technicians and Blood Collection. A phlebotomist is a trained individual who specializes in collecting blood from patients for laboratory testing, from donors for blood banks, or from volunteers for clinical research. A certified phlebotomy technician in California is allowed to collect blood through venipuncture (the puncturing of a vein) or through skin puncture, and certified phlebotomy technicians with additional training may also be authorized to collect blood through arterial puncture. Upon collection of a blood sample, the phlebotomist must complete required documentation, package the sample for storage or transfer, and label the sample appropriately.

In a clinical laboratory or outpatient settings, blood draws are primarily performed by venipuncture using a needle and a syringe or vacuumed tube to obtain blood directly from the patient's veins. However, in some inpatient settings, either a nurse or a phlebotomist may collect blood samples from a patient through

venipuncture. In these settings, phlebotomists are still typically the personnel assigned for blood collection as nurses will be assigned a wider range of complex tasks within their scope of practice.

In California, a certified phlebotomy technician must apply for a California Phlebotomy Certificate through the CDPH and provide documentation detailing the applicant's required education, training, and experience. An applicant must also show proof that they passed a national certification exam from a CDPH-approved certifying organization. Once a certified phlebotomy technician receives their certificate, they must renew their certificate every two years, which includes paying a fee and submitting documentation of required CE.

Vascular Access and IV Devices. Vascular access devices for the IV administration of medication, fluids, or other therapies are called IV devices. IV devices allow for sustained access to a blood vein through a single insertion of a thin tube, called a catheter, into a vein. IV administration allows for the injection of medication or fluid directly into the patient's bloodstream, one of the fastest and most controlled ways ways to administer a drug into a patient's body. Importantly, the use of an IV catheter and IV device allows for medications and fluids to be administered without needing to repeatedly puncture the patient's skin with a needle.

Needle-Free IV Blood Collection Technology. Hospital patients undergoing inpatient or complex medical care may need to have blood collected, IV devices inserted, and medication delivered by syringe multiple times. Repeated needle sticks can be painful to the patient and increase the likelihood of needlestick injuries for health practitioners.

To minimize the number of needlesticks necessary to care for a patient, the Sponsor's device, PIVO, was developed to allow blood to be collected through peripheral IV devices already inserted in a patient's vein. PIVO is an FDA-approved, single-use device consisting of a self-contained connector and tube that connects to peripheral IV devices. Once connected to the IV device, the PIVO device can push a flexible smaller tube, called a cannula, downstream into the vein. This allows the cannula to access an area of the vein with normal blood flow. Upon withdrawal of the blood specimen, the PIVO device is detached and discarded.

Health Facility Personnel and IV Catheter Devices. Phlebotomists specialize in blood collection, but are not allowed to perform blood collection from IV lines under California law. For this reason, many phlebotomy programs in California do not train phlebotomists for this method of blood collection.

Nurses are trained extensively for starting, stopping, and managing IV catheter devices. As IV devices create a route directly into the patient's veins, it is critical that personnel are trained to minimize the potential for infection or the introduction of bacteria into the blood stream. California nurses already report success utilizing PIVO devices to collect blood from IV catheter lines.

In Arizona, the Banner Estrella Medical Center conducted a pilot study to use both nurses and phlebotomists to collect blood from peripheral IV catheters (note: this study did not use PIVO devices). In this study, peripheral IV catheter blood specimens collected by nurses averaged a success rate of 60%, and trained phlebotomists averaged a success rate of 92%. The study noted that the most significant issue for using nurses for IV blood collection was the added procedure time for already overworked nursing staff.

This bill would allow phlebotomists to collect blood from a peripheral IV catheter using a device such as PIVO if this device is approved by the health facility and if the phlebotomist is properly trained in these procedures. However, this bill also specifies that phlebotomists may not manage, insert, or restart an IV catheter device, and that a licensed physician and surgeon or a licensed registered nurse retains control over a patient's IV line and may restrict a phlebotomist's access to blood collection through a peripheral IV catheter.

PIVO Devices as Used By Phlebotomists in Other States. The practice of phlebotomy can vary widely between states. The Sponsor states that approximately 50% of blood draws with PIVO devices have been performed by phlebotomists and phlebotomy technicians in other states with no adverse events reported. The Sponsor reports that PIVO devices are already in use by phlebotomy teams in Connecticut, Florida, Illinois, New Jersey, Michigan, Ohio, Utah, and Wisconsin.

[NOTE: See the Senate Committee on Business, Professions, and Economic Development analysis for detailed background of this bill.]

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

SUPPORT: (Verified 8/3/22)

BD and its affiliate, Velano Vascular (source)
Advanced Medical Technology Association
American College of Obstetricians and Gynecologists District IX
Biocom California
California Chronic Care Coalition
California Life Sciences

Govern for California
Kisses for Katie
Lynn Hadaway Associates

OPPOSITION: (Verified 8/3/22)

AIDS Healthcare Foundation
California Association for Medical Laboratory Technology
California Labor Federation, AFL-CIO
California Nurses Association
California Teamsters Public Affairs Council
Engineers and Scientists of California, IFPTE Local 20, AFL-CIO
SEIU California State Council
United Food and Commercial Workers, Western States Council
United Nurses Associations of California/union of Health Care Professionals

ARGUMENTS IN SUPPORT: The sponsor of the bill, BD and its affiliate, Velano Vascular, writes in support and notes, "Current law specifically defines the duty of a phlebotomist to 'perform skin tests for specific diseases, arterial puncture, venipuncture, or skin puncture for purposes of withdrawing blood'. Unfortunately, current law did not foresee newer technologies and this definition limits phlebotomists only to needle sticks. It does not make sense that, while this technology is currently used in California by nurses, it cannot be used by the one profession whose sole purpose it is to withdraw blood - phlebotomists. AB 1120 will fix this discrepancy by updating current law and allowing phlebotomists to utilize this advancement in health technology. Finally, to be clear, while AB 1120 would allow phlebotomists to utilize improved technologies, like PIVO, to better perform their duties, the bill does not grant them any new authority over the IV catheter. Management of the intravenous catheter, including its insertion, and how it's used will remain in the full control of nurses."

Supporters of this bill note that California is the only state that requires phlebotomists to draw blood with a needled, and that this bill will enable phlebotomists to utilize more humane procedures to collect blood. Supporters assert that this bill does not allow phlebotomists new authority over an IV catheter, does not remove existing authority from other healthcare providers, and does not allow untrained phlebotomy technicians to perform PIVO blood collection.

ARGUMENTS IN OPPOSITION: A coalition of healthcare unions and groups, write in opposition and note, "The insertion of catheters, the post insertion care of the insertion site, and the management of venous infusions is the professional

responsibility of the direct care registered nurse and cannot be delegated to phlebotomy technicians.

A careful reading of the current statutory language regarding training requirements for certified phlebotomists demonstrates that nothing in the statutory or regulatory language prepares phlebotomists for the care and management of peripherally inserted venous catheters. They are trained to use needles to puncture the skin and to withdraw blood for laboratory analysis. Furthermore, their training does not include stopping venous infusions, flushing catheters with saline, and evaluating the integrity of the intravenous site or re-starting the intravenous infusion after blood has been withdrawn."

"We think this bill is an unnecessary change to a nurse's scope of practice solely for the purpose of selling more devices and maximizing profit. Right now, nurses already can and do use PIVO devices safely and effectively in California. The problem is that the PIVO device is only accessible via a venous catheter, which for good reason belongs within a nurse's purview."

In addition, opposition asserts that technicians are not adequately trained to obtain blood samples through a peripheral venous catheter, and that this bill would move care delivery to the least expensive, rather than the most qualified, personnel.

ASSEMBLY FLOOR: 52-2, 1/27/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Burke, Calderon, Cervantes, Choi, Cooley, Cooper, Cunningham, Daly, Davies, Flora, Fong, Gabriel, Cristina Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kiley, Lackey, Levine, Low, Mathis, McCarty, Mullin, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Ting, Valladares, Villapudua, Voepel, Wood, Rendon
NOES: Stone, Ward
NO VOTE RECORDED: Boerner Horvath, Mia Bonta, Bryan, Carrillo, Chen, Megan Dahle, Friedman, Gallagher, Eduardo Garcia, Kalra, Lee, Maienschein, Mayes, Medina, Muratsuchi, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Waldron, Akilah Weber, Wicks

Prepared by: Hannah Frye / B., P. & E.D. /
8/5/22 13:01:57

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

SENATE RULES COMMITTEE AB 1164
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1164
Author: Flora (R)
Amended: 5/23/22 in Senate
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 4-1 (FAIL), 6/1/22
AYES: Grove, Hertzberg, Hueso, Laird
NOES: Limón
NO VOTE RECORDED: Jones, Allen, Becker, McGuire

SENATE NATURAL RES. & WATER COMMITTEE: 6-0, 6/28/22
AYES: Jones, Allen, Eggman, Grove, Hertzberg, Hueso
NO VOTE RECORDED: Stern, Limón, Skinner

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 5/20/21 (Consent) - See last page for vote

SUBJECT: Dams and reservoirs: exclusions: publicly owned or operated regulating basins

SOURCE: Modesto Irrigation District

DIGEST: This bill exempts from regulation by the Department of Water Resources (DWR), a reservoir measuring 15 feet in height or less, with a storage capacity of no more than 1,500 acre-feet (af) managed by a public entity, with a downstream hazard rating of low or significant, and used to impound water for agricultural use.

ANALYSIS:

Existing law:

1) Defines what is and is not a dam under the jurisdiction of DWR.

a) "Dam" means any artificial barrier, together with appurtenant works, which does or may impound or divert water, and which either:

   i) Is or will be 25 feet or more in height from the natural bed of the stream or watercourse at the downstream toe of the barrier, as determined by DWR, or from the lowest elevation of the outside limit of the barrier, as determined by DWR, if it is not across a stream channel or watercourse, to the maximum possible water storage elevation; or
   ii) Has or will have an impounding capacity of 50 af or more. (Water Code §6002).

b) "State jurisdictional dam" means a dam not wholly under the control of the federal government. (WC §6009)

c) Excludes certain structures from the definition of dams, including: (WC §6004(a))

   i) Obstructions in a canal used to raise or lower water therein or divert water therefrom.
   ii) Levees, including but not limited to a levee on the bed of a natural lake the primary purpose of which levee is to control floodwaters.
   iii) Circular tanks constructed of steel, concrete, or both.
   iv) Barriers which are not across a stream channel, watercourse, or natural drainage area and which have the principal purpose of impounding water for agricultural use.

2) Requires DWR, under the police power of the state, to supervise the construction, enlargement, alteration, repair, maintenance, operation, and removal of jurisdictional dams and reservoirs for the protection of life and property. This includes:

   a) Classifying the public safety risk of all state jurisdictional dams, based on downstream hazard potential and reviews of critical appurtenant structures. (WC §6160)

   b) Annually inspecting dams, reservoirs, and appurtenant structures with a hazard classification of "significant," "high," or "extremely high," to verify their safety, and every two years for facilities with a hazard classification of "low." (WC §6102.5)

c) Approving plans and specifications for the construction of any new dam or reservoir or the enlargement of any dam or reservoir. (WC §6200)

d) Approving the repair, alteration, or removal of a dam or reservoir, including the alteration or removal of a dam or reservoir so that it no longer constitutes a dam or reservoir. (WC §6225)

e) During the construction, enlargement, repair, alteration, or removal of any dam or reservoir, making continuous or periodical inspections at state expense for the purpose of securing conformity with the approved plans and specifications. (WC §6400)

f) Ordering the owner to revise the plans and specifications if, after any inspections, investigations, or examinations, or at any time as the work progresses, or at any time prior to issuance of a certificate of approval it is found by DWR that amendments, modifications, or changes are necessary to insure safety. (WC §6401)

g) Issuing a certificate of approval for new constructed facilities, or upon completion of the repair or alteration of any dam or reservoir, upon a finding that the facility is safe to impound water within the limitations prescribed in the certificate. The certificate may contain such terms and conditions as DWR may prescribe. (WC §6355, §6357, & §6363)

3) Requires DWR to also adopt, by regulation, a schedule of fees to cover DWR's reasonable regulatory costs in carrying out the supervision of dam safety, which may include, but is not limited to, the costs of reviewing an inundation map, the amounts necessary to repay budgetary loans, and a prudent reserve. The schedule of fees is required to be based, in part, on the height of the dam on a per foot basis. (WC §6307)

4) Imposes requirements and responsibilities on dam owners, including the following:

a) Making an owner of a dam that is regulated by the state responsible for emergency preparedness with regard to the potential for loss of life and property resulting from the failure of a dam or a critical appurtenant structure. (WC §6160)

b) Obtaining from DWR written approval of plans and specifications before commencing construction of any new dam or reservoir or the enlargement of any dam or reservoir. (WC §6200)

c) Obtaining from DWR written approval before commencing the repair, alteration, or removal of a dam or reservoir, including the alteration or removal of a dam or reservoir. (WC §6225)

5) Establishes enforcement and penalty provisions. (WC §6429, §6425, & §6426)

This bill:

1) Exempts from the definition of a dam a regulating basin owned or operated by a public entity that is not across a stream channel, watercourse, or natural drainage if all of the following criteria are met:

   a) The barrier constructed to form the regulating basin has a height of no more than 15 feet from the crest to the lowest downstream elevation where the barrier meets natural ground.

   b) The regulating basin has a storage capacity of no more than 1,500 af.

   c) The regulating basin, at the time of construction, does not have a downstream hazard classification of "high" or "extremely high," based upon DWR's criteria for those determinations.

   d) The regulating basin is designed, and its construction is overseen, by a licensed civil engineer.

   e) The regulating basin is compliant with the general plan of the county in which it is located.

2) Requires the owner or operator of the regulating basin, in order to qualify for the exclusion, to do all of the following:

   a) Before the construction of the regulating basin, submit to DWR an inundation map, stamped by a licensed civil engineer, identifying the flow and depth of water from the regulating basin in the event of a failure of a barrier constructed to form the regulating basin.

   b) Undertake an inspection, conducted by a licensed civil engineer, of all barriers and all appurtenant structures of the regulating basin every two years following the regulating basin's construction, and make the report available on the operating agency's internet website.

   c) Immediately upon the identification of a failure or the risk of failure of a barrier or works critical to the safe operation of the regulating basin, notify the county sheriff and local emergency managers of all properties likely to be impacted by a failure, in accordance with the identification of those properties on the inundation map described above.

3) Defines terms, including:

a) "Natural drainage" means a land area over which seasonal precipitation or natural spring water accumulates and is channelized directly into a stream or watercourse.

b) "Regulating basin" means a reservoir constructed to impound and manage the inflow and delivery of water for agricultural uses or for the purpose of groundwater recharge or other actions undertaken to implement the Sustainable Groundwater Management Act (SGMA).

Comments

Dam Facts. According to DWR's "Dams Within Jurisdiction of the State of California" dated September 2021, there are 58 jurisdictional dams with a dam height of 15' or less and a capacity of 1,500 af or less.

DWR classifies dams by downstream hazard risk.

Downstream Hazard Potential Classification	Potential Downstream Impacts to Life and Property
Low	No probable loss of human life and low economic and environmental losses. Losses are expected to be principally limited to the owner's property.
Significant	No probable loss of human life but can cause economic loss, environmental damage, impacts to critical facilities, or other significant impacts.
High	Expected to cause loss of at least one human life.
Extremely High	Expected to cause considerable loss of human life or would result in an inundation area with a population of 1,000 or more.

This bill exempts dams with a downstream hazard potential classification of "Low" and "Significant."

The 58 jurisdictional dams with a dam height of 15' or less and a capacity of 1,500 af or less are classified as follows:

Hazard Classification	Number of Dams	Range in Height (feet)	Range in Capacity (af)
Low	40	9 – 15	50 – 1,100
Significant	7	10 – 15	84 – 1,478
High	10	9 – 15	50 – 6,823
Extremely High	1	14.8	140

It is not clear from this report how many, if any, of these dams are "off stream."

Definition Of Dam Includes The Reservoir It Creates Or Contains. There been some confusion regarding the distinction between dams and regulating reservoir. For purposes of this bill, there is no distinction: The dam and the reservoir it impounds are interrelated. The downstream damage caused in a dam failure is largely a function of the amount of water it releases. A regulating dam or reservoir controls the flow of water downstream. This is in comparison to a storage dam or reservoir or a flood control dam or reservoir.

The Controversy. In 1965, the Legislature passed AB 1051 (Willson, Chapter 1225, Statutes of 1965). Drafted by the Department of Water Resources (DWR), the bill, among other things, revised the definition of dams to include off-stream dams, except those which have the principle purpose of impounding water for agricultural use. As noted in the author's letter to the governor requesting a signature on the bill, "the bill was carefully amended so as not to offend the farmer and the rancher with respect to the impounding of water for agricultural use."

DWR has interpreted "the principle purpose of impounding water for agricultural use" to mean water impounded by farmers or ranchers. Supporters of this bill interpret it to mean water impounded for the purpose of agricultural uses, regardless of who impounded the water.

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

SUPPORT: (Verified 8/2/22)

Modesto Irrigation District (source)
Association of California Water Agencies
California Farm Bureau Federation
Kings River Conservation District
Kings River Water Association
Modesto Irrigation District
Oakdale Irrigation District
Turlock Irrigation District
Valley Ag Water Coalition

OPPOSITION: (Verified 8/2/22)

None received

ARGUMENTS IN SUPPORT: According to the sponsor, "The Department of Water Resources adopted, contrary to its prior view, an interpretation of existing

law that precludes entities like the Modesto Irrigation District from utilizing the provision of law that exempts smaller regulating reservoirs from requiring State permitting and oversight if they are used for the principal purpose of impounding water for an agricultural use.

"AB 1164 would correct this faulty interpretation by amending existing law to make it clear that an impoundment built, operated, and maintained by a public agency shall be treated in the same manner as a privately-owned and maintained impoundment facility. The bill places a fifteen-feet limitation on the height of any such structure.

"Historically, agricultural regulating reservoirs were typically considered by DWR to be exempt from State jurisdiction, regardless of whether it was privately or publicly owned. The exemption stemmed from California Water Code Division 3 Section 6004(a) which states:

> No obstruction in a canal used to raise or lower water therein or divert water therefrom, no levee, including but not limited to a levee on the bed of a natural lake the primary purpose of which levee is to control floodwaters, no railroad fill or structure, and no road or highway fill or structure, no circular tank constructed of steel or concrete, or both, no tank elevated above the ground, and no barrier which is not across a stream channel, watercourse, or natural drainage area and which has the principal purpose of impounding water for agricultural use shall be considered a dam.

"It is important to note that DWR's interpretation of the exemption has changed. DWR now maintains that the Water Code provision is only applicable to private agricultural use. DWR staff further finds that although MID isn't a direct "user" of the water and only conveys or impounds irrigation water on behalf of private agriculture, the impoundment by MID is not in itself private and therefore does not meet the requirements stipulated in Section 6004(a)."

ASSEMBLY FLOOR: 76-0, 5/20/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk,

Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Cunningham, Kalra

Prepared by: Dennis O'Connor / N.R. & W. / (916) 651-4116
8/3/22 14:24:59

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

SENATE RULES COMMITTEE AB 1195
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1195
Author: Cristina Garcia (D)
Amended: 5/18/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 6/29/22
AYES: Cortese, Ochoa Bogh, Durazo, Newman, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 56-19, 5/27/21 - See last page for vote

SUBJECT: Limited Eligibility and Appointment Program: lists

SOURCE: Association of California State Employees with Disabilities
Disability Rights California

DIGEST: This bill requires the California Department of Human Resources (CalHR) to provide a LEAP employment referral list to a state agency (the "appointing power") upon the agency's request without combining the LEAP list with a standard state employment list. This bill also authorizes the state agency to select and hire any individual from the LEAP referral list to fill any vacancy.

ANALYSIS:

Existing law:

1) Creates the state civil service that includes every officer and employee of the State except a limited number of specified, exempted officers and employees. Existing law also requires that the state make "permanent appointment and promotion in the civil service under a general system based on merit ascertained by competitive examination." Case law and custom refer to this provision as the merit principle and it governs the administration of the state's civil service system. (California Constitution, Art. VII, §1 and §4)

2) Creates the State Personnel Board (SPB) to enforce the civil service statutes and prescribe probationary periods and classifications, adopt other rules authorized by statute, and review disciplinary actions. (California Constitution, Art. VII, §2 and §3)

3) Establishes the State Civil Service Act to facilitate the operation of the Constitution's merit principle for the state civil service. (Government Code (GC) §18500).

4) Creates CalHR and vests it with the powers, duties, and authorities necessary to operate the state civil service system pursuant to Article VII of the California Constitution, the Government Code, the merit principle, and applicable rules duly adopted by the SPB. (GC §18502)

5) Authorizes CalHR to designate an appointing power to design, announce, or administer examinations for the establishment of employment lists as specified. Existing law also permits a designated appointing power to contract with CalHR or another designated appointing power for the purpose of designing, publicizing, or administering an examination. (GC §18930.5)

6) Requires SPB to prescribe rules consistent with a merit based civil service system to govern appointments classifications, examinations, probationary periods, disciplinary actions, and other matters related to SPB's authority under Article VII of the California Constitution. Existing law also authorizes SPB to conduct audits and investigations of the personnel practices of CalHR and appointing authorities to ensure compliance with civil service policies, procedures, and statutes. (GC §18502 (b))

7) Permits CalHR and SPB to delegate, share, or transfer between them responsibilities for programs within their respective jurisdictions pursuant to an agreement. (GC §18502 (c))

8) Requires SPB to establish minimum qualifications for determining the fitness and qualifications of employees for each class of position. Existing law also authorizes CalHR to require applicants for examination or appointment to provide documentation as it deems necessary to establish the applicants' qualifications. (GC §18931)

9) Declares that it is the state's policy:

    a) To encourage and enable individuals with disabilities (IWDs) to participate fully in the social and economic life of the state and to engage in remunerative employment. (GC §19230 (a))

b) That public employers, including employers supported in whole or in part by public funds, shall employ qualified IWDs on the same terms and conditions as the nondisabled, consistent with applicable state or federal law. (GC §19230 (b))

c) That a department, agency, or commission shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant or employee who is an IWD, unless the hiring authority can demonstrate that the accommodation would impose an undue hardship on the operation of its program. A department shall not deny any employment opportunity to a qualified applicant or employee who is an IWD if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the applicant or employee. (GC §19230 (c))

10) Requires each state agency to be responsible for establishing an effective affirmative action program to ensure IWDs, who are capable of remunerative employment, access to positions in state service on an equal and competitive basis with the general population. (GC §19232)

11) Requires each state agency to develop and implement an affirmative action employment plan for IWDs, which shall include goals and timetables. The agency shall set these goals and timetables annually for disabilities identified pursuant to guidelines established by CalHR, and shall submit them to CalHR no later than June 1 of each year for review and approval or modification. The agency shall make goals and timetables available to the public upon request. (GC §19232)

12) Requires CalHR to do the following:

a) Outline specific actions to improve the representation of IWDs in the state workforce and to ensure equal and fair employment practices for employees who are IWDs. (GC §19233 (a))

b) Survey the number of IWDs in each department by at least job category and salary range for the purpose of developing goals and timetables, as specified, and compare those numbers with the number of IWDs in the workforce. (GC §19233 (b))

c) Establish guidelines for state agencies and departments to set goals and timetables to improve the representation of IWDs in the state workforce.

Agencies and departments shall set goals and timetables by at least job category. (GC §19233 (c))

13) Establishes the Limited Examination and Appointment Program (LEAP) in the state civil service, which provides an alternative to the civil service general exam and appointment process. LEAP allows IWDs to compete for a position in state service by proving eligibility and meeting other specified criteria. (GC §19240 et seq.)

14) Requires the CalHR to combine respective civil service general exam employment lists and LEAP lists into one list of candidates for state agencies to consider when filling employment positions. (GC §19057.1)

15) Establishes the State Civil Service Equal Employment Opportunity Program and requires each state agency to be responsible for an effective equal employment opportunity program. Existing law also requires CalHR to be responsible for statewide advocacy, coordination, enforcement, monitoring of these programs, and for the development of model policies, including a model policy on reasonable accommodation. (GC §19790)

16) Clarifies that each state agency is responsible for developing its own reasonable accommodation policy, consistent with state and federal law, to address requests for reasonable accommodations. (GC §19790)

17) Requires CalHR to review by December 31 of each year agencies' affirmative action employment plans for IWDs, as specified, and to approve the plan or require appropriate modifications as necessary to set forth goals that will result in a significant increase in hiring of IWDs and effective strategies to achieve those goals. (GC §19233 (d) (1))

18) Requires CalHR to identify agencies and departments that have consistently failed to make progress in increasing their representation of IWDs and work with those agencies or departments to develop, within 180 days, action plans to address the deficiencies. (GC §19233 (d) (2))

19) Requires CalHR to report by December 31, 2025, to the Legislature on all of the following:

    a) The number of IWDs hired by each appointing power during the three-year period ending June 30, 2025, and a comparison to the hiring of IWDs in the three-year period ending June 30, 2022.

b) The names of departments or agencies required to submit corrected affirmative action plans and a summary of these plans and an analysis of their effectiveness.

c) A description of recommendations from the Governor's Diversity Task Force related to employment of IWDs that departments and agencies have implemented.

d) Recommendations for future efforts to improve the hiring of IWDs for all state agencies. In formulating recommendations for future action, the department shall consult with the Department of Rehabilitation, the State Council on Developmental Disabilities, and organizations representing IWDs. (GC § 19238)

20) Requires CalHR to submit the report's information in conjunction with information reportable under existing required information on the state's efforts to address employment of IWDs and in an existing report. (GC §19238 (c))

21) Provides that the provision requiring the CalHR report sunsets on December 31, 2029. (GC § 19238 (d))

This bill requires CalHR to, upon request of the appointing power, provide the appointing power a LEAP referral list without combining that list with a parallel list and authorizes the appointing power to select and hire any individual from that referral list to fill any vacancy.

Comments

Need for this bill? According to the author, "In 2015 CalHR, the State Personnel Board (SPB) and the Department of Rehabilitation (DOR), as a joint project, issued a report and set of recommendations to increase the employment of persons with disabilities in state government. Despite the recommendations of the joint report, reform has come too slowly. Last year the legislature passed AB 313 which implements some reforms, however due to a simple drafting error in AB 313 this bill is needed as clean-up language."

Related/Prior Legislation

AB 313 (C. Garcia, Chapter 515, Statutes of 2021) required each state agency to develop a reasonable accommodation policy for individuals with disabilities to address requests for reasonable accommodation, and among other things, modified and added legislative findings and declarations for these purposes. It included at

one point similar language to this bill requiring CalHR to provide an appointing power a LEAP referral list without combining it with any parallel employment list, as described, if requested by an appointing power.

AB 2328 (C. Garcia, 2020) was substantially similar to AB 313. The Assembly Committee on Public Employment and Retirement held the bill at the request of the author following disruption to the legislative calendar resulting from the COVID-19 pandemic.

AB 3069 (Lackey, 2020) would have established a LEAP pilot project relating to state internship and employment opportunities for homeless and former foster youth, among other provisions. The Assembly Appropriations Committee held this bill on the Suspense File.

AB 365 (C. Garcia, 2019) was substantially similar to AB 313 (2021) and AB 2328 (2020) above. The Governor vetoed the bill.

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

SUPPORT: (Verified 8/1/22)

Association of California State Employees with Disabilities (co-source)
Disability Rights California (co-source)

OPPOSITION: (Verified 8/1/22)

None received

ARGUMENTS IN SUPPORT: The sponsors state that AB 1195 simply restores a provision erroneously left out in drafting last year's AB 313 on the same subject matter. The provision clarifies that appointing authorities can ask for and use a LEAP list separate from the standard employment eligibility list when hiring.

According to the sponsors, "In 2016, Government Code § 19057.1 was amended to require that when there exists a LEAP eligibility list which is parallel to a standard civil service classification, CalHR should merge the two lists when providing an eligibility list to an appointing power. This was not intended to prevent a department wishing to proactively hire persons with disabilities from obtaining just the LEAP eligibility list, but some state departments have reported being told that this is no longer possible."

ASSEMBLY FLOOR: 56-19, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Daly, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Maienschein, Mathis, Mayes

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
8/3/22 14:24:59

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

SENATE RULES COMMITTEE AB 1290
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1290
Author: Lee (D)
Amended: 6/30/22 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/28/22
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

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

SUBJECT: Crimes: theft: animals

SOURCE: Author

DIGEST: This bill specifies that personal property includes a companion animal, as defined, for purposes of theft.

ANALYSIS:

Existing law:

1) States that every person who steals, takes, carries, leads, or drives away the personal property of another, or who fraudulently appropriates property which has been entrusted to them, or who knowingly and designedly, by any false or fraudulent representation or pretense, defrauds any other person of money, labor or real or personal property, is guilty of theft. (Pen. Code §484, subd. (a).)

2) Divides theft into two degrees, petty theft and grand theft. (Pen. Code §486.)

3) Defines grand theft as when the money, labor, or real or personal property taken is of a value exceeding $950 dollars, except as specified; other cases of theft are petty theft. (Pen. Code §§487-488.)

4) Punishes grand theft as an alternate felony-misdemeanor ("wobbler"). (Pen. Code §487.)

5) Punishes petty theft as a misdemeanor. (Pen. Code §490.)

6) States that every person who feloniously steals, takes, or carries away a dog of another which is of a value not exceeding $950 is guilty of petty theft. (Pen. Code §487f.)

7) States that every person who feloniously steals, takes, or carries away a dog of another which is of a value exceeding $950 is guilty of grand theft. (Pen. Code §487e.)

8) Provides that in determining the value of the property obtained, for the purposes of theft, the reasonable and fair market value shall be the test, and in determining the value of services received the contract price shall be the test. If there is no contract price, the reasonable and going wage for the service rendered shall govern. (Pen. Code §484, subd. (a).)

9) States that dogs are personal property, and their value is to be ascertained in the same manner as the value of other property. (Pen. Code §491.)

10) Defines a "feral cat as "a cat without owner identification of any kind whose usual and consistent temperament is extreme fear and resistance to contact with people. A feral cat is totally unsocialized to people." (Food & Ag. Code §31752.5.)

This bill:

1) Provides that personal property includes, but is not limited to, companion animals.

2) Defines "companion animal" to mean "an animal including, but not limited to, a dog or a cat, that a person keeps and provides care for as a household pet or otherwise for the purpose of companionship, emotional support, service, or protection."

3) Provides that a "companion animal" excludes feral cats, as defined in Food and Agriculture Code Section 31752.5.

Background

Theft is defined as stealing, taking, carrying, leading, or driving away the personal property of another, or fraudulently appropriating property which has been entrusted to the individual, or who knowingly and designedly, by any false or fraudulent representation or pretense, defrauding any other person of money, labor or real or personal property. (Pen. Code §484.) When the same act involves taking money, labor, real or personal property where the value of the time taken exceeds $950, the crime is punishable as grand theft which may be charged as an alternate felony-misdemeanor. (Pen. Code §487.) All other theft which does not exceed $950 in value is petty theft. (Pen. Code §488.)

Existing statutes also specify various different items where the value of the items taken exceeds $950 is grand theft (see Pen. Code §§487h, 487j and 487k: cargo, copper materials, agricultural equipment) or where the value does not exceed $950 yet the act is statutorily deemed grand theft (see Pen. Code §§487, subd. (d), 487a, 487d: theft of a firearm, automobile, livestock or gold dust) and where a lower value will still count as grand theft (see Pen. Code §487, subd. (b) domestic fowls, avocados, olives, citrus or deciduous fruits, other fruits, vegetables, nuts, artichokes, or other farm crops, or fish, shellfish, mollusks, crustaceans, kelp, algae, or other aqua cultural products are taken from a commercial or research operation.) Existing law contains specific statutes on dog stealing and states that when the value of the dog does not exceed $950, the act is petty theft and if the value of the dog exceeds $950, the act is grand theft. (Pen. Code §§487e and 487f.) Existing law also declares that dogs are personal property and their value is to be ascertained in the same manner as the value of other property. (Pen. Code §491.)

This bill amends Penal Code Section 484, which is that statute that defines theft, to provide that "personal property" includes, but is not limited to all companion animals. This bill's defines "companion animal" as meaning an animal including, but is not limited to, a dog or a cat, that a person keeps and provides care for as a household pet or otherwise for the purpose of companionship, emotional support, service, or protection. This bill clarifies that "companion animal" does not include feral cats.

According to the author, this change is needed because currently the existing statute only declares dogs to be personal property. However, the lack of this declaration for other companion animals does not preclude the applicability of the general theft and grand theft statutes. It has acknowledged both by general society and by the courts that pets are the property of their owners. (*Kimes v. Grosser*

(2011) 195 Cal. App. 4th 1556, 1559, *citing Dreyer v. Cyrian* (1931) 112 Cal. App. 279, 284 and *Ross v. Loeser* (1919) 41 Cal. App. 782, 784.)

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

SUPPORT: (Verified 8/2/22)

None received

OPPOSITION: (Verified 8/2/22)

None received

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

Prepared by: Mary Kennedy / PUB. S. /
8/3/22 14:25:00

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

SENATE RULES COMMITTEE AB 1314
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1314
Author: Ramos (D), Cristina Garcia (D) and Mathis (R), et al.
Amended: 8/1/22 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/28/22
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

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

SUBJECT: Emergency notification: Feather Alert: endangered indigenous people

SOURCE: Author

DIGEST: This bill establishes the Feather Alert system, to aid in location of an Indigenous person who has been involuntarily abducted or kidnapped.

ANALYSIS:

Existing law:

1) States that if an abduction has been reported to a law enforcement agency and the agency determines that a child 17 years of age or younger, or an individual with a proven mental or physical disability, has been abducted and is in imminent danger of serious bodily injury or death and there is information available that, if disseminated to the general public, could assist in the safe recovery of the victim, the agency, through a person authorized to activate the Emergency Alert System (EAS), shall request the activation of the EAS within the appropriate local area. (Gov. Code, § 8594 (a).)

2) Provides that California Highway Patrol (CHP) in consultation with the Department of Justice, as well as a representative from the California State

Sheriffs' Association, the California Police Chiefs' Association and the California Police Officers' Association shall develop policies and procedures providing instructions specifying how law enforcement agencies, broadcasters participating in the EAS, and where appropriate, other supplemental warning systems, shall proceed after qualifying abduction has been reported to a law enforcement agency. (Gov. Code, § 8594 (b).)

3) Defines a “Blue Alert” as a quick response system designed to issue and coordinate alerts following an attack upon a law enforcement officer, as specified. (Gov. Code, § 8594.5, (a).)

4) Provides that in addition to the circumstances described under existing law relating to "Amber Alerts", upon the request of an authorized person at a law enforcement agency that is investigating an offense, the CHP shall activate the EAS and issue a blue alert if all of the following conditions are met:

   a) A law enforcement officer has been killed, suffers serious bodily injury, or is assaulted with a deadly weapon, and the suspect has fled the scene of the offense;

   b) A law enforcement agency investigating the offense has determined that the suspect poses an imminent threat to the public or other law enforcement personnel;

   c) A detailed description of the suspect’s vehicle or license plate is available for broadcast;

   d) Public dissemination of available information may help avert further harm or accelerate apprehension of the suspect; and,

   e) The CHP has been designated to use the federally authorized EAS for the issuance of blue alerts. (Gov. Code, § 8594.5 (b).)

5) Provides that the "Blue Alert" system incorporates a variety of notification resources and developing technologies that may be tailored to the circumstances and geography of the underlying attack. The blue alert system shall utilize the state-controlled Emergency Digital Information System, (EDIS) local digital signs, focused text, or other technologies, as appropriate, in addition to the federal EAS, if authorized and under conditions permitted by the federal government. (Gov. Code, § 8594.5 (c).)

6) Defines a "Silver Alert" as a notification system, that can be activated as specified, and is designed to issue and coordinate alerts with respect to a person 65 years of age or older who is reported missing. (Gov. Code, § 8594.10 . (a).

7) Provides that if a person is reported missing to a law enforcement agency, and that agency determines that specified requirements are met, The agency may request the CHP to activate a "Silver Alert". If the CHP concurs that the specified requirements are met, it shall activate a "Silver Alert" within the geographical area requested by the investigating law enforcement agency. (Gov. Code § 8594.10. (c).)

8) States that a law enforcement agency may request a "Silver Alert" be activated if that agency determines that all of the following conditions are met in regard to the investigation of the missing person:

   a) The missing person is 65 years of age or older;

   b) The investigating law enforcement agency has utilized all available local resources;

   c) The law enforcement agency determines that that the person has gone missing under unexplained or suspicious circumstances;

   d) The law enforcement agency believes that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of a potentially dangerous person, or there are other factors indicating that the person may be in peril; and,

   e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person. (Gov. Code § 8594.10 (c).)

This bill:

1) Authorizes CHP to activate a Feather Alert upon request by a law enforcement agency that following requirements are met.

   a) The missing person is an indigenous woman or an indigenous person.

   b) The investing law enforcement agency has utilized local and tribal resources.

   c) The law enforcement agency determines that the person has gone missing under unexplainable or suspicious circumstances.

d) There is information available that, if disseminated ot the public, could assist in the safe recovery of the missing person.

2) Provides that CHP may use a changeable message sign if the law enforcement agency determines a vehicle was used in the incident and there is specific identifying information about the vehicle.

3) Defines “Feather Alert” as a notification system, activated to issue and coordinate alerts with respect to endangered indigenous people, specifically indigenous women or indigenous people, who are reported missing under unexplained or suspicious circumstances.

4) Requires CHP to evaluate this bill, including the efficacy, the advantages, and the impact to other alert programs and submit it to the Governor and Legislature no later than January 1, 2027.

5) Makes legislative findings and declarations.

Comments

According to the author:

> The Missing and Murdered Indigenous People (MMIP) Epidemic has been a problem across the nation and in the State of California. The National Institute of Justice 2016 report found that 84% of American Indian/Alaska Native women (1.5 million people) experience violence in their lifetimes, 67% were concerned for their own safety, and 41% had been physically injured from physical violence by intimate partners, stalking, and sexual violence. Underreporting, racial misclassification, bias, and lack of resources to follow through and close cases are challenges when working on MMIP cases.

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

SUPPORT: (Verified 8/8/22)

Cahuilla Consortium Victim Advocacy Program
California Consortium for Urban Indian Health
California State Sheriffs' Association
California Tribal Business Alliance
California Tribal Families Coalition
Los Coyotes Band of Cahuilla and Cupeno Indians
Picayune Rancheria of the Chukchansi Indians
San Manuel Band of Mission Indians

Santa Ynez Band of Chumash Indians
Shingle Springs Band of Miwok Indians
Torres Martinez Band of Desert Cahuilla Indians
Yocha Dehe Wintun Nation
Yurok Tribe

OPPOSITION: (Verified 8/8/22)

None received

ARGUMENTS IN SUPPORT: In support of this bill, the Yurok Tribe states:

> The Alert system created by AB 1314 will be utilized as an emergency alert issued by the Department of the California Highway Patrol, when a law enforcement agency determines that an Indigenous person is missing under suspicious circumstances.
>
> California has the largest population of Native Americans out of any state in the United States and the fifth largest caseload of MMIWP. Indigenous people are disproportionately affected by domestic violence, human trafficking, and murder, and become missing at much higher rates than people of other races. Furthermore, in a report published by the Sovereign Bodies Institute in 2020 there were 165 Missing Murdered Indigenous Women Girls and Two Spirit (MMIWG2) cases reported throughout California. At the time, this made California among the top five states in the nation with the highest number of cases.
>
> Current alert systems, such as the AMBER alert, have been incredibly beneficial to the rescue of missing persons. As of May 1, 2022 the AMBER alert has contributed to the recovery of 1,114 children. Additionally, there is no current alert system in place in California for Indigenous women and people who go missing. The alert system created by AB 1314 will help locate the individual who is missing in the critical first 48 hours. It will also improve communication between law enforcement agencies and local jurisdictions, and will also serves to increase awareness about the crisis of missing Indigenous people, particularly women and girls.

ASSEMBLY FLOOR: 77-0, 5/6/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora,

Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Mullin

Prepared by: Mary Kennedy / PUB. S. /
8/10/22 14:24:53

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

SENATE RULES COMMITTEE AB 1330
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1330
Author: Mayes (I), et al.
Amended: 6/8/22 in Senate
Vote: 21

PRIOR VOTES NOT RELEVANT

SENATE GOVERNMENTAL ORG. COMMITTEE: 13-0, 6/28/22
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Bradford, Hueso, Jones, Kamlager, Melendez, Portantino, Rubio, Wilk
NO VOTE RECORDED: Borgeas, Glazer

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Alcoholic beverage tied-house restrictions: exceptions: County of Riverside

SOURCE: Author

DIGEST: This bill authorizes specified licensees to purchase advertising space and time from, or on behalf of, an on-sale licensee that is the owner, manager, or major tenant of a fully enclosed arena with a fixed capacity in excess of 10,000 seats located in the County of Riverside (Acrisure Arena).

ANALYSIS:

Existing law:

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

2) Separates the alcoholic beverage industry into three component parts, or tiers, of the manufacturer (including breweries, wineries, and distilleries), wholesaler, and retailer (both on-sale and off-sale). This is referred to as the "tied-house" law or "three-tier" system. Generally, other than exceptions granted by the Legislature, the holder of one type of license is not permitted to do business as another type of licensee within the "three-tier" system.

3) Prohibits, in general, a manufacturer, winegrower, manufacturer's agent, rectifier, distiller, bottler, importer, or wholesaler, or any officer, director or agent of any such person from owning, directly or indirectly, any interest in any on-sale license.

4) Prohibits, in general, a manufacturer, winegrower, distiller, bottler, or wholesaler, among other licensees, or agents of these licensees, from paying a retailer for advertising.

5) Provides a variety of exceptions from the advertising prohibition, including permitting specified licensees to purchase advertising space and time from, or on behalf of, an on-sale retail licensee that is an owner, manager, or major tenant of certain stadiums, parks, entertainment complexes, and arenas, subject to specified conditions.

This bill:

1) Authorizes a beer manufacturer, the holder of a winegrower's license, a rectifier, a craft distiller, a distilled spirits manufacturer, or distilled spirits agent to purchase space and time from, or on behalf of, an on-sale retail license at a fully enclosed arena with a fixed capacity in excess of 10,000 seats located in the County of Riverside (Acrisure Arena).

2) Requires any purchase of advertising space or time to be conducted by a written contract, as specified.

3) Requires the on-sale licensee to serve other brands of beer distributed by a competing beer wholesaler in addition to the brand manufactured by the beer manufacturer, other brands of wine distributed by a competing wine wholesaler in addition to the brand produced by the winegrower, and other brands of distilled spirits distributed by a competing distilled spirits wholesaler in addition to the brand manufactured by the rectifier, the craft distiller, the

distilled spirits manufacturer, or the distilled spirits manufacturer's agent that purchased the advertising space or time.

Background

Purpose of the bill. According to the author's office, "the Coachella Valley Firebirds became the American Hockey League's 32nd franchise in 2019. In order to facilitate this expansion team, Acrisure Arena is being built, with an expected completion date of December 2022. In order to operate this arena like the vast majority of other California-based sports franchises, a tied-house exemption is required. This bill simply adds Acrisure Arena to the list of exemptions allowed in California."

Acrisure Arena. Acrisure Arena is a multi-purpose indoor arena under construction in the unincorporated community of Thousand Palms in Riverside County. The arena broke ground on June 2, 2021 and is expected to be completed in December 2022. Acrisure Arena will be the home arena for the Coachella Valley Firebirds of the American Hockey League, the minor league affiliate of the National Hockey League's Seattle Kraken. According to the author, in addition to sports and entertainment, the arena will accommodate conventions, large meetings, international events as well as award shows and exhibitions.

Tied-house laws. Tied-house laws generally prohibit suppliers and retailers from sharing common owners and legally restrict alcohol beverage suppliers' ability to gain control over retailers through indirect means. The original policy rationale for this body of law was to: (1) promote the state's interest in an orderly market; (2) prohibit the vertical integration and dominance by a single producer in the marketplace; (3) prohibit commercial bribery and to protect the public from predatory marketing practices; and (4) discourage and/or prevent the intemperate use of alcoholic beverages.

These provisions prohibit a manufacturer from paying for advertising space at any facility where the facility is licensed to sell alcoholic beverages. Over the years, numerous exceptions to this prohibition have been added to a number of stadiums, parks, entertainment complexes, and arenas. Some examples are Levi's Stadium in Santa Clara, Oakland Coliseum in Oakland, Honda Center in Anaheim, Kern County Arena in Bakersfield, the National Orange Show Events Center in San Bernardino, Auto Club Speedway, (formerly California Speedway) in Fontana, Grizzly Stadium in Fresno, Sutter Health Park in West Sacramento, SAP Center in San Jose, Dignity health in Carson, and numerous other venues.

Related/Prior Legislation

SB 1280 (Hueso, 2022) authorizes specified licensees to purchase advertising space and time from, or on behalf of, an on-sale licensee that is the owner, manager, or major tenant at specified facilities on the campus of San Diego State University (SDS). (Pending on the Assembly Floor)

AB 98 (Kalra, 2022) authorizes specified licensees to purchase advertising space and time from, or on behalf of, an on-sale licensee that is the owner, manager, or major tenant at a fully enclosed arena with a fixed capacity in excess of 4,000 seats located in the City of San Jose (Tech CU Arena). (Pending on the Senate Floor)

AB 1323 (Haney, 2022) authorizes specified licensees to purchase advertising space and time from, or on behalf of, an on-sale licensee that is the owner, manager, or major tenant of an on-sale retail licensed premises configured with theatrical seating of at least 1,600 seats but no more than 2,400 seats (Curran Theater) in the city and County of San Francisco (Acrisure Arena), as specified. (Pending on the Senate Floor)

SB 386 (Umberg, Chapter 309, Statutes of 2021) authorized specified alcohol licensees to sponsor events promoted by, and to purchase advertising space and time from, or on behalf, an on-sale licensee that is the owner, operator agent of the operator, or sole assignee or the operator's advertising rights of a mixed-use district located in the County of Orange (ocV!BE), as specified.

AB 2000 (Kalra, Chapter 483, Statutes of 2018) extended an existing exception in the ABC Act pertaining to the general prohibition against advertising arrangements between retail, wholesale, and manufacturer licensees to include an outdoor professional sports stadium with a fixed seating capacity of at least 3,000 seats located in the City of San Jose (San Jose Municipal Stadium – minor league baseball San Jose Giants), and an outdoor professional sports stadium with a fixed seating capacity of at least 15,000 seats located in the City of San Jose (Avaya Stadium – San Jose Earthquakes).

AB 2146 (Gloria, Chapter 487, Statutes of 2018) extended an existing exception in the ABC Act pertaining to the general prohibition against advertising arrangements between retail, wholesale, and manufacturer licensees to include an outdoor stadium with a fixed seating capacity of at least 43,000 seats located in the City of San Diego (Petco Park – San Diego Padres).

SB 664 (Dodd, Chapter 486, Statutes of 2017) extended an existing exception in the ABC Act pertaining to the general prohibition against advertising arrangements between retail, wholesale, and manufacturer licensees to include an outdoor stadium (AT&T Park – the home of the San Francisco Giants) and an indoor arena (Chase Center – the home of the Golden State Warriors) with specified seating capacities located in the City and County of San Francisco.

AB 1724 (Jones-Sawyer, Chapter 478, Statutes of 2017) extended, among other things, an existing exception in the ABC Act pertaining to the general prohibition against advertising arrangements between retail, wholesale, and manufacturer licensees to include a specified outdoor stadium located in the City of Los Angeles (Banc of California Stadium, the future home of the Los Angeles Football Club).

SB 582 (Bradford, Chapter 672, Statutes of 2017) allowed beer manufacturers, winegrowers, distilled spirits rectifiers, distilled spirits manufacturers, or distilled spirits manufacturer's agents to purchase advertising space and time from, or on behalf of, on-sale retail licensees at a specified stadium (The Los Angeles Stadium at Hollywood Park) and performance venue located in the City of Inglewood.

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

SUPPORT: (Verified 8/1/22)

Building Trades Council of San Bernardino & Riverside Counties, AFL-CIO
SoCal Arena

OPPOSITION: (Verified 8/1/22)

None received

ARGUMENTS IN SUPPORT: According to SoCal Arena, "Acrisure Arena is a brand new, privately financed arena with seating for more than 11,000 guests. The arena will be home to the Coachella Valley Firebirds, a minor league affiliate of the Seattle Kraken. In addition to sports and entertainment, the arena will accommodate conventions, large meetings, and international events, as well as award shows and exhibitions. AB 1330 will expand sponsorship and advertising access, allowing the arena to generate marketing revenue from their alcohol manufacturer business partners. The exemption provided in this bill will allow this

important stream of revenue to be accessed by Acrisure Arena, a revenue stream that is important to privately financed facilities."

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
8/4/22 13:58:15

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

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

THIRD READING

Bill No: AB 1384
Author: Gabriel (D), et al.
Amended: 8/26/21 in Senate
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 7-2, 6/29/21
AYES: Stern, Allen, Eggman, Hertzberg, Hueso, Laird, Limón
NOES: Jones, Grove

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-2, 7/12/21
AYES: Allen, Gonzalez, Skinner, Stern, Wieckowski
NOES: Bates, Dahle

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/26/21
AYES: Portantino, Bradford, Kamlager, Laird, McGuire
NOES: Bates, Jones

ASSEMBLY FLOOR: 57-14, 5/28/21 - See last page for vote

SUBJECT: Resiliency Through Adaptation, Economic Vitality, and Equity Act of 2022

SOURCE: Author

DIGEST: This bill establishes the Resiliency Through Adaptation, Economic Vitality, and Equity Act of 2022, which updates requirements for the state's climate adaptation strategy, Safeguarding California Plan, to prioritize equity and vulnerable communities in the plan and include metrics to measure and evaluate the state's progress in implementing the plan, as specified, among others.

ANALYSIS:

Existing law:

1) Establishes the Governor's Office of Planning and Research (OPR) as the state's comprehensive planning agency responsible for long-range planning and research.

a) Declares the Legislature's intent that OPR serve as a coordinating body for adaptation projects and goals across California.

b) Establishes the Integrated Climate Adaptation and Resiliency Program (ICARP) at OPR to coordinate regional and local efforts with state climate adaptation strategies in order to facilitate the development of holistic, complimentary strategies for adapting to climate change impacts. Requires ICARP to:

   i) Coordinate local and regional climate adaptation and resilience efforts by promoting and coordinating state agency support of these efforts and informing state-led programs to better reflect the goals, efforts, and challenges faced by local and regional entities pursuing adaptation, preparedness, and resilience.

   ii) Coordinate and maintain the state's clearinghouse for climate adaptation information.

2) Directs the California Natural Resources Agency (CNRA) to update the Safeguarding California Plan (Safeguarding California or plan), the state's climate adaptation strategy, every three years. The plan must include:

   a) Vulnerabilities to climate change by sector, as identified by the lead agency or group of agencies, and regions.

   b) Priority actions needed to reduce risks in those sectors, as identified by the lead agency or group of agencies.

3) Directs state agencies to address the vulnerabilities identified in the plan by working to maximize specified objectives, including:

   a) Promoting the use of the plan to inform planning decisions and ensure that state investments consider climate change impacts.

   b) Encouraging regional collaborative planning efforts to address regional climate change impacts and adaptation strategies.

This bill establishes the Resiliency Through Adaptation, Economic Vitality, and Equity Act of 2022. Specifically, this bill:

1) Adopts findings and declares the Legislature's intent to prioritize the most vulnerable communities, ecosystems, and economic sectors in the plan by ensuring that all state departments and agencies accurately identify,

collaboratively prepare for, and are sufficiently resourced to adequately respond to the impacts of climate change.

2) Declares, further, the Legislature's intent that CNRA consider developing policies to address the impacts of climate change and climate adaptation with a focus on equity and that actions taken to address climate adaptation should be consistent with the plan, as specified.

3) Defines terms, including "vulnerable communities."

4) Updates, beginning July 1, 2024, requirements for the plan, including:

   a) Requiring CNRA to coordinate with OPR to identify lead agencies to lead adaptation efforts in each sector, as specified.

   b) Requiring the plan to include:

      i) A financial resources sector.

      ii) A focus on vulnerable communities.

      iii) An operational definition of "climate resilience," as specified, for each sector and for vulnerable communities.

      iv) Priority actions to reduce risks and achieve climate resilience, as specified.

      v) Special protections of vulnerable communities and industries that are disproportionately impacted by climate change.

      vi) Opportunities to improve policy and budget coordination across jurisdictions, including federal and local jurisdictions.

      vii) Timetables for near-term, medium-term, and long-term timescales, and specific metrics to measure and evaluate the state's progress in implementing the plan, as specified.

   c) Requiring CNRA, in preparing the draft plan, to engage with local and regional entities to enhance policy and funding coordination and promote regional solutions and implementation.

   d) Requiring each lead agency or group of agencies, in identifying vulnerabilities, to be informed by specified research, including the California Climate Change Assessment.

5) Requires, to address vulnerabilities identified in the plan, state agencies to work to maximize, where applicable and feasible, prioritizing equity by ensuring public expenditures that address climate change adaptation prioritize protecting vulnerable communities, rectifying intersectional and systemic inequities, and enhancing low-income and vulnerable communities' abilities to weather the impacts of climate change.

6) Authorizes the State Treasurer, and the financing authorities that the Treasurer chairs, to assist state agencies by leveraging public and private capital investment to help with loans and other incentives to attain the state's climate adaptation goals.

Comments

California has been preparing adaptation plans for over a decade. In response to Executive Order S-13-08, California released the 2009 California Climate Adaptation Strategy, the state's first comprehensive plan for adapting to climate change. The report summarized the science on climate change impacts, assessed vulnerabilities, identified strategies, and outlined possible solutions to promote resiliency.

The state updated that strategy with the 2014 report Safeguarding California: Reducing Climate Risk, which provided guidance, high-level recommendations, and a statewide vision for decision-makers dealing with ongoing and inevitable climate impacts. The state later released corresponding Implementation Action Plans in 2016, conceived as a master blueprint for executing actions recommended by the 2014 update. The action plans are organized by sector and include vulnerability assessments, current actions, planned next steps, and plans for monitoring and evaluation.

In 2018, the state issued a new update, identifying hundreds of ongoing actions and next steps by state agencies to adapt to climate impacts within a framework of 81 policy principles and recommendations. Currently, CNRA is working with OPR and other state agencies to prepare the next iteration. The stated goal is to deliver a strategy that outlines the state's key climate resilience priorities, includes specific and measurable steps, and serves as a framework for action across sectors and regions in California.

What is the result of over 10 years of planning? Existing law requires CNRA to report annually to the Legislature on actions taken by each applicable agency to implement Safeguarding California. In the 2018 update, CNRA committed to reporting that would include, at minimum:

- A status update on each next step identified in this 2018 update by the appropriate agency or agencies, and

- A description of any next steps or commitments not detailed in the 2018 update included with status updates under the most appropriate recommendation.

Further, the 2018 update noted that CNRA would:

> Conduct an analysis of all the actions identified in the 2009, 2014, and 2016 adaptation plans to document all pending and completed actions. While these documents were consulted as references and sources for this update, it will be important to show the State's progress, as well as extant opportunities and needs, ten years after California's first executive order on climate change adaptation.

Aside from one report in 2019 that highlighted examples of strategies funded by state agencies, the analysis and reporting have not happened. Without regular, detailed reporting, it is difficult to assess the state's progress implementing prior plans. This is further compounded by the fact that many of the goals and actions in prior plans are not measurable and lack deadlines, making it difficult for an outsider to conduct an assessment.

This bill. This bill updates requirements for Safeguarding California, both in the content of the plan and in the process to prepare the plan, to prioritize considerations of equity and the needs of vulnerable communities. It should be noted that the last update to Safeguarding California began to touch on issues of equity by including climate justice principles, but this bill makes equity a bigger consideration. This bill also requires the plan to include metrics to measure and evaluate the state's progress in implementing the plan.

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

According to the Senate Appropriations Committee:

- Ongoing costs, likely around $500,000 annually (General Fund), for CNRA to coordinate with OPR and identify, among other things, vulnerabilities to climate change for vulnerable communities, an operational definition of "climate resilience" for each sector and for vulnerable communities, special protections of vulnerable communities and industries that are disproportionately impacted by climate change, and timetables and specific metrics to measure the state's progress in implementing the plan.

- Ongoing costs, likely in the low hundreds of thousands of dollars annually (General Fund or special fund), for OPR to support the updates to the Safeguarding California Plan.

SUPPORT: (Verified 4/19/22)

350 Silicon Valley
Azul
California State Parks Foundation
Center for Environmental Health
Climate Reality Project, San Fernando Valley
Community Nature Connection
Elders Climate Action, NorCal and SoCal Chapters
Friends of the LA River
Greenbelt Alliance
Land Trust of Santa Cruz County
Los Angeles Neighborhood Land Trust
Midpeninsula Regional Open Space District
National Stewardship Action Council
Pacoima Beautiful
San Fernando Valley Chapter of Climate Reality Project
SoCal 350 Climate Action
The River Project
Voices for Progress Education Fund

OPPOSITION: (Verified 4/19/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "The effects of the climate crisis are hitting California hard. In the past few years, the state has seen rising average temperatures, destructive fires, higher sea levels, and severe drought and floods. Already many lives, and even whole communities, have been lost or destroyed. Important species, iconic trees, agriculture, and entire ecosystems on which Californians depend for vital resources are on the brink of collapse.

"The state has taken bold thought leadership to create the Safeguarding California Plan and other adaptation frameworks that offer policy principles and recommendations. However, California still lacks governance on critical priority actions and timelines to achieve those protections.

"Given the breadth, complexity, pervasiveness, persistence, and danger of climate change, it is important to have a clear framework in place to guide the state over the coming decades to ensure we have a thoughtful set of goals, coordinated government actions, and innovative funding mechanisms in place."

"According to multiple environmental organizations, AB 1384 would "fill the gaps and provide the governance that is needed to measure progress. We believe that this bill would provide the state the tools it needs to become resilient and proactive in the face of climate change."

ASSEMBLY FLOOR: 57-14, 5/28/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Daly, Frazier, Friedman, Gabriel, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Choi, Megan Dahle, Davies, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel
NO VOTE RECORDED: Chen, Cunningham, Flora, Fong, Cristina Garcia, Gray, Maienschein, Waldron

Prepared by: Catherine Baxter / N.R. & W. / (916) 651-4116
4/19/22 10:11:22

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

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

THIRD READING

Bill No: AB 1410
Author: Rodriguez (D)
Amended: 6/30/22 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 6-1, 5/31/22
AYES: Wiener, Cortese, McGuire, Skinner, Umberg, Wieckowski
NOES: Ochoa Bogh
NO VOTE RECORDED: Bates, Caballero

SENATE JUDICIARY COMMITTEE: 9-1, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, McGuire, Stern, Wieckowski, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas

ASSEMBLY FLOOR: 54-17, 1/31/22 - See last page for vote

SUBJECT: Common interest developments

SOURCE: Author

DIGEST: This bill makes several changes to the Davis Sterling Act related to Common Interest Developments (CIDs).

ANALYSIS:

Existing law:

1) Establishes the Davis-Stirling Common Interest Development Act, which provides rules and regulations governing the operation of residential CIDs and the rights and responsibilities of homeowners and homeowners' association (HOA) members.

2) Allows members or residents of CIDs to do the following:

a) Assemble peacefully during reasonable hours and in a reasonable manner for purposes relating to common interest development living, association elections, legislation, election to public office, or the initiative, referendum, or recall process.

b) Use the common area for an assembly or meeting.

c) Canvas and petition members

d) Distribute or circulate information about common interest development living, association elections, legislation, election to public office, or the initiative, referendum, recall process, or other issues of concern to members and residents.

3) Allows an owner of separate interest in a CID to rent or lease any of the separate interests, accessory dwelling units, or junior accessory dwelling units to a renter, lessee, or tenant.

4) Establishes that a CID shall be managed by a HOA that may be incorporated or unincorporated.

a) A HOA shall hold an election for a seat on the board of directors

5) Requires an HOA to provide a fair, reasonable, and expeditious procedure for resolving a dispute involving member rights, duties, or liabilities. The procedure must, at a minimum, satisfy the following requirements:

a) The procedure may be invoked by either party to the dispute. A request invoking the procedure shall be in writing.

b) The procedure shall provide for prompt deadlines.

c) If the procedure is invoked by a member, the association shall participate in the procedure.

d) If the procedure is invoked by the HOA, the member may elect not to participate in the procedure. If the member participates but the dispute is resolved other than by agreement of the member, the member shall have a right of appeal to the board.

e) A written resolution and agreement, signed by both parties, of a dispute pursuant to the procedure that is not in conflict with the law or the governing documents binds the HOA and is judicially enforceable.

f) The procedure shall provide a means by which the member and the HOA may explain their positions.

g) A member of the HOA shall not be charged a fee to participate in the process.

This bill:

1) Allows members or residents of a CID to use social media or other online resources to discuss development living, association elections, legislation, election to public office, or the initiative, referendum, or recall process or any other issues of concern to members and residents.

   a) Does not require an association to provide social media or other online resources to members.

   b) Does not require an association to allow members to post content on the association's website

2) Permits an owner of a separate interest in a CID to rent or lease a portion of the homeowner occupied separate interest to a renter, lessee, or a tenant for more than 30 days.

3) Prohibits HOAs from pursuing enforcement actions during declared emergencies if the nature of the emergency makes in unsafe or impossible for the homeowner to either prevent or fix the violation.

4) Requires that a HOA that seeks to impose monetary penalty against a member shall make any physical evidence used to determine a violation available to the member, as specified.

Background

CIDs. CIDs are a type of housing with separate ownership of housing units that also share common areas and amenities. There are a variety of different types of CIDs including condominium complexes, planned unit developments, and resident-owned mobilehome parks. In recent years, CIDs have represented a growing share of California's housing stock. In 2019 there were an estimated 54,065 CIDs in the state which contain five million housing units, or about 35% of the state's total housing stock.

CIDs are regulated under the Davis-Stirling Act (Civil Code Section 4000 et seq.) as well as the governing documents of the CID, including the bylaws, declaration,

and operating rules. CIDs can also have Covenants, Conditions, and Restrictions (CC&Rs) which are filed with the county recorder at the time they are established. Owners in a CID are contractually obligated to abide by the CC&Rs and the governing documents of a CID, which specify rules, such as how an owner can modify their home. Additionally, CIDs include HOAs which are run by an elected board of directors and HOAs must follow specific voting procedures when considering board votes. This bill proposes to make a number of changes to laws on HOAs.

Comments

1) *Social Media Discussion.* Since HOAs operate under democratic self-governance principles, homeowners who are unhappy with the current state of affairs in their community would face a number of challenges mobilizing to elect new directors or seeking other avenues of policy change if their HOA can restrict all critical discussion. Residents and owners can assemble peacefully and distribute information freely under current law. This bill includes online information sharing under these provisions.

2) *More Housing.* Current law allows for owners to rent out a separate interest, accessory dwelling unit, or junior accessory dwelling unit. This bill adds that owners can rent out space in their homeowner occupied residence. It clarifies that it must be for 30 or more days, which would exclude short-term rentals. In effect, this would authorize rentals in HOAs that do not allow renting in their governance.

3) *Emergencies.* In light of the ongoing COVID-19 pandemic, last year the Legislature passed and the Governor signed into law SB 391 (Min, Chapter 276, Statutes of 2021), which allowed HOA board meetings to use teleconference procedures during a declared emergency if gathering in person is unsafe or impossible due to a declared emergency. This bill prohibits associations from enforcing provisions that would make it unsafe or impossible for the homeowner to prevent or fix during a declared emergency. In this way, only enforcement on certain provisions are prohibited allowing for the association to continue its governance for most of its bylaws and rules.

4) *Making Evidence Available.* This bill requires that if an association seeks to impose a monetary penalty on a homeowner any physical evidence must be available to the accused. Presumably, this would allow homeowners to more effectively contest erroneous violations that could occur if a violation is attributed to the wrong property address due to a data entry error. Additionally,

making physical evidence available to the homeowner could reduce the likelihood that a homeowner will contest the violations.

Related/Prior Legislation

SB 391 (Min, Chapter 276, Statutes of 2021) allowed HOA board meetings to use teleconference procedures during a declared emergency

AB 3182 (Ting, Chapter 198, Statutes of 2020) allowed the owner of separate interest in a CID to rent or lease out any separate interest, accessory dwelling unit, or junior accessory dwelling unit

SB 1343 (Mitchell, Chapter 956, Statutes of 2018) required employers who employ five or more employees provide sexual harassment training for its employees

SB 407 (Wieckowski, Chapter 236, Statutes of 2017) allowed residents or members of a CID to peacefully assemble, distribute information, canvas, among other activities

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

SUPPORT: (Verified 7/14/22)

Center for California Homeowner Association Law

OPPOSITION: (Verified 7/14/22)

California Alliance for Retired Americans
California Associations Institute - California Legislative Action Committee

ARGUMENTS IN SUPPORT: According to the author, "For most people, the purchase of a home will be the biggest investment in their lifetime. It is not in the public interest or the interest of the state's housing policies to discourage homeownership and make it more difficult to maintain that homeownership. CIDs are a cost-effective way for many to achieve the American Dream and enter the housing market. As such, that investment deserves to have a homeowner association that is ethical, working toward the best interest of the property owners and not going out of their way to harass, fine, or limit the enjoyment of the homeowners' property. As cities and counties struggle to meet state housing goals, CID's are becoming more and more prevalent. We must assure these homeowner community leaders know their legal responsibilities in order to mitigate future issues. If not, we will not just see disharmony in these communities but increases

in lawsuits, harassment, public safety calls, and a host of other unforeseen issues that will increase costs to homeowners and to the public."

ARGUMENTS IN OPPOSITION: According to the opposition, this bill gives too much power to a homeowners association to limit free speech. The opposition additionally states that signing a code of conduct that is vague deters people from becoming board members. The author's office deleted this portion of the bill.

ASSEMBLY FLOOR: 54-17, 1/31/22
AYES: Aguiar-Curry, Arambula, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Friedman, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Chen, Choi, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Muratsuchi, Patterson, Seyarto, Smith, Valladares, Waldron
NO VOTE RECORDED: Bauer-Kahan, Gabriel, Mayes, Nguyen, Voepel

Prepared by: Andrew Dawson / HOUSING / (916) 651-4124
7/28/22 10:35:25

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

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

THIRD READING

Bill No: AB 1432
Author: Low (D)
Amended: 6/13/22 in Senate
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 10-0, 6/28/22
AYES: Dodd, Allen, Archuleta, Becker, Bradford, Hueso, Kamlager, Portantino, Rubio, Wilk
NO VOTE RECORDED: Nielsen, Borgeas, Glazer, Jones, Melendez

ASSEMBLY FLOOR: 71-0, 5/6/21 - See last page for vote

SUBJECT: LGBTQ+ Pride Month

SOURCE: Author

DIGEST: This bill requires the Governor to proclaim the month of June as Lesbian, Gay, Bisexual, Transgender, Queer (LGBTQ+) Pride Month.

ANALYSIS:

Existing law:

1) Requires the Governor to annually proclaim the month of June as LGBT Pride Month.

2) Requires the Governor to annually proclaim May 22 as Harvey Milk Day.

3) Establishes the LGBTQ Veterans Memorial at the Desert Memorial Park in Cathedral City is the official state LGBTQ veterans memorial.

This bill requires the Governor to annually proclaim the month of June as LGBTQ+ Pride Month.

Background

Purpose of the Bill. According to the author's office, "this bill recognizes the importance of the diversity within the LGBTQ+ community, and includes identities that have previously been left out under the acronym LGBT, as well as encompasses all future identities that have yet to emerge."

1960s LGBTQ+ Rights and the Stonewall Uprising. The 1960s and preceding decades were not welcoming times for LGBTQ+ Americans. For instance, solicitation of same-sex relations was illegal in New York City, home of the Stonewall Inn. For these reasons, LGBTQ+ individuals flocked to gay bars and clubs, places of refuge where they could express themselves openly and socialize without worry. However, the New York State Liquor Authority penalized and shut down establishments that served alcohol to known or suspected LGBTQ+ individuals, arguing that the mere gathering of homosexuals was "disorderly."

In 1966, members of the American Mafia purchased the Stonewall Inn, a low-earning Christopher Street straight bar, and reopened as a gay "bottle club," controlling everything from the jukebox to the cigarettes. The Mafia believed that a business catering to the otherwise shunned gay community might turn a profit, as they served watered-down drinks often in dirty, used glasses, and demanded regular payoffs from guests for "protection." Due to "bottle club" designation, the proprietors of the Stonewall Inn did not need to operate under a liquor license and were largely free from scrutiny. Further, in violation of city code, Stonewall lacked a rear exit, leaving the narrow front door as the only escape in the event of a fire or emergency. Nonetheless, the Stonewall Inn quickly became an important Greenwich Village institution. It welcomed drag queens, who received a bitter reception at other gay bars and clubs and became a nightly home for many runaways and homeless gay youths.

Around 1:20 a.m., on June 28, 1969, five members of the New York City Vice Squad Public Morals Division raided the Stonewall Inn and joined forces with two male and two female undercover police officers who were already stationed inside. The lights on the dance floor flashed, as was the usual signal to alert patrons of the police. However, this particular raid did not go as planned, as the patrol wagons responsible for transporting the arrested patrons took longer than expected. A crowd of released patrons and bystanders began to grow outside. The raid sparked a riot among bar patrons and neighborhood residents as police violently hauled employees and patrons out of the bar, leading to six days of protests and clashes with law enforcement. Known as the Stonewall Riots, or the Stonewall Uprising, these confrontations and the swift political organization that followed are widely

considered to be the catalyst of the modern LGBTQ+ civil rights movement in the United States and around the world.

In 1970, the first Pride parade was held in New York City on the one year anniversary of the Stonewall Riots. Known then as the Christopher Street Liberation Day, veterans of the Stonewall Uprising and members of the LGBTQ+ community marched 15 New York City blocks with gay banners and signs. Since that first parade, Pride celebrations have sprung up in cities around the world. These gatherings encourage the community to celebrate accomplishments, bring visibility to the LGBTQ+ population, decrease the mystery for those who retain feelings of homophobia, provide an opportunity for LGBTQ+ individuals to feel less alone in an oppressive and dismissive world, and establish the LGBTQ+ population as a vibrant and vital part of the community.

LGBTQ+ Pride Recognition and California. Now celebrating its 20 year anniversary, the California Legislative LGBTQ Caucus was established in 2002. Its role is to present a forum for the California Legislature to discuss issues that affect LGBTQ+ Californians and to further the goal of equality and justice for all people. The formation of the LGBTQ Caucus made California the first state in the nation to recognize an official caucus of openly-LGBTQ state legislators, and now includes eight sitting members of the Legislature. Historically, the LGBTQ Caucus Chair introduced a resolution each June during a formal ceremony to declare June as Pride month. HR 51 (Kehoe, 2002) was the first such resolution introduced in the California Legislature, and was narrowly adopted by the Assembly on a 42-26 vote. The following year, ACR 108 (Kehoe, 2003) was once again approved by the Assembly (42-28), however, the resolution never received consideration in the Senate.

As attitudes changed, support for the LGBTQ+ community grew, however, that growth was not without setback. By 2008, the Legislature had approved AB 2567 (Leno, 2008), which would have designated May 22nd as "Harvey Milk Day." That bill, however was vetoed by then Governor Schwarzenegger who, in part of the veto message wrote, "I believe his contributions should continue to be recognized at the local level by those who were most impacted by his contributions." Later that year, California voters approved Proposition 8, prohibiting same-sex marriage, which had previously been sanctioned in the state. The following year, SB 572 (Leno, Chapter 626, Statutes of 2009) established "Harvey Milk Day" in statute. In the succeeding years, it has been tradition for a member of the LGBTQ Caucus to introduce a resolution in the respective houses. Last year SR 39 (Eggman, 2021) proclaimed June 2021 as LGBTQ+ Pride Month and received 35 votes on the Senate Floor.

Rising Anti-LGBTQ+ Activity. Despite decades of progress for the LGBTQ+ community, the annual number of anti-LGBTQ bills introduced in other states across the nation have been increasing over the last several years, from 41 in all of 2018 to more than 240 in just the first three months of the year, such as Florida's "Don't Say Gay," bill which has since become law. The Texas Attorney General recently released an opinion declaring that providing gender-affirming surgical procedures and drugs that affect puberty should be considered child abuse under Texas law. In a move against transgender high school athletes in Ohio, a bill states that if an athlete's "sex is disputed," they are required to show a doctor's statement "indicating the participant's sex" based on their "internal and external reproductive anatomy."

In a more frightening turn of events, the 2022 LGBTQ+ Pride month has been marred by growing threats and violence from conspiracy theorists and extremist hate groups. Earlier this month, 31 members of a violent white supremacist group gathered from 12 different states across the country in Coeur d'Alene, Idaho. The all-male group was arrested while traveling in the back of a U-Haul truck, all dressed similarly in khaki pants, sunglasses, white balaclavas, and identifying extremist imagery. Authorities allege the men were in possession of an "operations plan," shields, and a smoke grenade, and intended to instigate a riot near the Northern Idaho LGBTQ Pride event on a Saturday afternoon in a local park. A witness tipped off police after watching the group load into the back of the U-Haul at a hotel and said they "looked like a little army." Members of the group have been charged with criminal conspiracy to riot.

The same day as the arrests in Idaho, in San Lorenzo, California, a well-known local drag queen who is also a social worker was disrupted during a children's book reading. Members of an extremist hate group interrupted the event while shouting out slurs, profanity, and threats. A witness stated that one of the interrupters wore a shirt with the message "Kill your local pedophile." This preceded a threat received by an LGBTQ+ member of the Legislature that claimed bombs had been planted in their San Francisco home and state Senate office accompanied with the threat that they would "die today." And on the last weekend of Pride Month 2022, the Attorney General of Texas announced that he is "certainly willing and able" to defend an invalidated Texas law prohibiting private same-sex relations that has been off the books since Lawrence v. Texas in 2003.

Including Q+. This bill adds "Q+" to LGBT Pride Month in state law. The "Q+" can mean queer or questioning, though queer may be used by people as a specific identity, it is often considered an umbrella term for anyone who is non-cisgender or heterosexual. Once considered to be a slur, queer has been reclaimed to

describe a broad identity. The "plus" is used to signify all of the gender identities and sexual orientations that are not specifically covered by the other five initials.

California has the largest LGBTQ+ population of any state in the union, estimated at nearly two million according to a 2017 Gallup survey. Additionally, the state is home to over forty LGBTQ+ Pride celebrations each year, including the San Francisco Pride Parade and Celebration which regularly attracts over one million people into the city.

Related/Prior Legislation

AB 1655 (Jones-Sawyer, 2022) adds June 19, known as "Juneteenth," to the list of state holidays and authorizes state employees to elect to take time off with pay in recognition of Juneteenth, as specified. (Pending in the Senate Education Committee)

AB 1741 (Low, Chapter 41, Statutes of 2022) required the Governor to annually proclaim November 20 as "Transgender Day of Remembrance."

AB 1801 (Nazarian, 2022) adds April 24, known as "Genocide Awareness Day," to the list of state holidays. Additionally, the bill authorizes state employees to elect to take time off with pay in recognition of "Genocide Awareness Day," as specified, and authorizes community colleges and public schools to close on April 24, known as "Genocide Awareness Day," as specified. (Pending in the Senate Education Committee)

HR 51 (Kehoe, 2002) adopted by the Assembly, proclaimed June 2002 as Gay and Lesbian Pride Month.

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

SUPPORT: (Verified 6/30/22)

None received

OPPOSITION: (Verified 6/30/22)

None received

ASSEMBLY FLOOR: 71-0, 5/6/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen,

Chiu, Choi, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Lorena Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Cooley, Gallagher, Gipson, Gray, Mayes, Mullin, Salas

Prepared by: Brian Duke / G.O. / (916) 651-1530
7/28/22 10:35:20

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

SENATE RULES COMMITTEE AB 1467
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1467
Author: Cervantes (D)
Amended: 6/16/22 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 6-0, 6/1/22
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, Pan
NO VOTE RECORDED: McGuire

SENATE JUDICIARY COMMITTEE: 11-0, 6/14/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 75-0, 1/31/22 - See last page for vote

SUBJECT: Student safety: sexual assault procedures and protocols: sexual assault counselors

SOURCE: Author

DIGEST: This bill requires sexual assault and domestic violence counselors at public colleges and universities to be independent from the Title IX office, prohibits sexual assault and domestic violence counselors from releasing the identity of the victim without first obtaining specific permission, and authorizes the California State University (CSU) chancellor to collaborate with specified entities when reviewing executive orders related to discrimination, harassment, and retaliation.

ANALYSIS:

Existing federal law:

1) Provides that, in part, "no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program of activity receiving Federal financial assistance." Enforcement of compliance is initiated upon the filing of a complaint alleging a violation of Title IX.

2) Requires each school district and county office of education, or a local public or private agency that receives funding from the state or federal government, to designate a person to serve as the Title IX compliance coordinator to enforce compliance at the local level, including coordinating any complaints of non-compliance. (Title IX of the Education Amendments of 1972 to the 1964 Civil Rights Act)

Existing state law:

1) Requires each educational institution in California (K-12 and postsecondary education) to have a written policy on sexual harassment, and requires schools to display the policy in a prominent location in the main administrative building or other area of the campus or schoolsite, be provided as part of any orientation program for new students, provided to each faculty member, administrative staff and support staff, and appear in any publication of the school that sets forth the rules, regulations, procedures and standards of conduct. (Education Code § 231.5 and § 66281.5)

2) Requires, as a condition of receiving state financial assistance, the appropriate governing board or body of each campus of the University of California (UC), CSU, California Community Colleges (CCC), private postsecondary educational institutions, and independent institutions of higher education to implement, and at all times comply with, specified requirements including disseminating a notice of nondiscrimination, designating an employee to coordinate compliance, and adopting rules and procedures within the policies required by state and federal law. (EC § 66281.8)

3) Requires the governing board of each community college district, the Trustees of the CSU, the Regents of the UC, and the governing boards of independent postsecondary institutions to adopt policies concerning campus sexual violence, domestic violence, dating violence, and stalking that includes an affirmative consent standard, detailed and victim-centered policies and protocols, and the

standard used in determining whether the elements of the complaint against the accused have been demonstrated is the preponderance of the evidence. (EC § 67386)

4) Requires the governing board of each community college district, the Trustees of the CSU, the Board of Directors of the Hastings College of the Law, and the Regents of the UC shall each adopt, and implement at each of their respective campuses or other facilities, a written procedure or protocols to ensure, to the fullest extent possible, that students, faculty, and staff who are victims of sexual assault receive treatment and information. If appropriate on-campus treatment facilities are unavailable, the written procedure or protocols may provide for referrals to local community treatment centers. (EC § 67385)

5) Requires schools to post information on their Web sites relative to the designated Title IX coordinator, rights of students and responsibilities of schools, and a description of how to file a complaint. (EC § 221.61)

6) Provides that the victim of a sexual assault has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between the victim and a sexual assault counselor if the privilege is claimed by any of the following: a) The holder of the privilege; b) A person who is authorized to claim the privilege by the holder of the privilege; or c) The person who was the sexual assault counselor at the time of the confidential communication, but that person may not claim the privilege if there is no holder of the privilege in existence or if he or she is otherwise instructed by a person authorized to permit disclosure. (Evidence Code § 1035.8.)

7) Defines "sexual assault counselor," for purposes of the sexual assault counselor-victim privilege, to include, among others, a person who is engaged in sexual assault counseling on the campus of a public or private institution of higher education. (Evidence Code § 1035.2)

This bill requires sexual assault and domestic violence counselors at public colleges and universities to be independent from the Title IX office, prohibits sexual assault and domestic violence counselors from releasing the identity of the victim without first obtaining specific permission, and authorizes the California State University (CSU) chancellor to collaborate with specified entities when reviewing executive orders related to discrimination, harassment, and retaliation.

Specifically, this bill:

Information about options for victims

1) Expands the options to be included in existing procedures ensuring that each victim of sexual assault or domestic violence to also include counselors and support services for victims, and alternative dispute resolution or other accountability processes.

Sexual assault and domestic violence counselors

2) Requires a sexual assault and domestic violence counselor to be independent from the Title IX office, and at a minimum, meet existing qualifications pursuant to the Evidence Code.

3) Prohibits services provided by sexual assault and domestic violence counselors from being contingent upon a victim's decision to report to the Title IX office or law enforcement.

4) Requires a sexual assault or domestic violence counselor to obtain specific permission from the victim before disclosing the identity of the victim, or any information that could reasonably be expected to reveal the identity of the victim, to the university or any other authority, including law enforcement, unless otherwise required to do so by applicable state or federal law.

Executive order review

5) Authorizes the Chancellor of the CSU, when reviewing and updating any executive orders relating to discrimination, harassment, and retaliation, to do so in collaboration with any of the following:

    a) The Systemwide Title IX Office.

    b) The Executive Vice Chancellor of Academic and Student Affairs, the Associate Vice Chancellor for Student Affairs and Enrollment Management, the Vice Presidents for Student Affairs, and other Executive Vice Chancellors and Vice Chancellors.

    c) The Office of General Counsel.

    d) The Vice Chancellor of Human Resources and other human resources and academic personnel officers.

    e) Campus Title IX coordinators.

f) Presidents and provosts of the various campuses of the university.

g) Sexual assault counselors, confidential sexual assault victims advocates, and domestic violence counselors.

h) Representatives of the student bodies at each campus of the university.

i) The Vice Chancellor of Administration and Finance.

6) Requires the Chancellor of the CSU to submit the text of all executive orders to which this bill applies in an annual report to the respective chairs of the Assembly Committee on Higher Education and the Senate Committee on Education.

General

7) Defines "specific permission" to mean all of the following, and provides that unlimited or general permission for disclosure is not specific permission:

a) The permission is limited to disclosure to particular people, for a particular circumstance, or for a particular purpose for which the permission was given.

b) The permission is limited to the counselor to whom it was given.

c) The permission may be withdrawn.

Comments

Need for the bill. According to the author, "Sexual assault counselors are in a unique position to observe, assess, and participate in the response to campus sexual assault. On-campus counselors assist student survivors by providing both emotional support and information regarding on-campus and community-based resources. This can include counseling or crisis intervention, as well as assistance navigating the reporting process if a survivor wishes to file a report. Counselors may also accompany survivors to appointments, meetings, or hearings. Historically, sexual assault counselors have been exempt from having to report instances of sexual misconduct to the university or law enforcement, providing a confidential resource for survivors seeking help.

"To fully support survivors in a trauma-centered manner, it is vital that sexual assault counselors focus on the needs of the survivor. The role of a sexual assault counselor is to explain all options and also supports any decision the survivor makes, which may include action against the university. In these situations, the

sexual assault counselor may fear losing their employment or other forms of retribution due to their support of student survivors. Campus-based sexual assault counselors and advocates should have clear protections in place in order to have an ability to act independent from the University, in the best interest of the survivor without threat or fear of retaliation from the University."

Title IX. Title IX prohibits the exclusion of any person, on the basis of sex, from participation in, be denied the benefits of, or be subjected to discrimination under any educational program of activity receiving federal financial assistance. Title IX applies to schools, local and state educational agencies, and other institutions that receive federal financial assistance from the federal Department of Education.

An institution that receives federal financial assistance must operate its education program or activity in a nondiscriminatory manner free of discrimination based on sex, including sexual orientation and gender identity. Some key issue areas in which recipients have Title IX obligations are: recruitment, admissions, and counseling; financial assistance; athletics; sex-based harassment, which encompasses sexual assault and other forms of sexual violence; treatment of pregnant and parenting students; treatment of LGBTQI+ students; discipline; single-sex education; and employment.

Title IX offices conduct investigations of violations of Title IX, including sexual assault. This bill requires sexual assault counselors to be independent from the Title IX office. However, this bill does not preclude sexual assault counselors from being employed by the postsecondary educational institution.

Related/Prior Legislation

AB 1968 (Seyarto, 2022) requires the CSU and requests the UC to develop content and presentation standards and a model internet website template regarding the steps a student who is a victim of sexual assault may take immediately following the assault. AB 1968 requires the standards and model website template to be developed in collaboration with sexual assault survivor advocates and others who work with sexual assault victims. AB 1968 is pending on the Senate Floor.

AB 2683 (Gabriel, 2022) requires the CCC and CSU, and requests UC and any independent institution of higher education or private postsecondary education institution that receives state financial assistance, to provide annual sexual harassment and sexual violence prevention training to students. AB 2683 requires all students attending the CCC, CSU, and any independent institution of higher education or private postsecondary education institution that receives state financial assistance to attend an annual sexual violence and harassment training

beginning September 1, 2024. AB 2683 is on the Senate Appropriations Committee suspense file.

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

SUPPORT: (Verified 6/27/22)

California Legislative Women's Caucus
California State PTA

OPPOSITION: (Verified 6/27/22)

None received

ASSEMBLY FLOOR: 75-0, 1/31/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Flora

Prepared by: Lynn Lorber / ED. / (916) 651-4105
6/29/22 18:42:51

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

SENATE RULES COMMITTEE AB 1515
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1515
Author: Santiago (D)
Amended: 8/1/22 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/29/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 69-0, 6/1/21 - See last page for vote

SUBJECT: Outreach, Education, and Free Tax Assistance Grant Program

SOURCE: Author

DIGEST: This bill specifies allocations of Earned Income Tax Credit and Volunteer Income Tax Assistance education and outreach grants.

ANALYSIS:

Existing law:

1) Allows various income tax credits, deductions, exemptions, and exclusions.

2) Allows individuals with income below a certain threshold to not file a tax return for state purposes when the value of the standard deduction and personal exemption credit exceed the taxpayer's liability. For 2021, these thresholds are $19,310 in California gross income for single taxpayers (under 65 years of age with no dependents) and $38,624 in California gross income for married individuals filing jointly (under 65 years of age with no dependents). These thresholds are increased based on the number of dependents claimed, or if the taxpayer(s) are over the age of 65, and increased annually for inflation.

3) Allows a refundable California EITC (CalEITC) in an amount equal to a modified percentage, called an adjustment factor, of the federal EITC.

4) Specifies that the CalEITC is only operative for taxable years for which the Legislature authorizes resources in the annual Budget Act for the Franchise Tax Board (FTB) to oversee and audit returns associated with the credit. The Legislature also must establish the CalEITC adjustment factor for each taxable year; otherwise the CalEITC adjustment factor defaults to zero.

5) Stipulates that to qualify for the CalEITC a taxpayer must have earned income in the 2021 taxable year of at least $1 and below $30,000 regardless, of your filing status or number of qualifying children.

    a) The 2021 maximum CalEITC for taxpayers is as follows:

        i) $3,160 with three or more qualifying children.

        ii) $2,809 with two qualifying children.

        iii) $1,698 with one qualifying child.

        iv) $255 with no qualifying children.

6) Enacts the Young Child Tax Credi (YCTC), which allows taxpayers to claim a refundable credit for each child under the age of 6, and defines an eligible individual as one who has a qualified child and would have received the EITC, but has earned income of zero dollars or less in the taxable year.

7) Allows a refundable foster youth tax credit of $1,000 per eligible individual against the personal income tax, as specified:

    a) Eligible individuals:

        i) Were in foster care placement, as specified in the bill, while 13 years of age or older.

        ii) Is between the ages of 18 to 25.

        iii) Is eligible to claim the earned income tax credit (EITC) in the taxable year of the credit.

This bill:

1) Requires FTB to issue grants that cover at least a 12-month period to qualified nonprofit community-based organizations (CBOs) or local government agencies with the goal of increasing awareness of the state and federal EITC, the YCTC, Foster Youth Tax Credit, and of Individual Tax Identification Number (ITIN) tax status eligibility, upon appropriation by the Legislature.

2) Specifies that FTB may contract or partner with Department of Community Services and Development (DCSD) as it deems necessary.

3) Requires the FTB to prioritize funding for the following purposes:

   a) To provide timely distribution of funds for the state and federal EITC, YCTC and the Foster Youth Tax Credit and for awareness of ITIN eligibility.

   b) To CBOs with demonstrated experience in outreach or free tax preparation.

   c) To organizations with prior experience with the Volunteer Income Tax Assistance (VITA) program to provide free tax preparation assistant and ITIN application assistance.

   d) To focus funding in regions of the state with low participation in the Cal EITC.

   e) To focus funding in regions of the state with high estimated percentages of ITIN filers.

   f) To emphasize collaboration of grantees with other CBOs and local government agencies.

   g) To encourage targeting of specific underserved communities, particularly those that experience barriers to taking advantage of the credit, with a focus on extremely low income households, likely ITIN eligible workers, populations with limited English proficiency, rural communities, current and former foster youth, and other hard-to-reach populations.

4) Requires FTB to submit a report to the Legislature on the effectiveness of the program on or after January 1, 2024, and annually thereafter.

5) Requires FTB, in consultation with DCSD and grantees, to develop metrics to analyze the effectiveness of the program.

6) Establishes the EITC Outreach and Education and Free Tax Assistance Grant Fund in the State Treasury for the purposes of allocating grants pursuant to the above provisions, upon appropriation by the Legislature.

Background

Federal ITIN. The Internal Revenue Service (IRS) generally issues Federal Individual Tax Identification Numbers (ITINs) for tax administration purposes for certain nonresident and resident aliens (a term in federal law that refers someone that is not a US citizen but resides in the US), their spouses, and dependents who are not eligible to receive an SSN. To obtain a federal ITIN, an individual must file IRS Form W-7, *Application for ITIN* and provide specified documentation including a copy of an original tax return, original documents that show that the information included on the form is the same and demonstrates and connection to a country, and a valid form of identification.

VITA. In addition to the simplified tax filing portal, FTB and IRS offer a free program known as Volunteer Income Tax Assistance (VITA) to help individuals with their tax filing obligations. This program is run by volunteers who complete training with the FTB and IRS to learn to prepare basic returns for their community members. To qualify for VITA services, individuals must meet any of these qualifications:

- Make less than $58,000 (generally)[1];
- Have disabilities;
- Speak limited English; or
- Are active duty or retired military personnel, or a dependent.

Education and Outreach. Since California began authorizing a state EITC, the Legislature has allocated between $2 million and $5 million, annually, to maximize participation in the CalEITC by increasing awareness. This year, the proposed Budget Act earmarked $20 million to raise awareness of CalEITC and VITA, and specified that the funds shall be allocated via contracts to nonprofit and community-based organizations and that those organizations shall particularly focus their outreach efforts on persons who file tax returns using an ITIN. Currently, FTB works with the Department of Community Services and

[1] Each VITA program can set specific income limitations

Development (DCSD) to award the grants to non-profits that apply. Reporting and metrics measurements are required to be reported by the grantees under state contracting law.

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

SUPPORT: (Verified 8/9/22)

None received

OPPOSITION: (Verified 8/9/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "The COVID-19 pandemic has had devastating health and economic impacts on our most vulnerable communities, including our low-income and undocumented Californians. However, systemic inequities have existed for many years prior to the pandemic. These vulnerable communities have continuously faced great barriers that have contributed to cycles of poverty, such as unequal access to education, employment, and housing.

"One of these systemic inequalities is the inequitable access to free tax assistance. Only 1 in 100 Californians who received the California Earned Income Tax Credit in the tax year 2020 used a free service to file their taxes. That means 99 out of those 100 used a paid service when they were *all* eligible for free services, such as in-person or online Volunteer Income Tax Assistance, My Free Tax, Cal-File, and others. The majority of those low-income Californians went to a paid-preparer, costing them several hundred dollars each.

"To provide critical assistance to these Californians, AB 1515 will ensure the state provides adequate tax assistance and education so that those eligible for tax credits are able to file and receive lifesaving financial assistance. By creating a grant program for local government agencies or qualified community based organizations to provide free tax filing assistance and education on available tax credits, California can increase the number of those filing for tax credits and Individual Tax Identification Numbers, thus increasing the number of Californians eligible for the California Earned Income Tax Credit and the Young Child Tax Credit."

ASSEMBLY FLOOR: 69-0, 6/1/21

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

Prepared by: Jessica Deitchman / GOV. & F. / (916) 651-4119
8/10/22 14:21:51

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

SENATE RULES COMMITTEE AB 1551
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1551
Author: Santiago (D)
Amended: 1/13/22 in Assembly
Vote: 21

SENATE HOUSING COMMITTEE: 7-0, 5/31/22
AYES: Wiener, Cortese, McGuire, Ochoa Bogh, Skinner, Umberg, Wieckowski
NO VOTE RECORDED: Bates, Caballero

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/22/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-0, 1/27/22 (Consent) - See last page for vote

SUBJECT: Planning and zoning: development bonuses: mixed-use projects

SOURCE: Author

DIGEST: This bill extends the sunset on the density bonus program for commercial properties to January 1, 2028.

ANALYSIS:

Existing law:

1) Requires a local jurisdiction to grant a density bonus for a commercial development if the developer enters into an agreement to provide affordable housing and the housing meets the following criteria:
   a) It is located:
      i) On the site of the commercial development; or
      ii) On a site that is all of the following:

(1) Within the boundaries of the local government;

(2) In close proximity to public amenities including schools and employment centers; and

(3) Located within one-half mile of a major transit stop.

b) Has at least 30% of the total units are for low-income households or at least 15% of the total units for very low-income households.

2) Specifies that the density bonus granted to the commercial developer:
   a) Must be mutually agreed upon by the developer and the jurisdiction; and
   b) May include, but is not limited to, any of the following:
      i) Up to a 20% increase in maximum allowable intensity in the local general plan;
      ii) Up to a 20% increase in maximum allowable floor area ratio;
      iii) Up to a 20% increase in maximum height requirements;
      iv) Up to a 20% reduction in minimum parking requirements;
      v) Use of a limited-use or limited-application elevator for upper floor accessibility; and
      vi) An exception to a zoning ordinance or other land use regulation.
3) Requires the commercial developer to complete an agreement with a housing developer that specifies how the commercial developer will contribute affordable housing.
4) Requires the agreement to be approved by the local jurisdiction.
5) Specifies that the commercial developer may provide affordable housing by:
   a) Directly building the units;
   b) Donating a portion of the site or property elsewhere to the affordable housing developer for use as a site for affordable housing; or
   c) Making a cash payment to the affordable housing developer that must be used towards the costs of constructing the affordable housing project.
6) Provides that a commercial project cannot be eligible for a density bonus if the proposed site contains or contained lower-income housing, as specified.
7) Includes the following specifications:

a) That nothing in this section precludes any additional allowances or incentives offered to developers by local governments pursuant to law or regulation;

b) That the local government may withhold certificates of occupancy for the commercial development until the developer has completed construction of the affordable units, unless the developer of the affordable units has commenced construction of those units in accordance with timelines ascribed by their mutual agreement;

c) That nothing in this section precludes an affordable housing developer from seeking a density bonus, concessions or incentives, waivers or reductions of development standards, or parking ratios under state density bonus law; and

d) That a development bonus pursuant to this section must not include a reduction or waiver of payment of any required affordable housing fee owed by the commercial developer.

8) Requires a city or county to submit to the Department of Housing and Community Development (HCD), as part of its annual report, information describing an approved commercial development bonus, including the terms of the agreements between the commercial developer and the affordable housing developer, and the developers and the local jurisdiction, and the number of affordable units constructed as part of the agreements.

9) Sunsets this program January 1, 2022.

This bill extends the sunset from January 1, 2022, to January 1, 2028, for local jurisdictions providing density bonuses for commercial developments.

Background

California Housing Crisis. The lack of supply is the primary factor underlying California's housing crunch. HCD estimates that California needs to build 180,000 new homes a year to keep up with population growth. More recently, HCD noted in its statewide housing plan that California must plan for more than 2.5 million homes over the next eight-year cycle, and no less than one million of those homes must meet the needs of lower-income households. This represents more than double the housing planned for in the last eight-year cycle.

The median home price in California is $771,270 in 2022, which is double the nationwide median. It is second to Hawaii, and Washington is third with a median price of $592,400. In terms of rental markets, California has all 10 of the top 10 most unaffordable counties for a two-bedroom apartment and holds eight of the top

10 most unaffordable metropolitan areas. In addition, almost half of rental households in California are low-income (50-80% AMI), very low income (30-50% AMI), or extremely low income (0-30% AMI). As a result, many Californians are rent burdened (spend more than 30% of their income on rent): almost 90% of extremely low income, 85% of very low income, and 63% of low income households.

Comments

1) *Purpose of this bill.* According to the author, "AB 1551 will continue the progress made by AB 1934 in 2016 in addressing California's affordable housing crisis. By requiring local governments to provide density bonuses to housing developers, California will increase the number of affordable units available and help the tens of thousands of people experiencing homelessness in our state. With the help of AB 1551, California will create more opportunities to build affordable housing and allow more time for interested parties to build an affordable housing supply to get people off the streets and into homes of their own."

2) *Residential Density Bonus Law.* Given California's high land and construction costs for housing, it is extremely difficult for the private market to provide housing units that are affordable to low- and even moderate-income households. Public subsidy is often required to fill the financial gap on affordable units. Density bonus law allows public entities to reduce or even eliminate subsidies for a particular project by allowing a developer to include more total units in a project than would otherwise be allowed by the local zoning in exchange for affordable units. Allowing more total units permits the developer to spread the cost of the affordable units more broadly over the market-rate units. The idea of density bonus law is to cover at least some of the financing gap of affordable housing with regulatory incentives, rather than additional subsidy. In 2020, HCD approved around 18,000 units, over 30% of which are for low or very low incomes, across 335 projects through Density Bonus Law.

3) *Commercial Density Bonus Law.* This bill, and its predecessor (AB 1934 Santiago Chapter 747, Statutes of 2016), tries to create affordable housing through commercial developments. There are six bonuses a commercial developer can obtain, and three ways the developer can help finance affordable housing. Unlike residential density bonus law which has very clear criteria to follow to obtain benefits, this bill does not have clear guidelines as to what the commercial development gets for what it gives. Instead, the bonuses are mutually agreed upon by the developer and the jurisdiction. This lack of clarity

may make it difficult for developers to try and gain these benefits if one has to negotiate them.

4) *Has it been used?* During the five years the program existed, there is not much evidence to suggest that it was widely utilized. AB 1934 required that local governments report use of this program to HCD as part of their annual progress reports. Data provided by HCD revealed that only five units of affordable housing had been created due to the program across three projects. It is unknown whether other projects statewide used this program but the local government did not include the information in its annual progress report.

5) *Should there be changes?* As of now, the program in this bill is exactly the same as the program that already exists. The author might want to investigate why developers have not used the program more widely and consider what changes to make so that the program is used more often.

Related/Prior Legislation

AB 1934 (Santiago, Chapter 747, Statutes of 2016) created the original commercial density bonus program that sunset January 1, 2022.

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

SUPPORT: (Verified 8/2/22)

California Apartment Association
California Housing Partnership Corporation
City of Santa Monica

OPPOSITION: (Verified 8/2/22)

One individual

ASSEMBLY FLOOR: 61-0, 1/27/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Cervantes, Choi, Cooley, Cooper, Cunningham, Daly, Davies, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Gipson, Grayson, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Ward, Wicks, Wood, Rendon

NO VOTE RECORDED: Mia Bonta, Carrillo, Chen, Megan Dahle, Flora, Eduardo Garcia, Gray, Irwin, Maienschein, Mayes, Blanca Rubio, Villapudua, Voepel, Waldron, Akilah Weber

Prepared by: Andrew Dawson / HOUSING / (916) 651-4124
8/8/22 16:19:48

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1628
Author: Ramos (D), et al.
Amended: 8/3/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 10-0, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, Jones, McGuire, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas

ASSEMBLY FLOOR: 64-0, 5/12/22 - See last page for vote

SUBJECT: Social media platforms: electronic content management: controlled substances

SOURCE: Author

DIGEST: This bill requires social media platforms to create and post a policy that includes policies regarding distribution of controlled substances and its prevention, reporting mechanisms, and resources.

Senate Floor Amendments of 8/3/22 refine and harmonize the definition of social media platform.

ANALYSIS:

Existing federal law:

1) Provides a right to free speech and expression. (U.S. Const., 1st amend; Cal. Const., art 1, § 2.)

2) Provides, in federal law, that a provider or user of an interactive computer service shall not be treated as the publisher or speaker of any information provided by another information content provider. (47 U.S.C. § 230(c)(2).)

3) Provides that a provider or user of an interactive computer service shall not be held liable on account of:

   a) Any action voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected; or

   b) Any action taken to enable or make available to information content providers or others the technical means to restrict access to such material. (47 U.S.C. § 230(c)(2).)

Existing state law:

1) Requires an operator of a commercial website or online service that collects personally identifiable information about consumers to conspicuously post its privacy policy on its website and include specified disclosures. (Bus. & Prof. Code § 22575.)

2) Requires, pursuant to the California Consumer Protection Act of 2018 (CCPA), businesses, as defined, to include specified information in their privacy policies, such as a description of consumer rights, the categories of personal information the business collects about consumers, and a list of the categories it has sold about consumers in the preceding 12 months. (Civ. Code § 1798.130.)

3) Defines "controlled substance" as a drug, substance, or immediate precursor which is listed in any schedule I through V. (Health & Saf. Code § 11007.)

4) Provides that every person who possesses for sale or purchases for purposes of sale any specified controlled substance, as defined, shall be punished by imprisonment in a county jail for two, three, or four years pursuant to existing law pertaining to felony sentencing, except as otherwise provided. (Health & Saf. Code § 11351.)

5) Provides that every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport, any specified controlled substance shall be punished by imprisonment in a county jail for two, three, or four years pursuant to existing law pertaining to felony sentencing, except as otherwise provided. (Health & Saf. Code § 11352.)

6) Establishes the California Electronic Communications Privacy Act (CalECPA), which prohibits a government entity from compelling the production of or access to electronic communication information from a service provider, as defined, except as specified. (Pen. Code § 1546.1.)

7) Defines "electronic communication information," for purposes of CalECPA, to mean any information about an electronic communication or the use of an electronic communication service, including, but not limited to, the contents, sender, recipients, format, or location of the sender or recipients at any point during the communication, the time or date the communication was created, sent, or received, or any information pertaining to any individual or device participating in the communication, including, but not limited to, an IP address. (Pen. Code § 1546.)

This bill:

1) Requires a social media platform to create, and publicly post on the platform's internet website, a policy statement that includes all of the following:

   a) The social media platform's policy on the use of the platform to illegally distribute a controlled substance;

   b) A general description of the platform's moderation practices that are employed to prevent users from posting or sharing electronic content pertaining to the illegal distribution of a controlled substance, not to include information that might compromise operational efforts to identify prohibited content or user activity, or otherwise endanger user safety;

   c) A link to mental health and drug education resources provided by governmental public health authorities;

   d) A link to the social media platform's reporting mechanism for illegal or harmful content or behavior, if one exists; and

   e) A general description of the platform's policies and procedures for responding to law enforcement inquiries, including warrants, subpoenas, and other court orders compelling the production of or access to electronic communication information, as defined in CalECPA.

2) Allows these disclosures to be posted separately or incorporated within another document or post, including the terms of service or the community guidelines.

3) Requires a person or entity operating a social media platform to update the policy statement as necessary and encourages platforms to consult with specified stakeholders to assist in developing and supporting the policy statement.

4) Defines "social media platform" to mean a public or semipublic internet-based service or application that has users in California and that meets specified criteria. The bill exempts businesses that generated less than $100 million in gross revenue during the preceding calendar year.

5) Provides that it only remains in effect until January 1, 2028, and as of that date is repealed.

Comments

The author points to testimonials from people who are active drug users and parents of people who have overdosed on fentanyl that cite social media as an often used platform to advertise and sell drugs. Evidence shows that social media platforms have in fact become an increasingly popular avenue for the distribution and sale of illegal drugs, especially to younger generations. This includes fentanyl, a synthetic opioid that is 50 to 100 times stronger than morphine.

The author argues that while social media companies have introduced new policies to address drug distribution through their platform, this practice is not required and there is no oversight. This bill requires social media platforms, as defined, to create and post a policy statement that includes various elements. This includes the policy on the use of the platform to illegally distribute controlled substances, a general description of the moderation practices used to prevent such distribution, and links to reporting mechanisms and resources. This bill sunsets January 1, 2028.

Drug Safety Policies on Social Media Platforms

This bill attempts to tackle the incidence of drug distribution online by requiring "social media platforms" to post a policy statement. The statement must include the platform's policy on the use of the platform to illegally distribute a controlled substance, which in most cases will likely be to disallow it. The statement must describe the platform's policies for responding to law enforcement inquiries, but does not require any specific policy. This publicly-posted policy statement must include a link to mental health and drug education resources provided by governmental public health authorities.

The statement must also include a general description of the social media platform's moderation practices that are geared toward preventing content related

to the illegal distribution of drugs as well as a link to the platform's reporting mechanism for illegal or harmful content, if one exists.

Importantly, this bill does not require any specific content moderation. It simply requires disclosure of them in a way that does not reveal "information that the social media platform believes might compromise operational efforts to identify prohibited content or user activity, or otherwise endanger user safety." Therefore, it is unlikely that these provisions run afoul of the First Amendment or Section 230 of the Communications Decency Act.

Commercial speech is protected under the state and federal guarantees of free speech, but to a lesser degree than noncommercial speech.[1] Generally speaking, requiring a commercial actor to provide factual, uncontroversial product information is permissible "as long as the disclosure requirements are reasonably related to the State's interest in preventing deception of consumers."[2] California currently imposes similar disclosure requirements on companies doing business online, such as the provision of the California Consumer Privacy Act of 2018 that requires a company to inform consumers about the categories of personal information it collects and the purposes for which the information is collected.[3] Accordingly, it appears that the bill's requirement that a social media platform post what their policies are, without dictating them, does not impede their First Amendment rights.

The crux of Section 230 is laid out in two parts. The first provides that "[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider."[4] The second provides a safe harbor for content moderation by stating that no provider or user shall be held liable because of good-faith efforts to restrict access to material that is "obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected."[5]

Together, these two provisions give platforms immunity from any civil or criminal liability that could be incurred by user statements, while explicitly authorizing platforms to engage in their own content moderation without risking that immunity. Section 230 specifies that "[n]o cause of action may be brought and no liability may be imposed under any State law that is inconsistent with this

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[1] *See Gerawan Farming, Inc. v. Lyons* (2004) 33 Cal.4th 1, 22.
[2] *Zauderer v. Office of Disciplinary Counsel of Supreme Court of Ohio* (1985) 471 U.S. 626, 651.
[3] *See* Civ. Code, § 1798.100.
[4] *Id.*, § 230(c)(1).
[5] *Id.*, § 230(c)(1) & (2).

section."[6] Courts have applied Section 230 in a vast range of cases to immunize internet platforms from "virtually all suits arising from third-party content."[7]

As this bill does not require any content moderation policies or subject platforms to liability for failing to take down certain content, the provisions discussed above are likely not susceptible to a challenge on Section 230 preemption grounds.

It should be noted that the bill explicitly allows placement of this policy statement in the platform's terms of service or community guidelines. Most major platforms likely already include these policies therein and unfortunately, there is evidence that such documents are seldom read by consumers.

According to the author:

> AB 1628 would require social media platforms to submit policies regarding preventing illegal activity to the Attorney General's office. This would create an oversight relationship between the platform and the Department of Justice and the Attorney General's office to ensure that illegal activity is not conducted on their platform.

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

SUPPORT: (Verified 6/29/22)

Orange County Board of Supervisors
Orange County District Attorney's Office
SNAP Inc.

OPPOSITION: (Verified 6/29/22)

None received

ARGUMENTS IN SUPPORT: The Orange County Board of Supervisors states:

> As you are aware, social media platforms are increasingly becoming the setting of illegal drug transactions. Despite this concerning trend, there continues to be a need for the implementation of protocols to help hold social media companies more accountable and deter drug distribution on their platforms. AB 1628 would serve as a tool in the fight against the illicit

[6] *Id.*, § 230(e)(1) & (3).
[7] Kosseff, *supra*, fn. 13, at pp. 94-95; *see, e.g., Doe v. MySpace Inc.* (5th Cir. 2008) 528 F.3d 413, 421-422; *Carfano v. Metrospalsh.com, Inc.* (9th Cir. 2003) 339 F.3d 1119, 1125; *Zeran v. America Online, Inc.* (4th Cir. 1997) 129 F.3d 327, 333-334.

fentanyl sales by additionally compelling social media companies to post resources for mental health and drug education, resources for law enforcement officials, and a link to the platform's mechanism for reporting illegal or harmful content on the platform.

ASSEMBLY FLOOR: 64-0, 5/12/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Villapudua, Voepel, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Boerner Horvath, Cunningham, Megan Dahle, Davies, Gray, Grayson, Kiley, Lackey, Lee, Quirk-Silva, Blanca Rubio, Valladares, Ward

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
8/5/22 13:01:58

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

SENATE RULES COMMITTEE AB 1632
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1632
Author: Akilah Weber (D), et al.
Amended: 8/1/22 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 10-0, 6/20/22
AYES: Roth, Bates, Becker, Dodd, Eggman, Hurtado, Leyva, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Melendez, Archuleta, Jones, Min

SENATE HEALTH COMMITTEE: 8-0, 6/29/22
AYES: Pan, Eggman, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Melendez, Gonzalez, Grove

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 62-0, 5/25/22 - See last page for vote

SUBJECT: Restroom access: medical conditions

SOURCE: Author

DIGEST: This bill requires a place of business that has a toilet facility for its employees to allow any individual who is lawfully on the premises of that place of business to use that toilet facility during normal business hours if the individual has an eligible medical condition or uses an ostomy device, and if specified conditions are met.

ANALYSIS:

Existing law:

1) Requires permanent food facilities to provide clean toilet facilities in good repair for use by their employees. (Health and Safety Code (HSC) § 114276(a))

2) Requires a food facility to provide either clean toilet facilities in good repair for guests, consumers, or invitees, or to prominently post a sign that toilet facilities are not provided, for which the penalty for the first failure is a warning, followed by a fine of not more than $250. (HSC § 114276)

3) Requires food facilities to provide clean toilet rooms in good repair and conveniently located and accessible for use by employees during all hours of operation. The number of toilet facilities required shall be in accordance with applicable local building and plumbing ordinances. Toilet tissue shall be provided in a permanently installed dispenser at each toilet. (HSC § 114250)

4) Provides that food facilities located within amusement parks, stadiums, arenas, food courts, fairgrounds, and similar premises are not required to provide toilet facilities for employee use within each food facility if approved toilet facilities are located within 200 feet in travel distance of each food facility and are readily available for use by employees, as specified. (HSC § 114250.1)

5) Requires every public agency conducting an establishment serving the public or open to the public, and that maintains restroom facilities for the public, to make every water closet for each sex maintained within the facilities available without cost or charge. Defines public agency for these purposes as any agency of the state, city, county, or city and county. (HSC § 118500)

6) Requires publicly and privately owned facilities where the public congregates to be equipped with sufficient temporary or permanent restrooms to meet the needs of the public at peak hours. Defines "facilities where the public congregates" for these purposes to mean sports and entertainment arenas, community and convention halls, specialty event centers, amusement facilities, and ski resorts. (HSC § 118505)

This bill:

1) Defines “Department” as the California Department of Public Health (CDPH), unless otherwise specified.

2) Defines "eligible medical condition" to mean Crohn's disease, ulcerative colitis, other inflammatory bowel disease, irritable bowel syndrome, or another medical condition that requires immediate access to a toilet facility.

3) Requires a place of business open to the general public for the sale of goods that has a toilet facility for its employees to allow any individual who is lawfully on the premises of that place of business to use that toilet facility during normal business hours, even if the place of business does not normally

make the employee toilet facility available to the general public, if all of the following conditions are met:

a) The individual requesting use of the employee toilet facility has an eligible medical condition, as defined, or uses an ostomy device.

b) Three or more employees of the place of business are working onsite at the time that the individual requests use of the employee toilet facility;

c) The employee toilet facility is not located in an employee changing area or an area where providing access would create an obvious health or safety risk to the requesting individual or would create an obvious security risk to the place of business;

d) Use of the employee toilet facility would not create an obvious health or safety risk to the requesting individual; and,

e) A public restroom is not immediately accessible to the requesting individual.

4) Specifies that the place of business may require the requesting individual to present reasonable evidence that the individual has an eligible medical condition or uses an ostomy device.

5) Specifies that a signed statement issued to the individual by a licensed physician, nurse practitioner, or physician assistant on a form developed by the department, as specified, is sufficient for purposes of presenting reasonable evidence, if required by the place of business.

6) Requires the department to develop and post on its website a standard electronic form that may be signed by a health care provider (licensed physician and surgeon, nurse practitioner or physician assistant) to serve as reasonable evidence of the existence of an eligible medical condition or use of an ostomy device.

7) Requires the form above to include all of the following components:

a) Space for the requesting individual's name;

b) Space for the requesting individual's address;

c) Space for the requesting individual's date of birth;

d) Space for the health care provider's name, signature, and statement confirming the eligible medical condition or use of an ostomy device;

e) Both of the following statements:

i) "MEDICAL ALERT: RESTROOM ACCESS REQUIRED; and,

ii) "The holder of this form uses an ostomy device or suffers from Crohn's disease, ulcerative colitis, other inflammatory bowel disease, irritable bowel syndrome, or another medical condition that requires immediate access to a toilet facility;"

f) A reference to this bill and to any regulations adopted to implement it.

8) Specifies that a violation of this bill is subject to a civil penalty not exceeding $100 for each violation.

9) States that a place of business is not civilly liable for a violation of this bill unless the violation is willful or grossly negligent.

10) Specifies that an employee of a place of business is not civilly liable and prohibits the employee from being subject to discharge or any other disciplinary action by their employer for a violation of this bill, unless the employee’s action is contrary to an expressed policy developed by their employer.

11) States that this bill does not create or imply a private right of action for a violation.

12) Specifies that this bill does not require a place of business to make any physical changes to an employee toilet facility.

13) Requires the department to implement this bill in consultation with the Department of Consumer Affairs (DCA).

14) States that this bill is to be implemented only to the extent that it is neither in conflict with nor construed to limit rights under federal law, including the Americans with Disabilities Act (ADA) of 1990, the Unruh Civil Rights Act, or any other civil rights law, as applicable.

15) Specifies that an employee toilet facility is not to be construed as a place of public accommodation for purposes of state law.

Background

California Department of Public Health (CDPH). CDPH is responsible for protecting the public's health in California, and for areas of public health such as infectious disease control and prevention, food safety, environmental health, laboratory services, patient safety, emergency preparedness, chronic disease prevention and health promotion, family health, health equity and vital records and statistics.

American Disabilities Act (ADA). The ADA was signed into law on July 26, 1990, by President George H.W. Bush and prohibits discrimination against those with physical or mental disabilities. The ADA guarantees that people with disabilities have the same opportunities as everyone else, such as employment opportunities, the ability to purchase goods and services, and the opportunity to participate in State and local government programs and services. The ADA is an "equal opportunity" law for people with disabilities.

To be protected by the ADA, one must have a disability, which is defined by the ADA as a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.

The ADA does not specifically name all of the impairments that are covered. As Crohn's disease, ulcerative colitis, other inflammatory bowel disease, irritable bowel syndrome, and related conditions can be considered disabling as they can negatively affect an individual's operation of major bodily functions and ability to consume food, and these disorders can lead to severe pain, fatigue, malnutrition, and increased infection risk. Therefore, these disorders may be eligible for accommodations under ADA.

The Restroom Access Act. The state of Illinois passed the Restroom Access Act, also referred to as Ally's Law, in 2005 to require businesses to allow individuals experiencing a medical emergency to use employee-only restrooms. Ally's law was inspired by Ally Bain, a teenager with Crohn's Disease, who suffered a public accident after she was denied access to an employee-only restroom at a major retail store with no available public restrooms. Since the passage of the Restroom Access Act in Illinois, 16 other states have enacted similar legislation, including Colorado, Connecticut, Delaware, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, New York, Ohio, Oregon, Tennessee, Texas, Washington, and Wisconsin.

Eligible Medical Conditions. AB 1632 specifies that eligible medical conditions for the provisions of this bill include inflammatory bowel diseases (IBD), such as Crohn's disease, ulcerative colitis, other inflammatory bowel disease, irritable bowel syndrome (IBS), or another medical condition that requires immediate access to a toilet facility.

IBD describes disorders that involved chronic inflammation of the digestive tract, includes ulcerative colitis and Crohn's disease. Ulcerative colitis is a condition which results in inflammation and ulcers along the superficial lining of the large intestine (the colon) and the rectum. Crohn's disease involves inflammation of the lining of the digestive tract anywhere between the mouth and the anus, and may involve deeper layers of the walls of the digestive tract. Both conditions are characterized by diarrhea, rectal bleeding, abdominal pain, fatigue and weight loss, and can be debilitating. IBS involves symptoms such as abdominal pain, diarrhea, and constipation, but may not be associated with visible signs of damage to the digestive tract. The precise causes of these diseases are not known, but can result from weakened immune systems. All of these disorders can result in an individual needing frequent and urgent access to a toilet facility.

According to the US Center for Disease Control and Prevention (CDC), in 2015 an estimated 1.3% of US adults (3 million) were reported to have been diagnosed with IBD. IBD is most prevalent in older adults and in Hispanic and non-Hispanic white adults, but is diagnosed at similar rates for men and women. IBS is more common than IBD. It is estimated that IBS is prevalent in between 10-20% of the US population, and is significantly more common in women than in men.

An ostomy is a surgical hole made in the abdomen of a patient to allow for stool or urine to leave the body and be collected by a disposable pouch, called an ostomy bag or device, affixed over the ostomy. An ostomy may be required to treat serious bowel problems, to let the a body part heal after a surgery, or if parts of the gastrointestinal (GI) tract or bladder are removed. Reasons for this surgery may include certain GI or bladder cancers, injury to the bowel or bladder, IBD, a blocked bowel, infection, or other conditions.

In addition to IBD, IBS, and an ostomy device, this bill also allows for medical conditions that require immediate access to a toilet facility to qualify as an eligible medical condition for the provisions of this bill. Additional conditions which may result in an individual needing immediate access to a toilet facility may include urinary incontinence, severe food sensitivities, autoimmune disorders which affect GI function (such as celiac disease), urinary or GI infections, and others.

Documentation Issued by Healthcare Practitioners. Several organizations, such as the Crohn's and Colitis Foundation, offer cards that individuals with GI disorders such as IBD can carry to explain their symptoms to facility managers in case of an emergency. However, businesses in states without Restroom Access laws are not required to grant access to an individual even if they have such a card.

This bill requires businesses to allow bathroom access to individuals with eligible medical conditions, as specified, and would require businesses to accept a signed statement issued by a licensed health practitioner (such as a physician, nurse practitioner, or physician assistant) on a form developed by CDPH as reasonable proof of the individual's condition.

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

SUPPORT: (Verified 8/8/22)

Crohns and Colitis Foundation

OPPOSITION: (Verified 8/8/22)

None received

ARGUMENTS IN SUPPORT: The *Crohns and Colitis Foundation* writes in support and notes, "Crohn's disease and ulcerative colitis, collectively known as IBD, are painful, medically incurable diseases that affect the digestive system resulting in symptoms that include loss of bowel control and require urgent and sudden use of a restroom. These symptoms leave many IBD patients worrying about whether they will have access to a restroom when in public. Denying restroom access to IBD patients can lead to an embarrassing, avoidable accident that can cause extreme emotional distress. Restroom access is a human need and patients should not be put in a potentially humiliating situation by being denied access to a restroom.

AB 1632 addresses this issue by ensuring access to a restroom for customers who present a document signed by a medical professional attesting that the customer uses an ostomy device or has Crohn's disease, ulcerative colitis, or other inflammatory bowel disease or medical condition requiring access to a toilet facility without delay. AB 1632 is an important and necessary measure that will help IBD patients during difficult times."

ASSEMBLY FLOOR: 62-0, 5/25/22

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

Prepared by: Hannah Frye & Sarah Mason / B., P. & E.D. /
8/10/22 14:12:34

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

SENATE RULES COMMITTEE AB 1636
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1636
Author: Akilah Weber (D), et al.
Amended: 4/20/22 in Assembly
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 13-0, 6/20/22
AYES: Roth, Melendez, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Archuleta

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 5/25/22 - See last page for vote

SUBJECT: Physician's and surgeon's certificate: registered sex offenders

SOURCE: California Medical Association

DIGEST: This bill requires denial of an initial physician and surgeon license application, requires automatic physician and surgeon license revocation, and requires denial of a petition from a physician and surgeon to reinstate a license for individuals who have committed acts of sexual abuse, misconduct, or relations with a patient.

ANALYSIS:

Existing law:

1) Establishes various practice acts in the Business and Professions Code (BPC) governed by various boards within the Department of Consumer Affairs (DCA) which provide for the licensing and regulation of health care professionals. (Business and Professions Code (BPC) §§ 500 *et seq.*)

2) Establishes a number of reporting requirements outlined in the BPC designed to inform licensing boards about possible matters for investigation.

3) Specifies that cases involving certain allegations by licensees of MBC and the Podiatric Medical Board must be handled on a priority basis, including, but not limited to sexual misconduct with one or more patients during a course of treatment or an examination. (BPC § 2220.05.)

4) Requires MBC to automatically revoke the license of any person who, at any time after January 1, 1947, has been required to register as a sex offender pursuant to the provisions of Section 290 of the Penal Code, regardless of whether the related conviction has been appealed. Authorizes the licensee to request a hearing, conducted in accordance with the Administrative Procedure Act, within 30 days of the revocation. (BPC § 2232)

5) Authorizes an interim order suspending (ISO) a license for MBC licensees if the affidavits show that the licensee has engaged in, or is about to engage in, acts or omissions constituting a violation of the Medical Practice Act, or is unable to practice safely due to a mental or physical condition, and that permitting the licensee to continue to engage in the profession for which the license was issued will endanger the public health, safety, or welfare. ISOs shall be issued only after a hearing, unless it appears from the facts in the affidavit that serious public injury would be a result of waiting for the hearing. (Government Code § 11529)

6) Requires certain licensed health care professionals (physicians and surgeons, osteopathic physicians and surgeons, podiatrists, acupuncturists, chiropractors, and naturopathic doctors) to notify patients of their probationary status.

7) Requires, for physicians and surgeons licensed by the MBC and Osteopathic Medical Board (OMBC), that probationary status be disclosed if there is a final adjudication by MBC or OMBC following an administrative hearing, or admitted findings or prima facie showing in a stipulated settlement establishing certain violations of the law, including the commission of any act of sexual abuse, misconduct or relations with a patient or client. (BPC § 2228.1)

This bill:

1) Authorizes denial of an application for licensure as a physician and surgeon from any applicant who was subject to formal discipline for sexual abuse, misconduct, or relations with a patient or sexual exploitation.

2) Allows for the automatic revocation of a physician and surgeon license if the application would have been denied for any of the above causes.

3) Requires automatic revocation of the license of any physician and surgeon who has been convicted in another state of a crime that would have required sex offender registration in California.

4) Repeals an exemption from automatic revocation for offenses who have subsequently been relieved of their duty to register as a sex offender in California.

5) Eliminates the ability of a person whose license was revoked before January 1, 2005 following registration as a sex offender to petition a superior court to determine that the individual no longer poses a risk to patients and order their license to be reinstated.

6) Prohibits reinstatement of the license of a physician and surgeon if it was surrendered or revoked for committing an act of sexual abuse, misconduct, or relations with a patient, or following conviction of a crime requiring registration as a sex offender wherein the person engaged in the offense with a patient or client, with the exception of registration required following conviction of a misdemeanor for indecent exposure.

Background

Physician and surgeon enforcement. The enforcement process begins with a complaint. Complaints are received from various sources, including the public, generated internally by MBC or OMBC, or based on information MBC and OMBC receive from various entities through mandatory reports to the boards.

MBC licensee complaints are received by the Central Complaint Unit, which starts the process of determining next steps for a complaint. All complaints that pertain to treatment provided by a physician require patient medical records to be obtained. MBC reports that it is "subject to significant limitations in its authority to inspect and review medical records in the possession of a licensee. Generally, the Board must obtain patient consent prior to requesting records from a licensee. However, obtaining patient consent (for example, in cases involving inappropriate prescribing of opioids) may be difficult. If the patient refuses to give consent, then the Board must establish good cause to issue a subpoena and may have to file a motion to compel in superior court to enforce the subpoena. Without quick access

to records, investigations take longer to complete. In some cases, the Board is required to close complaints because its investigation cannot proceed without relevant medical records." Complaints regarding quality of care are received and reviewed by OMBC's Complaint Unit (CU) in Sacramento by a medical consultant. The CU medical consultant determines whether the quality of care issues presented in the complaint and supporting documents warrant investigation.

Pursuant to Business and Professions Code (BPC) Section 2220.08, before a quality of care complaint for MBC licensees is referred for further investigation, it must be reviewed by one or more medical experts with the pertinent education, training, and expertise to evaluate the specific standards of care issues raised by the complaint to determine if further field investigation is required. When a medical reviewer determines that a complaint warrants referral for further investigation, CCU transfers the complaint to the Health Quality Investigation Unit (HQIU) in the DCA's Division of Investigation (DOI) which handles investigations for a number of health related boards within DCA to be investigated by a sworn investigator, a peace officer. There are 12 HQIU field offices located throughout California that handle these investigations.

MBC's complaint priorities are outlined in BPC section 2220.05 in order to ensure that physicians representing the greatest threat of harm are identified and disciplined expeditiously. MBC must ensure that it is following this section of law when investigating complaints, including complaints alleging certain behavior, including sexual misconduct with one or more patients during a course of treatment or an examination, as being the highest priority.

For complaints about physicians and surgeons that are subsequently investigated and meet the necessary legal prerequisites, a Deputy Attorney General (DAG) in the Office of the Attorney General (OAG) drafts formal charges, known as an "Accusation". A hearing before an Administrative Law Judge (ALJ) is subsequently scheduled, at which point settlement negotiations take place between the DAG, the physician and their attorney and MBC or OMBC staff. Often times these result in a stipulated settlement, similar to a plea bargain in criminal court, where a licensee admits to having violated charges set forth in the accusation, or admits that the MBC or OMBC could establish a factual and legal basis for the charges in the Accusation at hearing, and accepts penalties for those violations. If a licensee contests charges, the case is heard before an ALJ who subsequently drafts a proposed decision. This decision is reviewed by a panel of MBC members or the OMBC Board who either adopt the decision as proposed, adopt the decision with a reduced penalty or adopt the decision with an increased penalty. If

probation is ordered, a copy of the final decision is referred to MBC's Probation Unit or OMBC's probation monitor for assignment to an inspector who monitors the licensees for compliance with the terms of probation.

Recent Events and Allegations of Misconduct. In 2018, the Senate Committee on Business, Professions and Economic Development held a hearing, *Sexual Misconduct Reporting in the Medical Profession: Missed Opportunities to Protect Patients*, to explore whether licensed health professionals who fail to meet established standards are discovered, reviewed and disciplined, if necessary, in a timely manner. Discussion at the hearing centered on recent events at the University of Southern California (USC) where a physician employed by USC's student health clinic was accused of sexual misconduct. According to information provided by USC, In June 2016, their Office of Equity and Diversity received a complaint from a student health center staff member about Dr. George Tyndall, a gynecologist at the health center. Dr. Tyndall was placed on administrative leave while an investigation was conducted. During that investigation, outside medical reviewers concluded that the manner in which Dr. Tyndall performed physical exams did not meet current practice standards and that he made inappropriate remarks to patients, in some cases during the examination process. The investigation also brought to light complaints about Dr. Tyndall that had been received in prior years but were managed independently by the director of the student health center. USC filed a complaint with MBC about Dr. Tyndall in 2017.

At the time, the student health center was organized under USC's university operations, rather than as an extension of its hospitals and medical schools. Complaints against Dr. Tyndall were treated as employment matters and followed an investigation process that did not include peer review, given that the student health center did not have a peer review body. In turn, MBC was not made aware of action taken against Dr. Tyndall by USC through one of the mandatory reporting requirements contained in BPC Sections 805 or 805.01.

Comments

The public is best protected by receiving services from qualified, quality individuals who promote their health, safety, and well-being. Extremely troubling sexual misconduct cases involving health care practitioners, like those highlighted through Legislative oversight and in media reports, is unfortunately not limited to physician and surgeons, and unfortunately not limited to patient victims. Physician and surgeon licensing boards are not the only ones made aware of sexual misconduct by their licensees, and these boards are also not the only ones that

prioritize these types of complaints when engaging in their important enforcement efforts. It is unclear why only physician and surgeon licenses would then have licenses denied, revoked, or subject to significant limitations aimed at preventing public harm for sexual misconduct violations, and unclear why this authority would only extend to cases where the victim is a patient.

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

SUPPORT: (Verified 8/3/22)

California Medical Association (source)
American Academy of Pediatrics, California
American College of Obstetricians and Gynecologists District IX
California Academy of Family Physicians
California Rheumatology Alliance
California Society of Anesthesiologists
California State Association of Psychiatrists
Consumer Protection Policy Center/University San Diego School of Law
Los Angeles County District Attorney's Office

OPPOSITION: (Verified 8/3/22)

Alliance for Constitutional Sex Offense Laws

ARGUMENTS IN SUPPORT: In sponsoring the measure, the California Medical Association, along with numerous other physician groups supporting the bill, write that "AB 1636 is intended to remove any obstacles in statute ensuring patients are protected, physicians that commit this egregious conduct are appropriately disciplined, and the integrity of the medical profession is maintained. Physicians are entrusted by their patients to provide care and do no harm."

The Consumer Protection Policy Center writes that "The patient-doctor relationship is based on trust, and patients in this relationship are in a particularly vulnerable situation. No physician or surgeon who has engaged in sexual misconduct requiring registration as a sex offender should be allowed to return to practice, thus allowing their patients to become their prey."

According to the Los Angeles County District Attorney's Office, "AB 1636 will ensure that the MBC will no longer allow physicians who were determined to have committed sexual misconduct involving patients to practice medicine in the State of California. Our Office strongly believes that a physician who violates this level of trust should never practice in California."

ARGUMENTS IN OPPOSITION: The Alliance for Constitutional Sex Offense Laws writes that "AB 1636 would violate the rights of individuals who are currently required to or have been previously required to register due to a conviction that requires registration pursuant to Penal Code Section 290. It would also exacerbate the current shortage of physicians in both the nation and the state. It appears that the basis of AB 1636 is the myth that everyone convicted of a sex offense poses a current danger to society regardless of how long ago the offense took place. This myth has been debunked by studies and reports issued by academia as well as by goverrnnent organizations including the CA Department of Corrections and Rehabilitation (CDCR) and the CA Sex Offender Management Board. For example, CDCR has reported that the rate of re-offense for a person convicted of a sex offense while on parole is less than one percent."

ASSEMBLY FLOOR: 76-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Sarah Mason / B., P. & E.D. /
8/3/22 14:25:04

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

SENATE RULES COMMITTEE AB 1637
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1637
Author: Cooper (D)
Amended: 6/30/22 in Senate
Vote: 27 - Urgency

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 6/28/22
AYES: Bradford, Ochoa Bogh, Skinner, Wiener
NO VOTE RECORDED: Kamlager

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-0, 5/5/22 (Consent) - See last page for vote

SUBJECT: Criminal profiteering: asset forfeiture: unemployment and disability insurance fraud

SOURCE: Author

DIGEST: This bill specifies that fraud offenses relating to COVID-19 pandemic-related insurance programs administered by the California Employment Development Department (EDD) are criminal profiteering activity for which a prosecutor can seek asset forfeiture pursuant to the California Control Profits of Organized Crime Act.

ANALYSIS:

Existing law:

1) Establishes the California Control of Profits of Organized Crime Act. (Penal Code §186)

2) Finds and declares that an effective means of punishing and deterring criminal activities of organized crime is through the forfeiture of profits acquired and accumulated as a result of such criminal activities, and states the intent of the Legislature that the California Control of Profits of Organized Crime Act be

used by prosecutors to punish and deter only such activities. (Penal Code §186.1)

3) Defines "criminal profiteering activity" as an act committed or attempted, or a threat, made for financial gain or advantage, which may be charged as a specified crime, including, among other offenses, "offenses relating to insurance fraud." (Penal Code §186.2(a))

4) Defines "pattern of criminal profiteering activity" as engaging in at least two incidents of criminal profiteering, that:
   a) Have the same or a similar purpose, result, principals, victims, or methods of commission, or are otherwise interrelated by distinguishing characteristics;
   b) Are not isolated events; and,
   c) Were committed as a criminal activity of organized crime. (Penal Code §186.2(b)(1)(A))

5) Defines "organized crime" as:
   a) A crime that is of a conspiratorial nature and that is either of an organized nature and seeks to supply illegal goods or services, as specified;
   b) A crime that, through planning and coordination of individual efforts, seeks to conduct specified illegal activities including among others, insurance fraud, embezzlement, and forgery;
   c) A crime committed by a criminal street gang;
   d) False or fraudulent activities, schemes, or artifices relating to health care programs, as specified; or,
   e) Theft of personal identifying information. (Penal Code §186.2(d))

6) Provides that in any case in which a person is alleged to have been engaged in a pattern of criminal profiteering activity, upon a conviction of the underlying offense the following assets shall be subject to forfeiture:
   a) Any property interest whether tangible or intangible, acquired through a pattern of criminal profiteering activity; and,
   b) All proceeds of a pattern of criminal profiteering activity, including all things of value that may have been received in exchange for the proceeds immediately derived from the pattern of criminal profiteering activity. (Penal Code §186.3)

7) Provides that acts that would constitute a "pattern of criminal profiteering activity" may not be used by a prosecuting agency to seek the forfeiture of

property and proceeds unless the prior act occurred within 10 years, excluding any period of imprisonment, of the commission of the underlying offense. (Penal Code §186.2(b)(2))

8) States that a prior act may not be used by a prosecuting agency to seek the forfeiture of property and proceeds if the act resulted in an acquittal. (Penal Code §186.2 (b)(2))

9) Establishes the procedures for forfeiture proceedings and requires a forfeiture hearing to be set in the superior court in which the underlying criminal offense will be tried. (Penal Code §§186.4, 186.5)

10) Provides that a violation of the Unemployment Insurance Code (UIC), except as specified, is punishable by imprisonment in the county jail not to exceed one year, or in the state prison, or by a fine of not more than $20,000, or by both. (UIC §2122)

11) Provides that any fine imposed by the court for violations of the UIC shall be paid to the office of the prosecutor bringing the complaint, but if the case was referred to the prosecutor by the EDD, or some other governmental unit, one-half of the criminal fine shall be paid to that governmental unit. (UIC §2122.5)

This bill:

1) Includes in the enumerated offenses that can be charged under "criminal profiteering activity" offenses relating to insurance fraud involving COVID-19 pandemic-related insurance programs administered by the EDD.

2) Provides that if the proceeds for property is forfeited because of a pattern of criminal activity related to offenses relating to insurance fraud, then the proceeds shall be returned to the EDD.

Background

The California Control of Profits of Organized Crime Act sets forth the asset forfeiture procedure for property and proceeds acquired through a pattern of criminal profiteering activity. (Penal Code §186, *et seq*.) Under the Act, the prosecuting agency can seek forfeiture of any property interest whether tangible (such as buildings, real property, and vehicles) or intangible (such as life insurance policies and shares of a company) acquired directly or indirectly through a pattern of criminal profiteering activity and all of the proceeds of a pattern of criminal

profiteering activity, including all things of value that may have been received in exchange for the proceeds immediately derived from the pattern of criminal profiteering activity. (Penal Code §186.3(b) & (c).) For example, items purchased using money obtained by insurance fraud would be eligible for forfeiture. The forfeited assets are distributed to the State's General Fund, and/or the local governmental entity, whichever prosecutes, with no direction for use. (Penal Code §§186.8(c); 186.7(a))

In any case in which a person is alleged to have been engaged in a pattern of criminal profiteering activity, assets are subject to forfeiture upon a conviction of at least two violations of one of more than thirty offenses. (Penal Code §186.2)

Criminal profiteering asset forfeiture requires a court hearing to be held in conjunction with the trial of the underlying criminal offense. (Penal Code §§186.4 (a); 186.5 (c)(1).) The court shall decide whether same jury who heard the criminal charges or a new jury, shall determine whether the defendant's assets were the ill-gotten gains of criminal profiteering. The prosecutor bears the burden to demonstrate, beyond a reasonable doubt that (1) the defendant was engaged in a pattern of criminal profiteering activity and (2) that the property to be forfeited was acquired through a pattern of criminal profiteering activity. (Penal Code §186.5(c))

A "pattern of criminal profiteering activity" means that the defendant engaged in at least two incidents of criminal profiteering that have the same or a similar purpose, result, principals, victims, or methods of commission, or are otherwise interrelated by distinguishing characteristics; are not isolated events; and were committed as a criminal activity of organized crime. "Organized crime" includes insurance fraud, grand theft, forgery and money laundering. (Penal Code §186.2 (d))

The Act includes several unemployment insurance fraud acts that come within the definition of "criminal profiteering", including embezzlement (Penal Code §503), forgery (Penal Code §470), and presentation of a false claim (Penal Code §550). (Penal Code §186.2 (a))

The Act also lists specified insurance fraud offenses such as failing to make unemployment insurance contributions, failing to withhold worker deductions, and supplying false or fraudulent information, that come within the definition of "criminal profiteering" under the California Control of Profits of Organized Crime Act. (UIC §§2106, 2108, 2109, 2110, 2110.3, 2110.5, 2110.7 & 2117) (Penal Code §186.2 (a))

This bill clarifies that the insurance fraud offenses listed for the purposes of criminal profiteering include offenses relating to insurance fraud involving COVID-19 pandemic-related insurance programs administered by the EDD.

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

SUPPORT: (Verified 7/28/22)

California District Attorneys Association
California State Sheriffs' Association
Los Angeles County District Attorney's Office
Peace Officers Research Association of California

OPPOSITION: (Verified 7/28/22)

None received

ASSEMBLY FLOOR: 61-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Friedman, Gallagher, Cristina Garcia, Gipson, Levine, McCarty, Medina, Villapudua, Waldron, Wicks

Prepared by: Mary Kennedy / PUB. S. /
8/3/22 14:25:05

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

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THIRD READING

Bill No: AB 1642
Author: Salas (D)
Amended: 6/30/22 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 7-0, 6/29/22
AYES: Allen, Bates, Dahle, McGuire, Skinner, Stern, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 55-2, 5/5/22 - See last page for vote

SUBJECT: California Environmental Quality Act: water system well and domestic well projects: exemption

SOURCE: Author

DIGEST: This bill exempts from CEQA, until January 1, 2028, well projects that meet specified conditions, including that the domestic well or the water system to which the well is connected has been designated as high risk or medium risk in the State Water Board's drinking water needs assessment.

ANALYSIS:

Existing law:

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

2) Declares, under state law, it to be established state policy that every human being has the right to safe, clean, affordable, and accessible water adequate for

human consumption, cooking, and sanitary purposes. (Water Code §106.3)

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

4) Requires, under the California Environmental Quality Act (CEQA), lead agencies with the principal responsibility for carrying out or approving a proposed discretionary project to prepare a negative declaration (ND), mitigated negative declaration (MND), or environmental impact report (EIR) for this action, unless the project is exempt from CEQA (CEQA includes various statutory exemptions, as well as categorical exemptions in the CEQA guidelines). (Public Resources Code §21000 et seq.)

    a) Exempts from CEQA, until January 1, 2028, various water infrastructure projects, including small drinking water wells, that primarily benefit a small disadvantaged community water system or a state small water system by improving the system's water quality, supply, or reliability; encouraging water conservation; or providing safe drinking water. (PRC §21080.47)

    b) Exempts from CEQA various emergency projects, including specific actions necessary to prevent or mitigate an emergency; emergency repairs to public service facilities to maintain service, and projects to maintain to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed by the Governor. (PRC §§21080(b)(2), (b)(3), (b)(4))

This bill:

1) Exempts from CEQA, until January 1, 2028, a well project (defined as a project for the construction, maintenance, repair, or replacement of a well or a domestic well) that meets all of the following:

    a) The domestic well or water system to which the well is connected has been designated by the State Water Board as high risk or medium risk in the State Water Board's drinking water needs assessment.

b) The well project is designed to mitigate or prevent a failure of the well or the domestic well that would leave residents that rely on the well, the water system to which the well is connected, or the domestic well without an adequate supply of safe drinking water.
c) The lead agency determines all of the following:

i) The well project is not designed primarily to serve irrigation or future growth.
ii) The well project does not affect wetlands or sensitive habitats.
iii) Unusual circumstances do not exist that would cause the well project to have a significant impact on the environment.
iv) The well project is not located on a site that is included on the Hazardous Waste and Substances Sites List.
v) The well project's construction impacts are fully mitigated consistent with applicable law.
vi) The cumulative impact of successive reasonably anticipated projects of the same type as the well project, in the same place, over time, are not significant.

2) Requires, before determining that a well project is exempt from CEQA pursuant to these provisions, the lead agency to contact the State Water Board to determine whether claiming the exemption will affect the ability of the well project to receive federal financial assistance or federally capitalized financial assistance.

3) Requires a lead agency that determines that a well project is exempt pursuant to these provisions to file a notice of exemption, as specified, and to include certain information regarding the application of other CEQA exemptions with that notice.

Background

1) *Background on CEQA.*

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

may have a significant effect on the environment, the lead agency must prepare an EIR.

Generally, an EIR must accurately describe the proposed project, identify and analyze each significant environmental impact expected to result from the proposed project, identify mitigation measures to reduce those impacts to the extent feasible, and evaluate a range of reasonable alternatives to the proposed project.

b) *What is analyzed in an environmental review?* An environmental review analyzes the significant direct and indirect environmental impacts of a proposed project and may include water quality, surface and subsurface hydrology, land use and agricultural resources, transportation and circulation, air quality and greenhouse gas emissions, terrestrial and aquatic biological resources, aesthetics, geology and soils, recreation, public services and utilities such as water supply and wastewater disposal, and cultural resources. The analysis must also evaluate the cumulative impacts of any past, present, and reasonably foreseeable projects/activities within study areas that are applicable to the resources being evaluated.

c) *CEQA provides hub for multi-disciplinary regulatory process.* An environmental review provides a forum for all the described issue areas to be considered together rather than siloed from one another. It provides a comprehensive review of the project, considering all applicable environmental laws and how those laws interact with one another. For example, it would be prudent for a lead agency to know that a proposal to mitigate a significant impact (i.e. alleviate temporary traffic congestion, due to construction of a development project, by detouring traffic to an alternative route) may trigger a new significant impact (i.e. the detour may redirect the impact onto a sensitive resource, such as a habitat of an endangered species or near a hospital). CEQA provides the opportunity to analyze a broad spectrum of a project's potential environmental impacts and how each impact may intertwine with one another.

2) *State Water Board's Drinking Water 2021 Needs Assessment*. The Needs Assessment, a report annually updated by the State Water Board, identifies public water systems, tribal water systems, and state small water systems and regions where domestic wells are at-risk of failing to sustainably provide a sufficient amount of safe and affordable drinking water. It provides a snapshot of the overall resources needed to bring failing water systems into compliance

with drinking water standards and prevent at-risk water systems from failing.

According to the 2021 Needs Assessment, almost 78,000 domestic wells were assessed via modeling as at high risk of exceeding health-based drinking water standards due to their location in aquifers with high risk of groundwater contaminations. The assessment identified almost 16,000 domestic wells at medium risk. The report notes that proxy data based on modelled groundwater quality was used to reach these conclusions and that the presence of a domestic well within a high-risk area does not necessarily signify that they are accessing groundwater above primary drinking water standard, but does indicate that owners may wish to perform water quality testing.

Comments

1) *Purpose of Bill.* According to the author, "AB 1642 will streamline vital water well projects to mitigate or prevent the failure of a drinking water well that is designated as high risk or medium risk by the State Water Resources Control Board. Due to the time-sensitive nature of domestic water well projects, it is necessary to streamline these projects to ensure that residents maintain access to safe and clean drinking water."

2) *Look before you leap.* Often groups will seek a CEQA exemption to expedite construction of a particular type of project and reduce costs. Providing an exemption, however, can overlook the benefits of environmental review: to inform decisionmakers and the public about project impacts, identify ways to avoid or significantly reduce environmental damage, disclose to the public reasons why an agency approved a project if significant environmental impacts are identified, and increase public participation in the environmental review and planning processes.

   CEQA is a process. It does not dictate the outcome of a project but rather is a disclosure mechanism that guarantees public involvement and transparency in the project approval process. A CEQA exemption takes away that guarantee. Absent CEQA, a project is assumed to be "fine as is," without consideration of community concerns or the potential for improvement through public input. Absent CEQA, public participation can vary jurisdiction to jurisdiction and project to project, or sometimes, not be included at all. How can decisionmakers and the public be aware of impacts, mitigation measures, and alternatives of an exempt action? CEQA is the messenger that helps provide

responsible, informed planning.

"CEQA operates, not by dictating pro-environmental outcomes, but rather by mandating that 'decision makers and the public' study the likely environmental effects of contemplated government actions and thus make fully informed decisions regarding those actions. … In other words, CEQA does not care what decision is made as long as it is an informed one." (Citizens Coalition Los Angeles v. City of Los Angeles (2018) 26 Cal. App. 5th 561, 577.)

3) *Couldn't one of these existing exemptions apply?* CEQA offers various statutory and categorical exemptions for which a well project could already be eligible.

   a) *Applicable statutory exemptions*. The following statutory exemptions could apply to a well project for which this bill seeks to create a CEQA exemption:

      - Specified water infrastructure projects, *including small drinking water wells,* that primarily benefit a small disadvantaged community water system or a state small water system by improving the system's water quality, supply, or reliability; encouraging water conservation, or; providing safe drinking water. (PRC §21080.47)

      - Emergency projects, including specific actions necessary to prevent or mitigate an emergency; emergency repairs to public service facilities necessary to maintain service; and projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor. (PRC §§21080(b)(2), (b)(3), (b)(4))

   b) *Applicable categorical exemptions.* In addition to statutory exemptions, CEQA Guidelines include categorical exemptions that could apply to well projects. These include:

      - Class 1 (Section 15301) consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. This exemption specifically includes "restoration or rehabilitation of

deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety."

- Class 2 (Section 15302) consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. This exemption specifically includes "replacement or reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity."

Unlike statutory exemptions, categorical exemptions are not absolute. A categorical exemption may be denied or challenged if any of the following apply:

- Project results in damage to scenic resources within a highway officially designated as a state scenic highway.
- Project site is on a hazardous waste site.
- Project may cause substantial adverse change to a historical resource.
- Significant effect on the environment due to unusual circumstances.
- Significant cumulative impacts from projects of the same type.
- For certain categorical exemptions, impacts on a uniquely sensitive environment.

4) *One more, for good measure.* The Legislature has declared that access to safe and affordable drinking water is a basic human right. According to background information provided by the author, a California Supreme Court Case *Protecting Our Water and Environmental Resources v. County of Stanislaus*, has resulted in more county governments treating well replacement projects as "discretionary," and therefore subject to CEQA. It seems that AB 1642 seeks to address that. However, AB 1642 also seems to describe a project that may already be eligible for an already existing CEQA exemption. Given the various CEQA exemptions that a well project may already qualify for, it is unclear what an additional CEQA exemption would help solve.

It is unclear if a well project that would be exempt from CEQA under AB 1642 had applied for one of the existing exemptions but did not qualify. According to one stakeholder group, one potential issue could be a contaminated well needing to drill deeper to reach uncontaminated water, thereby increasing the depth of the well. Because the well would be increasing in capacity, the well

may not be eligible for the Class 2 categorical exemption. However, in that case, it would appear that such a project, due to the contamination issues, would be eligible for the emergency exemption.

AB 1642 requires the lead agency, when filing an NOE pursuant to this new CEQA exemption, to also include information on whether other CEQA exceptions could have applied or, if the other existing exemptions did not apply, why those exemptions were inapplicable.

Related/Prior Legislation

SB 974 (Hurtado, Chapter 234, Statutes of 2020) exempted from the CEQA certain water infrastructure projects for small disadvantaged community water systems or state small water systems that improve the water system's water quality, water supply, or water reliability; encourage water conservation; or provide safe drinking water service to existing residences within a disadvantaged community.

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

SUPPORT: (Verified 7/30/22)

Association of California Water Agencies
California Association of Realtors
California Municipal Utilities Association
California Water Association
Rural County Representatives of California

OPPOSITION: (Verified 7/30/22)

None received

ASSEMBLY FLOOR: 55-2, 5/5/22
AYES: Aguiar-Curry, Arambula, Bloom, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Valladares, Voepel, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bauer-Kahan, Stone
NO VOTE RECORDED: Bennett, Berman, Bigelow, Boerner Horvath, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Friedman, Gabriel, Gallagher,

Cristina Garcia, Gipson, Levine, Medina, Muratsuchi, Ting, Villapudua, Waldron

Prepared by: Genevieve M. Wong / E.Q. / (916) 651-4108
8/3/22 14:25:06

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

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

THIRD READING

Bill No: AB 1646
Author: Chen (R)
Amended: 3/30/22 in Assembly
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 12-0, 6/6/22
AYES: Roth, Melendez, Archuleta, Bates, Becker, Dodd, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Eggman, Hurtado

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-0, 5/5/22 (Consent) - See last page for vote

SUBJECT: Cannabis packaging: beverages

SOURCE: Cannabis Beverage Association

DIGEST: This bill removes the requirement that cannabis beverages be placed in a glass container.

ANALYSIS:

Existing law:

1) Enacts the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) to establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of both medicinal cannabis and cannabis products, and adult-use cannabis and cannabis products for adults 21 years of age and over. (Business and Professions Code (BPC) § 26000, et seq.)

2) Establishes the Department of Cannabis Control (Department) and requires the Department to administer and enforce the provisions of BPC Section 26000, et seq. (BPC §§ 26010 – 26018)

3) Defines “edible cannabis product” as a cannabis product that is intended to be used, in whole or in part, for human consumption, and specifies an edible cannabis product is not considered food. (BPC § 26001 (u))

4) Requires that edible cannabis products:

   a) Are not designed for children;

   b) produced and sold with a standardized concentration of cannabis of 10 milligrams or less of tetrahydrocannabinol (THC) per serving;

   c) Delineated or scored into standardized serving sizes if the cannabis product contains more than one serving and is an edible cannabis product in solid form;

   d) Homogenized to ensure uniform disbursement of cannabinoids throughout the product;

   e) Manufactured and sold under sanitation standards established by the department that are similar to the standards for preparation, storage, handling, and sale of food products;

   f) Provided to customers with sufficient information to enable the informed consumption of the product, including the potential effects of the cannabis product and directions as to how to consume the cannabis product, as necessary; and

   g) Marked with a universal symbol. (BPC § 26130)

5) Requires cannabis products to be in an opaque package prior to leaving a licensed retailers. (BPC § 26070.1)

6) Prohibits a licensee from selling, offering, or providing a cannabis product that is an alcoholic beverage. (BPC § 26070.2)

7) Requires edible cannabis products to only use generic food names to describe ingredients. (BPC § 26120)

8) Permits cannabis beverages to be packaged in glass containers that are clear or any color. (BPC § 26120)

This bill deletes the current requirement that cannabis beverages must be placed in a glass container.

Background

History of Cannabis Regulation. In 1996, California first legalized cannabis for medical consumption via Proposition 215, also known as the Compassionate Use Act (the Act). Proposition 215 protected qualified patients and primary caregivers from prosecution related to the possession and cultivation of cannabis for medicinal purposes. In 2003, the Legislature authorized the formation of medical marijuana cooperatives—nonprofit organizations that cultivate and distribute marijuana for medical uses to their members through dispensaries.

In 2015, the Legislature passed the Medical Cannabis Regulation and Safety Act (MCRSA). For the first time, MCRSA established a comprehensive, statewide licensing and regulatory framework for the cultivation, manufacture, transportation, testing, distribution, and sale of medicinal cannabis.

Shortly following the passage of MCRSA in November 2016, California voters passed Proposition 64, the "Control, Regulate and Tax Adult Use of Marijuana Act" (MAUCRSA), which legalized adult-use cannabis. Less than a year later in June 2017, the California State Legislature passed a budget trailer bill, SB 94 (Committee on Budget and Fiscal Review, Chapter 27, Statutes of 2017), that integrated MCRSA with Prop 64 to create MAUCRSA, the current regulatory structure for both medicinal and adult-use cannabis. Since MAUCRSA was established, the Legislature has enacted various parameters for cannabis products and licensees that grow, distributed, and sell products.

Cannabis Beverage Containers. Currently, cannabis beverage containers must be placed in a glass container and may be clear or any color. This requirement was added by AB 1222 (Chen, Chapter 532, Statutes of 2021). AB 1222 was an attempt to fix an arbitrary requirement for cannabis beverage packaging to be amber-colored. The Author and Sponsor reported amber-colored packaging was difficult to find and there was not a health related reason for the requirement. AB 1222 updated the color requirement and added that the packaging must be glass. Unfortunately, the author reports that adding “glass” created unintended consequences by limiting licensees to only glass when there might be another preferred material including plastic. This bill seeks to address this issue by striking reference to “glass” in cannabis beverage requirements.

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

SUPPORT: (Verified 8/8/22)

Cannabis Beverage Association (source)

Cal Capitol Group
Coachella Valley Cannabis Alliance Network
House of Saka
K-Zen
Long Beach Collective Association
Sands Lane Ventures
Sorse
The Parent Company
United Cannabis Business Association
Vertosa

OPPOSITION: (Verified 8/8/22)

None received

ARGUMENTS IN SUPPORT: According to the Cannabis Beverage Association, "Unfortunately, though it added clarity for glass containers, the new statute has sometimes been construed to restrict packaging only to glass bottles (albeit of any color) and/or to not allow plastic containers to be clear – neither of these were our intent. AB 1646 simply clarifies that packaging of cannabis beverages may be in clear containers, regardless of the material."

According to United Cannabis Business Association (UCBA), Long Beach Collective Association and Coachella Valley Cannabis Alliance Network, "Cannabis beverage manufacturers have to abide by packaging language that was designed for edibles, smokable products and flower, which includes compliant glass and opacity requirements. With the ever-expanding cannabis beverage market due to high demand from consumers, cannabis beverage producers often resort to purchasing outsourced compliant glass products to meet demand. These outsourced materials do little to spur our local California economy. Meanwhile, packaging requirements for alcoholic beverages are not as stringent as those required for cannabis beverage producers. The opacity and glass requirement is unnecessarily driving up the cost of goods for cannabis beverage producers, without offering any benefit to the California consumer or business community.

"AB 1646 would level the playing field for cannabis beverage producers by exempting cannabis beverages from the opaque packaging requirements that are currently required for all edibles, and would instead authorize cannabis beverages to be packaged in a container that is clear or any color to meet this requirement. AB 1646 maintains all safety package and notice requirements as currently required in state law. Cannabis beverage products would still be required to be

placed in a resealable, tamper-evident, child-resistant package for purposes of compliance."

ASSEMBLY FLOOR: 61-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Friedman, Gallagher, Cristina Garcia, Gipson, Levine, McCarty, Medina, Villapudua, Waldron, Wicks

Prepared by: Alexandria Smith Davis / B., P. & E.D. /
8/10/22 14:12:33

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

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

THIRD READING

Bill No: AB 1656
Author: Aguiar-Curry (D)
Introduced: 1/14/22
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-0, 6/6/22
AYES: Roth, Archuleta, Becker, Dodd, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Melendez, Bates, Eggman, Hurtado, Jones

ASSEMBLY FLOOR: 59-1, 4/18/22 - See last page for vote

SUBJECT: Cannabis: industrial hemp

SOURCE: Author

DIGEST: This bill states that the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) does not prohibit a cannabis licensee from manufacturing, distributing, or selling industrial hemp products, as defined in state law and including cannabinoids, extracts, or derivatives of industrial hemp, if the product complies with all applicable state laws and regulations.

ANALYSIS:

Existing federal law:

1) Enacts the 2018 Farm Bill, which removed hemp from the Controlled Substances Act (CSA), which is under the purview of the Drug Enforcement Agency, and put it under the purview of the United States Department of Agriculture (USDA) as an agricultural commodity. The Farm Bill lists hemp as a "covered commodity" under crop insurance and allows the states to regulate the industry. (7 United States Code § 1621 et seq.)

2) Establishes the USDA Final Rule for the Domestic Hemp Production Program to provide regulations for hemp production in the United States. This program provides requirements for maintaining records about the land where hemp is

produced, testing the levels of total delta-9 tetrahydrocannabinol (THC), disposing of non-compliant plants with levels of THC over 0.3%, licensing hemp producers, and ensuring compliance under the new program. (7 Code of Federal Regulations Part 990)

Existing state law:

1) Enacts MAUCRSA to provide for a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of both medicinal and adult-use cannabis and cannabis products. (Business and Professions Code (BPC) §§ 26000 et seq.)

2) Defines "cannabis" as all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, plant seeds, resin extracted from any part of the plant, and any product derived from the plant, seeds, or resin. "Cannabis" does not include mature stalks of the plant, fiber produced from the mature stalks, oil or cake made from the seeds of the plant, or products (except resin) derived from mature stalks of the plant, fiber, oil or cake, or the sterilized seed of the plant. "Cannabis" does not mean "industrial hemp" as defined in the Health and Safety Code § 11018.5. (BPC § 26001 (e)

3) Prohibits the sale of cannabis products that are alcoholic beverages, including an infusion of cannabis or cannabinoids derived from industrial hemp into an alcoholic beverage. (BPC § 26070.2)

4) Defines "industrial hemp" as a crop that is limited to types of the plant Cannabis sativa L. having no more than three-tenths of 1 percent THC contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom. (Health and Safety Code (HSC) § 11018.5(a))

5) Specifies that industrial hemp shall not be subject to the requirements of MAUCRSA. (HSC § 11018.5(b))

6) Establishes provisions for industrial hemp products under the Sherman Food, Drug, and Cosmetic Law administered by the California Department of Public Health (CDPH), under which manufacturers of products containing industrial hemp or hemp products are required to obtain the appropriate registration or licensure for the type of industrial hemp product manufactured and comply with established manufacturing practices. (HSC §§ 111920 et seq.)

7) Provides the California Department of Food and Agriculture (CDFA) with responsibility for administering and enforcing laws governing the growing, cultivating, and distributing of industrial hemp. (Food and Agricultural Code §§ (FAC) 81000 et seq.)

8) Establishes an Industrial Hemp Advisory Board under the CDFA to make recommendations to the Secretary of Food and Agriculture on all matters pertaining to industrial hemp seed law and regulations, enforcement, related annual budgets, and the setting of an appropriate assessment rate necessary for the administration of the law. (FAC § 81001)

9) Allows only approved cultivars to grow industrial hemp, unless when industrial hemp is grown by a registered established agricultural research institution or by a registered hemp breeder developing a new cultivar. (FAC § 81002)

10) Imposes limitations and prohibitions on the growth of industrial hemp, including the restriction that industrial hemp shall not be cultivated on a premises licensed by the Department of Cannabis Control (DCC) to cultivate or process cannabis. Requires each crop of industrial hemp to be tested by a laboratory to determine the THC levels of a random sampling of its dried flowering tops, with exceptions for industrial hemp cultivated by a registered established agricultural research institution or registered hemp breeder, as specified. (FAC § 81006)

This bill states findings and declarations that it is the intent of the Legislature to enhance the viability of cannabis licensees in the legal cannabis marketplace to relieve challenges presented by the illicit market. States that MAUCRSA does not prohibit a cannabis licensee from manufacturing, distributing, or selling industrial hemp products, as defined in the Health and Safety Code § 11018.5, or cannabinoids, extracts, or derivatives from industrial hemp, if the product complies with all applicable state laws and regulations, including those outlined in the Food and Agricultural Code (commencing with § 81000) and the Health and Safety Code (commencing with § 111920).

Background

State Regulation of Cannabis. In 1996, California first legalized cannabis for medical consumption via Proposition 215, also known as the Compassionate Use Act (the Act). Proposition 215 protected qualified patients and primary caregivers from prosecution related to the possession and cultivation of cannabis for medicinal purposes. In 2003, the Legislature authorized the formation of medical

marijuana cooperatives—nonprofit organizations that cultivate and distribute marijuana for medical uses to their members through dispensaries.

In 2015, the Legislature passed the Medical Cannabis Regulation and Safety Act (MCRSA). For the first time, MCRSA established a comprehensive, statewide licensing and regulatory framework for the cultivation, manufacture, transportation, testing, distribution, and sale of medicinal cannabis. Shortly following the passage of MCRSA in November 2016, California voters passed Proposition 64, the "Control, Regulate and Tax Adult Use of Marijuana Act" (Proposition 64), which legalized adult-use cannabis. Less than a year later in June 2017, the California State Legislature passed a budget trailer bill, SB 94 (Senate Budget and Fiscal Review Committee, Chapter 27, Statutes of 2017), that integrated MCRSA with Proposition 64 to create MAUCRSA, the current regulatory structure for both medicinal and adult-use cannabis. Beginning in 2018, Proposition 64 permitted adults 21 years of age or older can legally grow, possess, and use cannabis for nonmedical purposes, with certain restrictions.

Industrial Hemp in the United States and California. Industrial hemp is produced from the *Cannabis sativa* (*C. sativa*) plant, which is primarily grown for its fiber and oilseed. Industrial hemp has been a fixture of human agriculture for thousands of years and was introduced to North America in the 16th century. Hemp production reached its peak in the United States in the mid-1800s, but decreased as other fiber crops such as cotton increased in popularity. The Marihuana Tax Act of 1938 ended the legal production of hemp in the United States, and hemp was added to Schedule I of the CSA.

In California, SB 566 (Leno, Chapter 398, Statutes of 2013) established the Industrial Hemp Farming Act, which established a regulatory framework for the cultivation and processing of industrial hemp that would go into effect upon legalization by the federal government. SB 566 required growers of industrial hemp for commercial purposes to register with the county agricultural commissioner of the county in which the grower intends to engage in industrial hemp cultivation among various provisions. Several years later, the 2018 Farm Bill removed industrial hemp from the Controlled Substances Act and put it under the purview of the USDA as an agricultural commodity. The Farm Bill lists hemp as a “covered commodity” under crop insurance and allows the states to regulate the industry. Since then, industrial hemp production in the United States has seen a resurgence in the last few years.

By federal and California law, industrial hemp is defined as *C. sativa* plants which have low levels of the THC (under 0.3%), the primary psychoactive component of

medicinal and recreational cannabis, which commonly contains levels ranging from 15-40% THC. *C. sativa* plants grown for commercial purposes found to have THC levels over this limit are required to be destroyed.

CBD and CBD products. In addition to the cultivation of *C. sativa* for industrial hemp fiber and oilseed, *C. sativa* also contains the cannabinoid cannabidiol (CBD). CBD does not produce a feeling of euphoria like THC, and according to the World Health Organization, "In humans, CBD exhibits no effects indicative of any abuse or dependence potential." Upon the legalization of industrial hemp in 2018, CBD products made from hemp became widely available throughout much of the United States. It is important to note that CBD obtained from cannabis plants intended for medicinal or adult-use, and not from industrial hemp, is still federally illegal. In California, CBD obtained from cannabis plants intended for medicinal or adult-use is still regulated through MAUCRSA.

CBD has been demonstrated to alleviate epileptic seizures in patients, and the drug Epidiolex is the first CBD-containing medicine to be approved by the United States Food and Drug Administration for the treatment of epilepsy syndromes. In addition to the role of CBD as an anticonvulsant, studies suggest CBD may reduce anxiety, alleviate insomnia, inhibit inflammatory and neuropathic pain, and assist patients in recovery for substance use disorders. However, more studies are required to verify these findings. Despite these potential therapeutic uses of CBD, there has historically been limited regulation of the rapidly growing CBD market, which has led to concerns regarding the purity and potency of CBD products available to consumers.

In California, AB 45 (Aguiar-Curry, Chapter 576, Statutes of 2021) established a regulatory framework for food, beverage, and cosmetic products containing industrial hemp or cannabinoids (such as CBD), extracts, or derivatives of industrial hemp under the Sherman Food, Drug, and Cosmetic Law. This bill was enacted to clarify and expand the framework under which industrial hemp and CBD derived from industrial hemp can be included in dietary supplements, food, beverages, cosmetics, or pet food. This bill required manufacturers of dietary supplements and food that includes industrial hemp products to register with CDPH and demonstrate that their products meet all state and federal guidelines, including consumer safety standards. In addition, this bill prohibited manufacturers, distributors, or sellers of industrial hemp products from advertising unsubstantiated health-related statements regarding industrial hemp and CBD.

Legal Separation of Industrial Hemp and Cannabis. Supply chains and regulations for industrial hemp and cannabis are kept principally separate in California. DCC

presently mandates that licensed cannabis retailers are prohibited from selling any non-cannabis goods besides cannabis accessories and branded merchandise (§ 15407 of the DCC's regulations), and industrial hemp falls under the category of a "non-cannabis good". In addition, California law stipulates that industrial hemp may not be cultivated on premises licensed by DCC to cultivate or process cannabis. Finally, CBD and CBD products derived from cannabis are regulated quite differently from the same CBD products containing hemp-derived CBD, despite being essentially the same. This bill, in its current form, seeks to clarify that the provisions outlined in the MAUCRSA do not prohibit a cannabis licensee from manufacturing, distributing, or selling industrial hemp products, but does not remove any of the aforementioned separations between industrial hemp and cannabis supply lines and retail.

AB 45 required DCC to prepare a report for the Governor and the Legislature outlining the steps necessary to allow for the incorporation of hemp cannabinoids into the cannabis supply chain by July 1, 2022. The author states they may amend AB 1656 following the receipt of this report in order to take legislative action to enact the upcoming DCC recommendations to integrate hemp-derived cannabinoids, such as CBD, in the cannabis supply chain.

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

SUPPORT: (Verified 6/7/22)

California Cannabis Industry Association
California Hemp Council
Canopy Growth Corporation
Cronos USA Client Services LLC
Good Farmers Great Neighbors
The Parent Company
U.S. Hemp Roundtable

OPPOSITION: (Verified 6/7/22)

None received

ARGUMENTS IN SUPPORT: The California Cannabis Industry Association (CCIA) writes, "…CCIA supports the incorporation of hemp cannabinoids into manufactured cannabis products, the ability of cannabis licensees to also manufacture hemp products within their facilities, and the opportunity to sell hemp products within licensed dispensaries. The licensed cannabis industry and the framework set forth in the MAUCRSA is already well suited to accommodate

hemp products and would benefit from the opportunity to expand product offerings."

Good Farmers Great Neighbors writes, "The State of California represents the largest CBD market in the United States. Despite passage of AB 45 last year, there are still questions about what is legal and who can produce CBD products in the new marketplace. AB 1656 represents a refinement of last year's legislation, AB 45, to further outline a defined and stable regulatory environment for licensed CBD products in the state."

California Hemp Council, Cronos USA Client Services LLC, The Parent Company, and U.S. Hemp Roundtable write that they hope the DCC report will provide reasonable proposals to integrate hemp-derived cannabinoids into the cannabis supply chain, and that AB 1656 will serve as a vehicle to effectuate the intent of this report.

ASSEMBLY FLOOR: 59-1, 4/18/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooper, Daly, Flora, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Voepel
NO VOTE RECORDED: Bigelow, Chen, Choi, Cooley, Cunningham, Megan Dahle, Davies, Fong, Gallagher, Kiley, Mathis, Mayes, Muratsuchi, Nguyen, Patterson, Seyarto, Smith

Prepared by: Hannah Frye / B., P. & E.D. /
6/8/22 13:08:02

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

SENATE RULES COMMITTEE AB 1658
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1658
Author: Nguyen (R), et al.
Amended: 4/28/22 in Assembly
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 5-0, 6/14/22
AYES: Jones, Allen, Eggman, Grove, Hueso
NO VOTE RECORDED: Stern, Hertzberg, Laird, Limón

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 4-0, 6/29/22
AYES: Allen, Bates, Dahle, Wieckowski
NO VOTE RECORDED: McGuire, Skinner, Stern

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 70-0, 5/16/22 - See last page for vote

SUBJECT: Oil spill response and contingency planning: oil spill elements: area plans

SOURCE: Author

DIGEST: This bill requires local certified unified program agency plans with an oil spill element to be consistent with the federal area contingency plan, and states legislative intent related to oil spill planning and response, as provided.

ANALYSIS:

Existing law:

1) Establishes the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Act) (Government Code (GOV) §§8574.1 *et seq.*, GOV §§8670.1 *et seq.*, Public Resources Code §§8750 *et seq*.).

a) The Act established the Office of Oil Spill Prevention and Response (OSPR) in the California Department of Fish and Wildlife. OSPR is led by its Administrator (OSPR administrator).

b) The Act helps to fulfill the state's responsibilities for oil spill prevention and response as established by federal laws and regulations within the national framework for oil spill prevention and response.

2) Requires the Governor to establish a California oil spill contingency plan. (GOV §8574.1)

3) Requires the California oil spill contingency plan to provide for the best achievable protection of waters of the state. The plan must, among other things, include:

a) A state response element specifying the hierarchy for state and local agency response to an oil spill.

b) A regional and local planning element to provide the framework to involve regional and local agencies in the state effort to respond to an oil spill. (GOV §8574.7)

4) Requires the OSPR Administrator, while taking into consideration the California oil spill contingency plan, to promulgate regulations regarding the adequacy of oil spill elements of area plans that certified unified program agencies (CUPAs) must adopt under Health & Safety Code §25503. The Administrator can offer grants to qualifying agencies to complete, update, or revise an oil spill element of the area plan. (GOV §8670.35)

5) Requires the oil spill elements of each CUPA plan to be consistent with the local government's local coastal program as certified under Section 30500 of the Public Resources Code, the California oil spill contingency plan, and the national contingency plan for oil spills (described further below), among other things. (GOV §8670.35)

6) Requires all agencies, including local agencies, to follow incident command system principles and the standardized emergency management system. (GOV §8607)

7) Authorizes the OSPR administrator to provide grants to a local government, Native American tribe, or other public entities with jurisdiction over or directly

adjacent to waters of the state to provide oil spill response equipment to be deployed by a certified local spill response manager. (GOV §8670.8.3)

8) States, explicitly, that area contingency plans are not intended to displace local emergency response plans, but rather provide a framework to integrate and coordinate response efforts between federal, state and local government agencies (Title 14, California Code of Regulations, §852.60.2) (14 CCR 852.60.2). To the greatest extent possible, the local plan contents shall be consistent with the area contingency plan or an approved emergency response plan. (14 CCR 852.62.1).

This bill requires local certified unified program agency plans with an oil spill element to be consistent with the federal area contingency plan, and states legislative intent related to oil spill planning and response, as provided. Specifically, this bill:

1) Requires that each oil spill element of an area plan, as defined, prepared pursuant to certain regulations developed by the OSPR administrator, be consistent with the area contingency plan in addition to the applicable local coastal program, the state oil spill contingency plan and the national contingency plan, as provided.

2) States legislative intent to encourage local jurisdictions to create local oil spill response plans from the local area plan to complement state and federal oil spill contingency plans, and that the Local Oil Spill Response Equipment Grant Program provide funding to Native American tribal governments, counties, cities, and special districts for oil spill response equipment, as provided.

Background

In response to the significant 1989 oil spill from the Exxon Valdez that fouled the waters of Prince William Sound, a series of federal laws were established or amended including the Oil Pollution Act of 1990, the Clean Water Act and others. These laws established a national framework for addressing oil (and other hazardous material) spills within the United States and its waters in order to effectively respond to a spill in a coordinated and comprehensive manner. In part this is through integrating oil spill response within the existing emergency response structure through the establishment of an incident command system which provides for a “unified command” for spills composed of the responsible party, and the federal and state on-scene coordinators. The members of the unified command may vary depending upon the specific circumstances of an oil spill or other hazardous materials release.

Federal regulations implementing these laws include those for the National Oil and Hazardous Substances Pollution Contingency Plan (national contingency plan, see Title 40, Code of Federal Regulations, Part 300 (40 CFR 300)). The national contingency plan establishes a structured planning and response framework for oil spills, and hazardous substance releases, as well as pollutants and contaminants. The national contingency plan establishes requirements for federal national, regional, and area contingency plans (40 CFR 300.3). The national contingency plan provides the framework for 10 regional contingency plans which span the country. Within each regional contingency plan are nested multiple area contingency plans within the regional plan's geographic range. Each area contingency plan is developed to be implemented in conjunction with the national and regional contingency plans to both address the removal of a worst case discharge and to mitigate or prevent a substantial threat of a discharge, as provided (40 CFR 300.5). For example, California is in Region IX with Arizona, Nevada and 146 tribal nations, and there are six marine area contingency plans for California's coastline that provide detailed evaluations and recommendations for the protection of the state's shoreline resources.

The national contingency plan is implemented by the national response team (see 40 CFR 300.110). There are regional response teams whose roles and responsibilities include coordinating preparedness, planning, and response at the regional level. Each of the area contingency plans was developed by an area committee comprised of federal, state, local, and tribal government entities and additional stakeholders.

Local government agencies are encouraged by federal regulation to include contingency planning for oil spill/hazardous material discharges consistent with the federal national, regional and area contingency plans in all emergency and disaster planning (40 CFR 300.180). Federal regulation also requires that the area contingency plan provide for a well-coordinated response that is integrated and compatible, to the greatest extent possible, with all appropriate response plans of state, local and non-federal entities, as provided (40 CFR 300.210).

In this state, the California oil spill contingency plan is an independent document, and all state and local agencies are required to carry out spill response activities consistent with it and other applicable federal, state or local spill response plans. As noted in the June 2019 version "To the greatest extent possible, California has endeavored to be consistent with the scope and intent of the federal oil spill response regulations and the [area contingency plans]…"

Comments

Consistency with an area contingency plan generally already required. Oil spill elements of area plans are already required to be consistent with the national contingency plan, the state's separate oil contingency plan and local coastal program elements. It is unclear what the impact of the explicit requirement of consistency with the area contingency plans required by this bill will have on local oil spill elements of area plans, as the requirements for area consistency plans are set within the framework established by the national contingency plan. In addition, as cited above, there are numerous instances in existing state and federal regulation where consistency across the different levels of the plans is required or encouraged. Further, existing state regulations for the grant program for unified program agencies to complete, update, or revise an oil spill element of the area plan are functionally "best practices" for a local area oil spill contingency plan (14 CCR 852.60.1 *et seq.*).

It is important to note that the goals of the national framework and extensive contingency planning requirements include to ensure that the overall response in a particular location is effectively coordinated and integrated across participating parties. From this perspective, the more planning by, coordination, and cooperation among all parties to prepare for an oil spill, the more likely there will be an effective response to a spill.

The recent major Southern California oil spill. On the evening of Friday, October 1, 2021, the first reports of observed oil sheen in federal waters off the coast of Huntington Beach began to be reported. The spill was verified the next day. Pipeline P00547 operated by Amplify Energy – a 16 inch diameter pipeline that carried oil from Platform Elly in federal waters to the shore – had cracked about 4.2 miles offshore. Amplify Energy reported the P00547 pipeline leak about 9 am on Saturday, October 2, although it had received the first low-pressure alarm for the pipeline at least several hours earlier. The pipeline itself was not shut down until about 6:00 am on Saturday morning. Approximately 25,000 gallons of oil was released, and the oil spill response under the auspices of an incident unified command ensued, resulting in the collection of oil and tar balls from Orange County south to the border with Mexico. Due to the spill, a popular air show was interrupted, several harbors and beaches were closed, and a fisheries closure was issued that was in effect for approximately 2 months.

Due to local conditions (low visibility and nighttime conditions), the oil spill was not able to be confirmed until Saturday morning after the sun had risen despite the state's awareness of reports of the oil spill. In order to address this, OSPR held a

special workshop with "the objective of evaluating improvements to sensor systems and identifying promising tools for further development and application in spill settings" in April 2022.

Contemporaneous accounts indicate that the oil spill reached shore much earlier than initially anticipated, and local response efforts – particularly by the City of Huntington Beach – were critically important to protecting sensitive areas, including the Talbert Marsh, from the spill. Local agencies were able to speed deployment of local oil spill response equipment earlier than it was anticipated to be needed, highlighting the benefit of the local equipment grant program to a successful response.

The Department of Fish and Wildlife recently released the After Action Report for the Pipeline P00547 oil spill which identifies numerous issues to help improve future oil spill response. In addition, the Orange County Board of Supervisors recently approved an almost $1 million settlement with Amplify Energy for reimbursement of certain oil spill-related expenses. The Natural Resources Damage Assessment process due to the spill continues.

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

SUPPORT: (Verified 8/8/22)

City of Newport Beach
Coastal Conservation Association of California

OPPOSITION: (Verified 8/8/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "On October 1st, 2021, an oil-related incident, resulting from an anchor-damaged pipeline, […] caused 25,000 gallons of crude oil to leak into the coastal waters near the City of Huntington Beach. During this time, it was clear that the different beach cities, county, state and federal authorities either had no plans or different plans to respond.

"AB 1658 would encourage local authorities to develop an oil spill response plan that is consistent with both state and federal oil spill contingency plans. With assistance through a grant program, coastal cities would have access to resources to help them plan, be prepared in case of an incident, and have similar efforts in place to respond. Having such plans in place when responding to oil spill incidents

would help coordinate emergency resources and directly respond to a situation in a timelier manner."

ASSEMBLY FLOOR: 70-0, 5/16/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kiley, Lackey, Lee, Levine, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Cunningham, Kalra, Low, Muratsuchi, Nazarian, Quirk-Silva, Blanca Rubio, Ting

Prepared by: Katharine Moore / N.R. & W. / (916) 651-4116
8/10/22 14:24:49

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

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THIRD READING

Bill No: AB 1680
Author: Lee (D)
Amended: 8/2/22 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 13-0, 6/14/22
AYES: Gonzalez, Bates, Allen, Becker, Cortese, Dodd, Limón, McGuire, Melendez, Min, Newman, Skinner, Wieckowski
NO VOTE RECORDED: Archuleta, Dahle, Rubio, Wilk

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/28/22
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

ASSEMBLY FLOOR: 61-0, 5/5/22 - See last page for vote

SUBJECT: Transportation: San Francisco Bay Area Rapid Transit District: policing responsibilities

SOURCE: Author

DIGEST: This bill prevents chaptering out of provisions of AB 1337 (Lee, Chapter 534, Statutes of 2021); regarding the authority of transit district entities to issue prohibition orders to include property, facilities, and vehicles upon which it owes policing responsibilities to; by provisions of SB 357 (Wiener, Chapter 86, Statutes of 2022).

Senate Floor Amendments of 8/2/22 change the effective date of SB 357 to January 1, 2023, from January 1, 2022, so that the changes to Section 99171 Public Utilities Code (PUC) made by AB 1337 will not be chaptered out.

ANALYSIS:

Existing law:

1) Defines "transit district" to mean Sacramento Regional Transit District (SacRT), the Los Angeles County Metropolitan Transportation Authority (LA

Metro), the Fresno Area Express (FAX), and the San Francisco Bay Area Rapid Transit District (BART).

2) Authorizes SacRT, FAX, LA Metro, or BART to issue a prohibition order to any person who, on at least three separate occasions within a period of 90 consecutive days, is cited for an infraction committed in or on a vehicle, bus stop, or light rail station of the transit district for any of the following acts:

   a) Interfering with the operator or operation of a transit vehicle, or impeding the safe boarding or alighting of passengers;

   b) Committing any act or engaging in any behavior that may, with reasonable foreseeability, cause harm or injury to any person or property;

   c) Willfully disturbing others on or in a transit facility or vehicle by engaging in boisterous or unruly behavior,

   d) Carrying an explosive, acid, or flammable liquid in a public transit facility or vehicle;

   e) Urinating or defecating in a transit facility or vehicle, except in a lavatory;

   f) Willfully blocking the free movement of another person in a transit facility or vehicle; or,

   g) Defacing with graffiti the interior or exterior of the facilities or vehicles of a public transportation system.

3) Authorizes a prohibition order to be issued to a person arrested or convicted for any misdemeanor or felony committed in or on a vehicle, bus stop, or light rail station of the transit district, for acts involving violence, threats of violence, lewd or lascivious behavior, or possession for sale or sale of a controlled substance.

4) Authorizes a prohibition order to be issued to a person convicted of loitering with the intent to commit specified drug offenses or loitering with intent to commit prostitution.

5) Prohibits a person subject to a prohibition order from entering the property, facilities, or vehicles of the transit district for a period of time deemed appropriate by the transit district, provided that the duration of the prohibition order does not exceed the following specified time limits: 30 days for a first order, 90 days for a second order within one year, and 180 days for a third order

within one year related to infractions; or, 30 days if issued pursuant to an arrest for a misdemeanor or felony offense. Upon conviction for the offense, the order may be extended to a total of 180 days for a misdemeanor and one year for a felony.

6) Specifies prohibition processes, notification procedures, and hearing and appeal procedures, including requiring all prohibition orders not take effect until the latest of the following: 11 calendar days after the delivery of the prohibition order by personal service or 11 days after the delivery of results of a requested review by personal service.

7) Requires the transit district to establish an advisory committee and to ensure that personnel charged with issuance and enforcement of prohibition orders receive training as emphasized and as recommended by the advisory committee. Tasks the advisory committee with responsibilities, as specified. Authorizes existing advisory committees to be used if appropriate.

8) Authorizes BART to issue prohibition orders at properties on which it owes policing responsibilities to a local government pursuant to an operations and maintenance agreement.

This bill changes the effective date of SB 357 to January 1, 2023, from January 1, 2022, so that the changes to 99171 PUC made by AB 1337 will not be chaptered out.

Comments

1) *Purpose of the bill.* According to the author, "I introduced AB 1337 from last year to assist BART in issuing prohibition orders on all properties they operate. Governor Newsom signed this reform into law; however, the policy change made to PUC 99171 may be chaptered out and AB 1680 is intended to preserve these existing provisions already signed into law."

2) *Transit Prohibition Orders.* Public transit systems in the state and across the country experience complaints from riders and employees regarding safety and security. The process for transit prohibition orders created as another enforcement tool to provide safer public transit rides. AB 716 (Dickinson, Chapter 534, Statutes of 2011) authorized the creation of a three-year pilot program to allow BART to issue prohibition orders, which allow BART to deny passengers committing certain illegal behaviors entry onto transit vehicles and facilities for a specified about of time. In 2013, BART initiated its AB 716 program, which also required BART to provide the Legislature with annual

reports on the program. The program was made permanent with the passage of AB 730 (Quirk, Chapter 46, Statutes of 2017).

According to BART's annual report, as required by AB 716, the number of prohibition orders issued in 2019 was 371 compared to 376 in 2018. Battery and threats to BART patrons continued to be a noticeable problem in 2019, accounting for 28% of prohibition orders issued. To address this, BART is implementing high visibility foot patrols and commanders for specific zones. The report notes a need or continued outreach efforts involving mental health and homelessness. BART created the Crisis Intervention Training (CIT) officers and police personnel to offer services at the scene by referring individuals in crisis to appropriate resources through local city or county organizations. In 2019, less than 3% of individuals issued prohibition orders violated the order. In 2018, seven persons violated the prohibition order for a total of 12 arrests.

3) *BART Extended Authority.* Last year the Legislature passed and Governor Newsom signed into law AB 1337 (Lee, Chapter 534, Statutes of 2021), to extend the authority for BART to issue prohibition orders to include the property, facilities, and vehicles upon which it owes policing responsibilities to a local government, and expands current law to make entering or remaining on those properties without permission a misdemeanor. This effectively added the new BART stations at Milpitas and Berryessa/North in Santa Clara County, which are officially owned by the Santa Clara Valley Transportation Authority (VTA), to BART's policing authority.

4) *AB 1680 preserves BART's new authority.* As noted by the author, the Senate amendments to AB 1680 preserve the provisions of AB 1337 by preventing chaptering out by provisions of the recently signed SB 357 (Wiener, Chapter 86, Statutes of 2022). Specifically, AB 1337 was effective January 1, 2022, and amended Section 99171 of PUC. SB 357 is effective January 1, 2023, and among other things, amends Section 99171 of the PUC to strike a cross-reference to a statute the bill repeals. SB 357 also made the same changes to Section 99171 of the PUC made by AB 1337, but only if SB 357 and AB 1337 were enacted and became effective on or before January 1, 2022, and SB 357 was enacted last. However, SB 357 was not enacted until 2022 and will not become effective until January 1, 2023. Therefore, SB 357, in addition to striking the cross-reference, deletes the changes AB 1337 made to section 99171 PUC. AB 1680 changes the effective date of SB 357 to January 1, 2023 so that the changes to 99171 PUC made by AB 1337 will not be chaptered out.

Related/Prior Legislation

AB 1337 (Lee, Chapter 534, Statutes of 2021) extended the authority for BART to issue prohibition orders to include the property, facilities, and vehicles upon which it owes policing responsibilities to a local government, and expands current law to make entering or remaining on those properties without permission a misdemeanor.

AB 730 (Quirk, Chapter 46, Statutes of 2017) repealed the sunset on the law that allows BART to issue prohibition orders to passengers committing certain illegal behaviors, making BART's authority to do so permanent.

AB 468 (Santiago Chapter 192, Statutes of 2017) added the LA Metro to the transit districts authorized to issue prohibition orders to passengers committing certain illegal behaviors.

SB 1154 (Hancock Chapter 559, Statutes of 2014) extended the sunset on the law that allows BART to issue prohibition orders denying passengers committing certain illegal behaviors entry onto transit vehicles and facilities, until January 1, 2018.

AB 716 (Dickinson, Chapter 534, Statutes of 2011) authorized the BART, until January 1, 2015, to issue prohibition orders denying passengers committing certain illegal behaviors entry onto transit vehicles and facilities. The bill also removed the sunset provisions for SacRT and FAX, making their related authority permanent.

SB 1561 (Steinberg, Chapter 528, Statutes of 2008) authorized the SacRT and the FAX, until January 1, 2012, to issue prohibition orders denying passengers committing certain illegal behaviors entry onto transit vehicles and facilities. SB 1561 also described the kinds of behaviors according to their potential severity and prescribes the progressive penalties based upon the severity and frequency of violations.

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

SUPPORT: (Verified 8/1/22)

None received

OPPOSITION: (Verified 8/1/22)

None received

ASSEMBLY FLOOR: 61-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Friedman, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lee, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Gallagher, Cristina Garcia, Gipson, Lackey, Levine, Medina, Patterson, Seyarto, Villapudua, Waldron

Prepared by: Melissa White / TRANS. / (916) 651-4121
8/3/22 14:25:08

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

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THIRD READING

Bill No: AB 1687
Author: Seyarto (R), et al.
Introduced: 1/24/22
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 12-1, 6/28/22
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Bradford, Hueso, Jones, Melendez, Portantino, Rubio, Wilk
NOES: Kamlager
NO VOTE RECORDED: Borgeas, Glazer

ASSEMBLY FLOOR: 69-0, 5/2/22 - See last page for vote

SUBJECT: California Emergency Services Act: Governor's powers: suspension of statutes and regulations

SOURCE: Author

DIGEST: This bill provides that the Governor may only suspend a statute or regulation during a state of emergency, or state of war emergency, in connection with the specific conditions of a proclaimed state of emergency, as specified.

ANALYSIS:

Existing law:

1) Authorizes, pursuant to the California Emergency Service Act (ESA), among other things, the Governor to proclaim a state of emergency under certain circumstances and provides that a state of war emergency exists, with or without proclamation by the Governor, when specified conditions exist.

2) Authorizes the Governor, during a state of war emergency or a state of emergency, to suspend any regulatory statue, or statue prescribing the procedure for the conduct of state business, or the orders, rules, or regulations of any state agency where the Governor determines and declares that strict

compliance with any statute, order, rule, or regulation would in any way prevent, hinder, or delay the mitigation of the effects of the emergency.

3) Authorizes the Governor, during a state of emergency, to temporarily suspend any state, county, city, or special district statute, ordinance, regulation, or rule imposing nonsafety related restrictions on the delivery of food products, pharmaceuticals, and other emergency essentials distributed through retail or institutional channels, as provided, until the termination of the state of emergency, or for a period of 60 days, whichever occurs first.

4) Authorizes the Governor, if the Governor has proclaimed a state of emergency and the President has declared an emergency or a major disaster to exist in this state, among other things, to temporarily suspend or modify, for up to 60 days, public health, safety, zoning, or intrastate transportation laws, ordinances, or regulations if the Governor declares that the suspension or modification is essential to provide temporary housing for disaster victims.

This bill:

1) Provides that, during a state of war emergency or a state of emergency, the Governor may only suspend a regulatory statute, or statute prescribing the procedure for conduct of state business, or the orders, rules, or regulations of a state agency in connection with the specific conditions of emergency proclaimed or state of war emergency, as specified.

2) Provides that the Governor may only temporarily suspend a statute, law, ordinance, regulation, or rule pursuant to the ESA in connection with the specific conditions of emergency proclaimed, as specified.

Background

Purpose of the bill. According to the author's office, "AB 1687 would bridge California with the majority of state that already have explicit statutes specifying that emergency powers are to be used to respond to conditions relating to an emergency. The objective is to maintain clear guidance under the emergency powers statute by codifying the assumption that we have operated under thus far. It is common practice for any diligent governing body to use foresight to address ambiguity or weakness in the law. Likewise, this bill follows in the spirit of good and diligent governance."

California Emergency Services Act. The ESA grants the Governor the authority to proclaim a state of emergency in an area affected or likely to be affected when: a) conditions of disaster or extreme peril exist; b) the Governor is requested to do so upon request from a designated local government official; or c) the Governor finds that local authority is inadequate to cope with the emergency. Local governments may also issue local emergency proclamations, which is a prerequisite for requesting the Governor's Proclamation of a State of Emergency.

The ESA grants the Governor certain special powers during a declared state of emergency, which are in addition to any other existing powers otherwise granted. For example, the ESA empowers the Governor to expend any appropriation for support of the ESA in order to carry out its provisions, as well as the authority to make, amend, and rescind orders and regulations necessary to carry out the ESA. The orders and regulations shall have the force and effect of law.

Additionally, the Governor may make, amend, or rescind orders and regulations during a state of emergency that temporarily suspend any state, county, city, or special district statute, ordinance, regulation, or rule imposing non-safety related restrictions on the delivery of food products, pharmaceuticals, and other emergency necessities distributed through retail or institutional channels, including, but not limited to, hospitals, jails, restaurants, and schools. The Governor is required by law to provide widespread publicity and notice to be given to all of these orders and regulations, or amendments and rescissions thereof.

This bill provides that the Governor may only suspend a statute or regulation during a state of emergency or state of war emergency in connection with the specific conditions of the emergency proclaimed by the Governor, as applicable. While the author's office has not supplied the Senate Governmental Organization Committee with specific examples where this bill would have applied to recent emergency declarations, the author's office states that this bill would align the section of the ESA authorizing the Governor to suspend a statute or regulation related to a proclaimed state of emergency with a majority of other states in the such as New York, Washington, and Colorado.

Related/Prior Legislation

SB 933 (Melendez, 2022), the Emergency Power Limitation Act, requires an emergency order to be narrowly tailored to serve a compelling public health or safety purpose and limited in duration, applicability, and scope, as specified. (Never heard in the Senate Governmental Organization Committee)

SB 1368 (Dahle, 2022) would have required a state of emergency to terminate 45 days after the proclamation of the state of emergency unless the Legislature extends it by a concurrent resolution. (Failed passage in the Senate Governmental Organization Committee)

SCR 5 (Melendez, 2021) would have declared that the state of emergency related to COVID-19, is at an end, as specified. (Failed passaged in the Senate Governmental Organization Committee)

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

SUPPORT: (Verified 6/30/22)

None received

OPPOSITION: (Verified 6/30/22)

None received

ASSEMBLY FLOOR: 69-0, 5/2/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Mia Bonta, Calderon, Megan Dahle, Gallagher, Gipson, Medina, Nazarian, Waldron

Prepared by: Brian Duke / G.O. / (916) 651-1530
7/28/22 10:38:32

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

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THIRD READING

Bill No: AB 1695
Author: Santiago (D)
Amended: 8/1/22 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 7-0, 6/21/22
AYES: Wiener, Caballero, Cortese, McGuire, Roth, Skinner, Umberg
NO VOTE RECORDED: Bates, Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 54-12, 5/25/22 - See last page for vote

SUBJECT: Affordable housing loan and grant programs: adaptive reuse

SOURCE: Aids Healthcare Foundation

DIGEST: This bill requires the Department of Housing and Community Development (HCD) to allow for adaptive reuse as an eligible activity for any notice of funding availability (NOFA) for an affordable multifamily housing loan.

ANALYSIS: Existing law establishes the Multifamily Housing Program (MHP) to assist in the new construction, rehabilitation, and preservation of permanent and transitional rental housing for persons with incomes of up to 60% of the area median income (AMI).

This bill:

1) Requires any NOFA issued by HCD for an affordable multifamily housing loan to allow for adaptive reuse as an eligible activity.

    a) Defines adaptive reuse as the retrofitting and repurposing of an existing building to create new residential units.

Background

California Housing Crisis. The lack of supply for households at all income levels is the primary factor underlying California's housing crunch. The state Department of Housing and Community Development (HCD) estimates that California needs to build 180,000 new homes a year to keep up with population growth. More recently, HCD noted in its statewide housing plan that California must plan for more than 2.5 million homes over the next eight-year cycle, and no less than one million of those homes must meet the needs of lower-income households. This represents more than double the housing planned for in the last eight-year cycle.

The median home price in California is $771,270 in 2022 which is double the nationwide median. It is second to Hawaii, and Washington is third with a median price of $592,400. In terms of rental markets, California has all ten of the top ten most unaffordable counties for a two-bedroom apartment and holds eight of the top ten most unaffordable metropolitan areas. In addition, almost three million enter households, almost half of rental households in California, are low-income (50-80% AMI), very low income (30-50% AMI), or extremely low income (0-30% AMI). As a result, many Californians are rent burdened (spend more than 30% of their income on rent): almost 90% of extremely low-income, 85% of very low-income, and 63% of low-income households.

This bill allows adaptive reuse projects to obtain funding for development, which would create more housing.

Comments

1) *Author's Statement.* According to the author, "It is California's responsibility to address the current affordable housing crisis as it will only continue to grow if it does not make adaptive reuse a substantial part of its housing development mosaic. It is vital that adaptive reuse become a well-regarded and frequently used tool in our ongoing loan and grant housing programs administered by HCD. To help California build desperately-needed affordable housing in a more efficient and cost-effective manner, AB 1695 would require that any notice of funding availability issued by HCD for an affordable multifamily housing loan and grant program state that adaptive reuse of a property for affordable housing purposes is an eligible activity."

2) *Multifamily Housing Program*. MHP is the state's flagship rental housing program to fund construction of deed-restricted, affordable rental housing for households at or below 60% of AMI. The program provides higher loan amounts for units that are for extremely low income households (those at or below 30% AMI). MHP has $275 million of available funding in this year's funding. In its NOFA, adaptive reuse projects are awarded scoring criteria points. These points are used to grade projects in which higher scores being more likely to receive funding. In this way, MHP incentives adaptive reuse projects.

3) *Similar Trailer Bill.* The Department of Finance proposed a trailer bill that authorizes HCD to provide grants for adaptive reuse projects. The definition in the trailer bill for adaptive reuse is the process of adapting and rehabilitating unutilized or underutilized buildings to other purposes and can serve as a valuable tool to increase the supply of housing. This is slightly different than the definition provided in this bill: the retrofitting and repurposing of an existing building to create new residential units.

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

SUPPORT: (Verified 8/8/22)

Aids Healthcare Foundation (source)
California Apartment Association
City of Thousand Oaks
Southern California Association of Governments

OPPOSITION: (Verified 8/8/22)

None received

ASSEMBLY FLOOR: 54-12, 5/25/22
AYES: Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Valladares, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Choi, Megan Dahle, Davies, Flora, Gallagher, Mathis, Patterson, Seyarto, Smith, Voepel, Waldron

NO VOTE RECORDED: Aguiar-Curry, Berman, Chen, Fong, Kiley, Lackey, Mayes, Nguyen, O'Donnell, Ramos, Blanca Rubio, Villapudua

Prepared by: Andrew Dawson / HOUSING / (916) 651-4124
8/10/22 14:24:40

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

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THIRD READING

Bill No: AB 1711
Author: Seyarto (R)
Amended: 8/8/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 6-0, 6/14/22
AYES: Umberg, Borgeas, Hertzberg, Jones, Wieckowski, Wiener
NO VOTE RECORDED: Caballero, Durazo, Gonzalez, Laird, Stern

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 65-0, 5/12/22 - See last page for vote

SUBJECT: Privacy: breach

SOURCE: Author

DIGEST: This bill requires agencies to report data breaches on their website when a person or business operating a system on behalf of an agency is required to disclose a breach of that system.

Senate Floor Amendments of 8/8/22 insert language to avoid potential chaptering out issues.

ANALYSIS:

Existing law:

1) Provides, pursuant to the California Constitution, that all people have inalienable rights, including the right to pursue and obtain privacy. (Cal. Const., Art. I, Sec. 1.)

2) Establishes the Information Practices Act of 1977, which declares that the right to privacy is a personal and fundamental right protected by Section 1 of Article I of the Constitution of California and by the United States Constitution and that

all individuals have a right of privacy in information pertaining to them. It further states the following legislative findings:

a) The right to privacy is being threatened by the indiscriminate collection, maintenance, and dissemination of personal information and the lack of effective laws and legal remedies;

b) The increasing use of computers and other sophisticated information technology has greatly magnified the potential risk to individual privacy that can occur from the maintenance of personal information; and

c) In order to protect the privacy of individuals, it is necessary that the maintenance and dissemination of personal information be subject to strict limits. (Civ. Code § 1798 et seq.)

3) Establishes the data breach notification law, which requires any agency, person, or business that owns or licenses computerized data that includes personal information to disclose a breach of the security of the system to any California resident whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure must be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as specified. (Civ. Code §§ 1798.29(a), (c) and 1798.82(a), (c).)

4) Requires, pursuant to the data breach notification law, that any agency, person, or business that maintains computerized data that includes personal information that the agency, person, or business does not own to notify the owner or licensee of the information of any security breach immediately following discovery if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person. (Civ. Code §§ 1798.29(b), 1798.82(b).)

5) Defines “personal information” for the purposes of the data breach notification law, to mean either of the following:

a) An individual’s first name or first initial and the individual’s last name in combination with one or more specified data elements, such as social security number, medical information, health insurance information, credit card number, or unique biometric data generated from measurements or technical analysis of human body characteristics used to authenticate a specific individual, when either the name or the data elements are not encrypted or redacted; or

b) A username or email address in combination with a password or security question and answer that would permit access to an online account. (Civ. Code §§ 1798.29(g) and (h); 1798.82(h) and (i).)

6) Provides that an agency, person, or business that is required to issue a security breach notification shall meet specified requirements. The notification must be written in plain language, meet certain type and format requirements, be titled "Notice of Data Breach," and include specified information. (Civ. Code §§ 1798.29(d), 1798.82(d).) Additionally, it authorizes them, in their discretion, to also include in the notification information about what the person or business has done to protect individuals whose information has been breached or advice on steps that the person may take to protect themselves. (Civ. Code §§ 1798.29(d), 1798.82(d).)

7) Establishes the California Customer Records Act, which provides requirements for the maintenance and disposal of customer records and the personal information contained therein. (Civ. Code § 1798.80 et seq.) It further states it is the intent of the Legislature to ensure that personal information about California residents is protected and to encourage businesses that own, license, or maintain such personal information to provide reasonable security for it. (Civ. Code § 1798.81.5(a).)

8) Requires a business that owns, licenses, or maintains personal information about a California resident to implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the information from unauthorized access, destruction, use, modification, or disclosure and requires such businesses to contractually require nonaffiliated third parties to which it discloses such information to similarly protect that information. (Civ. Code § 1798.81.5(b), (c).)

This bill:

1) Provides that when a person or business operating a system on behalf of an agency is required to disclose a breach of that system, the agency shall also disclose the breach by conspicuously posting, for a minimum of 30 days, the notice provided by the person or business on the agency's internet website, if the agency maintains one.

2) Requires the disclosure to be posted in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided, or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

3) Defines "conspicuously posting on the agency's internet website" to mean providing a link to the notice on the home page or first significant page after entering the internet website that is in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks that call attention to the link.

Background

Current law requires businesses that own, license, or maintain personal information to implement and maintain reasonable security procedures and practices to protect that information. In addition, California's data breach notification statutes require government agencies, persons, and businesses to provide residents with specified notices in the wake of breaches of residents' personal information.

This bill addresses the situation where a person or business is operating a system on behalf of a government agency. Where the person or business is currently required to disclose a breach of that system, this bill requires the agency to also disclose the breach by conspicuously posting the notice on its internet website.

The author argues this is necessary to make clear to affected consumers that the data breach notice is authentic and to inform them of where the data that was breached originated. Opposition argues that this confuses the roles of agency and vendor, and that the online posting requirement should be removed from this bill.

This bill is author sponsored. It is supported by Oakland Privacy. It is opposed by the Association of California School Administrators, the California Association of School Business Officials, and the California Special Districts Association.

Comments

Laws to prevent and respond to data breaches

The frequency of data breaches in California and the threat that such breaches pose makes the enactment and enforcement of statutes protecting against and responding to these breaches vital to maintaining the right to privacy for California residents. California has addressed these issues over the years by requiring specific procedures for notifying individuals of data breaches; requiring certain security procedures and practices to prevent such breaches; and providing a right of action if such requirements are not implemented.

In 2003, California's first-in-the-nation security breach notification law went into effect. (*See* Civ. Code §§ 1798.29, 1798.82.) Since that time, nearly every state has

enacted similar security breach notification laws, and governments around the world have or are considering enacting such laws. California's Data Breach Notification Law (DBNL) has two main provisions governing data breach notification requirements, Civil Code Sections 1798.29 and 1798.82. The two provisions are nearly identical, but the former applies to public agencies and the latter to persons or businesses.

California's DBNL requires any agency, person, or business that owns or licenses computerized data that includes personal information to disclose a breach of the security of the system to any California resident whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure must be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as specified. Such breach notifications must be titled "Notice of Data Breach," are required to meet certain formatting requirements, and must include specific information. This notification requirement ensures that residents are made aware of a breach, thus allowing them to take appropriate action to mitigate or prevent potential financial losses due to fraudulent activity.

Further clarity for breaches of systems operated on behalf of public agencies

According to the author, "AB 1711 requires a state agency to conspicuously post a link on its website to the breach notification submitted by a business operating a system on behalf of the agency. This obligation is limited to systems that the business operates on behalf of the state agency. This will help provide clarification to the public who may view the business notification of the data breach suspiciously as a phishing scam."

As stated, this bill amends the DBNL to cover specific breaches, those compromising a system being operated by a person or business *on behalf of* an agency. The concern is that consumers may receive data breach notifications from the person or business operating the system and not make the connection to the agency to whom they have given their information. This can result in either consumers not trusting the notification or simply not being as informed about what data has been breached. This bill requires the agency itself to also post the notification for a limited period of time to better get the word out to affected Californians. The goal is greater transparency leading to better data protection when consumers are able to begin to mitigate the risks more quickly and efficiently.

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

SUPPORT: (Verified 8/8/22)

Oakland Privacy

OPPOSITION: (Verified 8/8/22)

Association of California School Administrators
California Association of School Business Officials
California Special Districts Association
City of Mountain View
City of Roseville
Municipal Information Systems Association of California

ARGUMENTS IN SUPPORT: Oakland Privacy makes the case for this bill:

> Assembly Bill 1711 adds new language for the second scenario (an entity maintaining computerized data on behalf of an agency that the agency does not own) mandating that the government agency's disclosure of the breach takes the form of a conspicuous website notice.
>
> While certainly representing an increased administrative burden, we are confident that notices solely from third party contractors can be confusing to consumers trying to figure out what data this contractor possessed and why they had it. If people don't know a data breach has occurred and what data of theirs is affected and how, they are unable to take actions to protect themselves, if such actions are needed.
>
> Actions people impacted by data breaches can take includes changing passwords, initiating two-step authentication, requesting a credit freeze, signing up for a monitoring service, or replacing financial cards. Certain actions may or may not be necessary for a particular data breach scenario, but impacted persons should always have the choice to be fully informed and to make the best decisions for themselves.

ARGUMENTS IN OPPOSITION: A coalition of associations, including the Association of California School Administrators, writes:

> AB 1711 confuses the roles and responsibilities of a public agency and vendor.
>
> Under AB 1711, the public agency would be required to post a notice on their agency’s website (if they have one) even when the vendor maintaining their data was the source of the data breach. We believe the proposed online posting requirements could create further confusion and alarm rather than provide

helpful information, at the expense of staff time and resources. Parties' whose data was not affected could flood the agency with inquiries to determine if their data was exposed.

Public agencies already place a significant amount of information on their homepages, which is critical to their operations and allows services to be provided in a timely and efficient manner. Adding further required website content, particularly on homepages or first significant webpages, may distract from the core service functions of public agencies. AB 1711's prescriptive language and lack of flexibility as to what constitutes conspicuously posting a link to a notice may also raise potential website accessibility concerns now or in the future.

ASSEMBLY FLOOR: 65-0, 5/12/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Mia Bonta, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Villapudua, Voepel, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Boerner Horvath, Bryan, Cunningham, Davies, Gray, Grayson, Kiley, Lackey, Lee, Quirk-Silva, Blanca Rubio, Valladares, Ward

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
8/10/22 14:57:23

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

SENATE RULES COMMITTEE
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THIRD READING

Bill No: AB 1712
Author: Medina (D)
Amended: 5/12/22 in Assembly
Vote: 21

SENATE EDUCATION COMMITTEE: 6-0, 6/22/22
AYES: Leyva, Cortese, Dahle, Glazer, McGuire, Pan
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 5/25/22 - See last page for vote

SUBJECT: Public postsecondary education: campus safety: online survey tool

SOURCE: Author

DIGEST: This bill requires the Office of the Chancellor of the California Community Colleges (CCC) and Office of the Chancellor of the California State University (CSU), and requests the Office of the President of the University of California (UC), to: (1) develop questions to determine student perspectives on campus climate for the purpose of being included in the new federal online survey tool for campus safety used by California's postsecondary education institutions; and, (2) submit a report on the published campus-level results from the online survey biennially.

ANALYSIS:

Existing law:

1) Establishes the UC as a public trust to be administered by the Regents and grants the Regents full powers of organization and governance subject only to legislative control as necessary to ensure the security of funds, compliance with terms of its endowments, and the statutory requirements around competitive

bidding and contracts, sales of property, and the purchase of materials, goods, and services. (California Constitution, Article IX, Section (9)(a))

2) Establishes the Donahoe Higher Education Act and assigns the missions of the CCC, the CSU, and the UC. (Education Code § 66010 et. seq.)

3) Stipulates no provision of the Donahue Higher Education Act shall apply to the UC unless the UC Regents adopt the provision. (EC § 67400).

4) Establishes the CSU system, comprised of 23 campuses, and bestows upon the CSU Board of Trustees the power, duties, and functions with respect to the management, administration, and control of the CSU system. (EC § 66606 and 89030 et. seq.)

5) Establishes the CCC under the administration of the Board of Governors of the CCC, as one of the segments of public postsecondary education in this state. (EC § 70900)

6) Enacts the Equity in Higher Education Act which clarifies it is the policy of California that all persons, regardless of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other basis that is contained in the prohibition of hate crimes as defined in the Penal Code, have equal rights and opportunities to participate fully in the postsecondary educational process free from discrimination and harassment. (EC § 66250 et.seq.)

7) Requires the United States Secretary of Education to develop a standardized online survey tool, and requires postsecondary education institutions that receive federal funding to administer campus climate surveys every two years on issues related to dating and domestic violence, sexual assault, sexual harassment, and stalking. (Public Law 117-103, Division H, Title III, § 1507; The Consolidated Appropriations Act of 2022).

This bill:

1) Requires the Office of the Chancellor of the CCC and Office of the Chancellor of the CSU, and requests the Office of the President of the UC, beginning after the date on which the United States Secretary of Education makes the online survey available to institutions, to do all of the following:

   a) Develop questions in consultation with experts to determine student perspectives on campus climate.

b) Consult with student organizations and trauma experts, including, but not limited to, nonprofit organizations with expertise in campus climate, so that the questions incorporate trauma-informed language.

c) Submit the questions developed to the United States Secretary of Education for review and approval to be incorporated into the online survey.

2) Requires the Office of the Chancellor of the CCC and Office of the Chancellor of the CSU, and requests the Office of the President of the UC, beginning one year after the date on which the United States Secretary of Education makes the online survey available to institutions, and every two years thereafter, to submit a report on the published campus-level results from the online survey to the Assembly Higher Education Committee and the Senate Education Committee.

3) Defines:

a) "Campus climate" to mean a measure of an individual's experience within a learning environment, specifically focusing on the current attitudes, practices, and behaviors of campus life that impact the success and retention of all members of a campus community.

b) "Institutions" to mean campuses of the CCC, the CSU, and the UC.

c) "Online survey" to mean the online survey tool for campus safety established by Section 1507 of Title III of Division H of Public Law 117–103.

Comments

Need for the bill. According to the author, "Recent incidents at the UC and CSU – against students of color, and investigations of racial and ethnic discrimination– have greatly highlighted and brought more attention to the need for the UC and CSU to address climate challenges. Even though the state has hosted several oversight hearings to look at campus climate issues, existing law does not specifically address campus climate and higher education. Moreover, previous attempts for a coordinated effort across the segments have failed. AB 1712 will therefore promote both awareness and help develop safety protocols for targeted students across California."

Federal Task Force. As noted in the Assembly Higher Education Committee analysis, in January 2014, the White House Task Force to Protect Students from Sexual Violence (taskforce) was established to strengthen and address issues of under-reporting of sexual assaults and provide postsecondary education institutions

with additional tools to respond and address rape and sexual assaults on college campuses nationwide. In April 2014, the taskforce issued its first report, "Not Alone," which highlighted action steps and recommendations on how to more effectively respond to and prevent rape and sexual assault on postsecondary education campuses. To address the issue of underreporting of sexual assaults on campus, the taskforce encouraged the dispersal and implementation of campus climate surveys to help campuses understand the scope and prevalence of sexual victimization experienced by students. The report called for legislative or administrative options to mandate campuses to periodically conduct a climate survey and provided postsecondary institutions with a draft survey.

Also in April 2014, the Office on Violence Against Women of the U.S. Department of Justice funded a "Campus Climate Survey Validation Study" with the intention of validating and strengthening the free campus climate survey instrument provided by the taskforce to postsecondary institutions. The technical report published in January 2016, provided campuses with national best practices for developing a survey instrument, procedures for data collection, and how to present findings without bias and with validity. The technical report along with the Administrator Information Packet, designed to guide postsecondary campuses through the process of developing and implementing a campus climate survey, remain available to postsecondary institutions in the archives of the U.S. Department of Justice.

Audit of campus surveys. The United States Government Accountability Office (GAO) published an audit in April 2020, "Higher Education Approaches and Strategies Used in College Campus Surveys on Sexual Violence," found stakeholders, including researchers and college officials, considered campus surveys a useful tool for learning more about incidences of campus sexual violence on campus and for identifying areas for improvement to addressing the incidences. Most campuses rely on the federal reporting requirements of the Jeanne Clery Disclosure Act to determine campus safety and climate; however, the Clery annual report only includes data which has been reported either through the Title IX coordinators or to police on and near campuses. Campus surveys serve as a source of supplemental information, as they not only inform students of the various reporting methods on campus but also provide campus officials with a clearer understanding of unreported cases of sexual violence. The GAO audit cited challenges including a lack of funding to develop the surveys, low response rates, and the lack of comparable results across colleges due to variations in definitions and variations in time periods between surveys.

Standardized online survey tool. Federal law requires the United States Secretary of Education to develop and design an online survey tool to capture, in a standardized manner, postsecondary students' experiences with domestic violence, dating violence, sexual assault, sexual harassment, and stalking. The survey is to be available to all postsecondary education institutions; postsecondary education institutions that receive federal funding are required to administer campus climate surveys every two years and report the data to the U.S. Department of Education. Postsecondary education institutions are allowed to submit additional questions to be included in the survey. This bill seeks to codify the federal requirements within state statute, while also requiring the CCC and the CSU (and requesting the UC) to develop and submit questions on campus climate to be included, upon approval, in the online survey administered on California public higher education campuses.

Existing student surveys. Currently, in California, campus climate surveys are conducted at the discretion of either the governing board of the system or the campus administration. The UC has conducted a voluntary systemwide campus climate survey in the past, and individual campuses have conducted surveys including UC Berkeley which concluded a campus climate survey in 2019 with results published in 2021, which found the overall campus climate is positive but marginalized students often feel excluded. Furthermore, every two years the UC conducts an Undergraduate Experience Survey with data reported to the UC's information center. This survey includes questions regarding sexual misconduct; however, the data is not readily available to the public.

Some campuses of the CSU have elected to participate in the national survey on campus climate conducted by the Higher Education Research Institute (HERI) at UC Los Angeles. The HERI climate surveys capture data on the personal experiences and perspectives of students, faculty, and staff in order to provide a complete understanding of campus climate to improve diversity on campus. The HERI campus climate survey focuses on classroom experiences, learning outcomes, and experiences of discrimination and bias. In addition to individual campus climate surveys, the CSU system participates in the National College Health Assessment Survey every other year. The survey is focused on mental health, nutritional health, sexual misconduct, and has a section on domestic, physical, and intimate partner violence. The survey results are presented to the CSU Board of Trustees with the data disaggregated by campus.

According to the CCC Chancellor's Office, a report was presented to the Board of Governors in 2015 on the status of the use of campus climate surveys by CCC campuses. The report indicated 27 colleges conducted regular campus climate surveys, with the majority reporting the survey was conducted every two years.

The content of the surveys provided by the various campuses was not available as part of the report nor on the participating campus websites. In the wake of the George Floyd murder and the subsequent protests, several CCC campuses reinstituted campus climate surveys in an effort to gain a more comprehensive scope of students' concerns with regard to campus climate and to allay those concerns. Several colleges utilize the HEDS Diversity and Equity Campus Climate survey which is available to campuses for a fee and helps campuses understand the student, faculty, staff, and administrator's perception on campus climate as it relates to diversity, equity, discrimination, and harassment.

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

SUPPORT: (Verified 8/1/22)

California Faculty Association
California State University, Office of the Chancellor
California Teachers Association
Faculty Association of the California Community Colleges
Generation Up
Leda Health

OPPOSITION: (Verified 8/1/22)

None received

ASSEMBLY FLOOR: 76-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Lynn Lorber / ED. / (916) 651-4105
8/3/22 14:26:39

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

SENATE RULES COMMITTEE AB 1713
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THIRD READING

Bill No: AB 1713
Author: Boerner Horvath (D)
Amended: 3/21/22 in Assembly
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 15-2, 6/28/22
AYES: Newman, Bates, Allen, Archuleta, Becker, Cortese, Dodd, Hertzberg, Limón, McGuire, Min, Rubio, Skinner, Wieckowski, Wilk
NOES: Dahle, Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 49-20, 5/25/22 - See last page for vote

SUBJECT: Vehicles: required stops: bicycles

SOURCE: Author

DIGEST: This bill permits a person, 18 years of age or older, to treat stop signs as yield signs when riding a bicycle under certain conditions.

ANALYSIS:

Existing law:

1) Provides that a bicyclist has all the rights and is subject to all laws applicable to drivers of motor vehicles, including stopping at stop lights and stop signs.

2) Requires a driver of a vehicle to stop at the marked limit line for a red light or a stop sign, and allows a driver to proceed with a right hand turn or left hand turn from a one-way street onto a one-way street after stopping, if no vehicles or pedestrians have approached or are approaching the intersection.

3) Requires a driver of a vehicle to obey all official signs and signals, as defined.

4) Requires all pedestrians to obey all official signs and signals, as defined.

5) Requires a vehicle approaching a "yield right-of-way" sign to yield the right-of-way to any vehicles which have entered the intersection, which have entered the intersection, or which are approaching the intersection, and to continue to yield the right-of-way until they can proceed with reasonable safety.

This bill:

1) Requires a person who is 18 years of age or older riding a bicycle upon a two-lane highway when approaching a stop sign at the entrance of an intersection, with another roadway with two or fewer lanes, where stop signs are erected upon all approaches, to yield the right-of-way to any vehicles that have either stopped at or entered the intersection, or that are approaching on the intersecting highway close enough to constitute an immediate hazard, and to pedestrians, as specified, and continue to yield the right-of-way to those vehicles and pedestrians until reasonably safe to proceed.

2) Requires other vehicles to yield the right-of-way to a bicycle that, having yielded as prescribed, has entered the intersection.

3) Provides that the changes made by this bill shall not affect the liability of a driver of a motor vehicle as a result of the driver's negligent or wrongful act or omission in the operation of a motor vehicle.

4) Provides that a bicyclist under 18 that failed to stop at a stop sign shall receive a warning ticket for their first violation.

5) Requires California Highway Patrol (CHP) report to the Legislature on January 1, 2028, on the safety effects of this bill.

6) Repeals the provisions of this bill on January 1, 2029.

Comments

1) *Purpose*. According to the author, "we must do a better job in improving a cyclist's safety at stop signs. This pandemic has resulted in a significant increase of residents opting for bicycling whether for recreation, commuting to work, or getting their shopping done. As ridership continues to increase, it is imperative we make stops at intersections safer for bicyclists. Yielding is already law in California. AB 1713 uses this common understanding of a yield sign to allow bicyclists, 18 year of age or older, approaching an intersection with a stop sign to slow down, evaluate the traffic flow, and yield to any cars and pedestrians already at the intersection. If it is safe to do so, bicyclists can

then proceed through the intersection without making a complete stop. Rolling through a stop sign is illegal now and would continue to be illegal under AB 1713. Rolling through a stop sign is not yielding."

2) *The "Idaho stop*." In the state of Idaho, a bicyclist who approaches a stop sign is permitted to treat the stop sign as a yield sign, to treat a traffic signal as a stop sign when no other traffic is present, and to treat the traffic signal as a yield sign when making a right turn. Idaho codified this rule of the road back in 1982 and it has lived infamously as the "Idaho stop." Other states have followed Idaho's example and codified ideations of the "Idaho stop." In 2017, Delaware changed its laws to allow a bicyclist travelling on a one-lane or two-lane road to treat a stop sign as a yield sign, known colloquially as the "Delaware yield." More recently, Arkansas, Oregon and Washington have adopted rules similar to the "Idaho stop" or the "Delaware yield."

   After Idaho adopted the law, bicyclist injuries from traffic crashes declined by 14.5% the following year. In Delaware, traffic crashes involving bicyclists at stop sign intersections fell by 23% in the 30 months after the law's passage, compared to the previous 30 months.

   However, in California, existing law requires any vehicle, including a bicycle that approaches an intersection with a stop sign, to make a complete stop before entering the intersection. In California, bicyclists are required to abide by all vehicle rules of the road. AB 1713 attempts to increase bicyclist safety in intersections by allowing them to treat the stop sign as a yield sign, aligning the state with Idaho and Delaware.

3) *Take Two*. In 2021, AB 122 (Boerner Horvath), which was substantially similar to AB 1713, was vetoed by Governor Newsom. The veto message stated in part, "while I share the author's intent to increase bicyclist safety, I am concerned this bill will have the opposite effect. The approach in AB 122 may be especially concerning for children, who may not know how to judge vehicle speeds or exercise the necessary caution to yield to traffic when appropriate."

   To address concerns raised by the Governor, AB 1713 only authorizes cyclists over 18 to treat stop signs as a yield signs. Consequently, those under the age of 18 who treat a stop sign as a yield sign will potentially face a $238 ticket from law enforcement. Law enforcement will be required to distinguish the age of a cyclist when enforcing the law. Additionally, AB 1713 is narrower than AB 122 as a cyclist may only yield at a stop sign if they are on a two lane road approaching an intersection with stop signs at every intersection. Delaware's

law only applied to two lane roads, but applied at any stop sign regardless of whether there was a stop sign at every intersection.

4) *Bicyclist habits and safety*. The author contends that changing the law to remove the requirement for cyclists to stop at stop signs recognizes the behavior of cyclists today. Specifically, that when a bicyclists stops for a stop sign they lose their momentum going forward. This contention is supported by research conducted at DePaul University, where it observed the behavior of nearly 900 cyclists in Chicago, only 4% of cyclists come to a full stop at four-way stops. The report also found that 65% of cyclists stop at traffic lights and then proceed through them, regardless of the light, if there is no cross traffic, and that 66% of cyclists yield at stop signs when cross traffic is present. However, in California bicyclists must abide by the rules of the road followed by motorists. Thus, when a bicyclists fails to stop, they break the law.

   According to the National Highway Traffic Safety Administration, from 2011 to 2020, bicyclist and other cyclist fatalities increased by 38% from 682 in 2011 to 938 in 2020. In 2020, 26% of bicyclist and other cyclist fatalities occurred at intersections.

   According to the CHP, since 2015, a total of 3,543 crashes have occurred involving bicycles at an intersection, in which the primary crash factor and cause were failure to stop at a stop sign. In 25 of the 30 crashes (83 percent) in which a fatal injury was sustained, the investigation determined the bicyclist was at fault for failure to stop at a stop sign. In 1,995 of the 3,188 crashes (63 percent) that resulted in injuries, the investigation determined the bicyclist was at fault for failure to stop at a stop sign. This data illustrates that when bicyclists fail to stop at a stop sign and comply with the rules of the road, accidents occur.

5) *Concerns*. Although AB 1713 attempts to align California law with current cycling habits and increase safety, the bill could have the opposite affect and increase bicycling accidents at intersections. If bicyclists have the ability to bend this rule of the road it may lead to bicyclists ignoring other rules. Similarly, because bicyclists are currently required to follow all of the existing rules that motorists need to follow, any one motorist not being privy to this change in the law could lead to potential dangers for the bicyclist. AB 1713 does not provide any public information campaigning to inform California motorists and bicyclists of this change in the law. Moreover, the data from both

Idaho and Delaware are not necessarily applicable to California, as California has more motorists and bicyclists.

6) *Opposition*. The California Association of Highway Patrolmen writes in opposition to this bill stating, "There is a lot going on at intersections and we feel that allowing bicyclists to simply yield rather than stop will create a public safety risk." Similarly the California Coalition for Children's Safety and Health writes in opposition stating, this "bill continues to create unsafe bicycle riding behaviors and will lead to more bicycle crash fatalities, including children and teens. The bill would create opportunities for children and teens to learn dangerous bicycle riding behaviors as they observe adults not stopping at stop signs."

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

SUPPORT: (Verified 7/29/22)

California Association of Bicycling Organizations
City of Alameda
City of Berkeley
City of Santa Barbara
CivicWell
Lake Tahoe Bicycle Coalition
North Westwood Neighborhood Council
Sacramento Trailnet
Streets for All
Transportation Agency for Monterey County

OPPOSITION: (Verified 7/29/22)

California Association of Highway Patrolmen
California Coalition for Children's Safety and Health

ASSEMBLY FLOOR: 49-20, 5/25/22
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cunningham, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NOES: Bigelow, Chen, Choi, Cooley, Cooper, Megan Dahle, Davies, Flora, Fong, Gallagher, Lackey, Mathis, Nguyen, Patterson, Salas, Seyarto, Smith, Valladares, Voepel, Waldron

NO VOTE RECORDED: Arambula, Berman, Gray, Muratsuchi, O'Donnell, Ramos, Rodriguez, Blanca Rubio, Villapudua

Prepared by: Katie Bonin / TRANS. / (916) 651-4121
8/3/22 14:26:40

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

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

THIRD READING

Bill No: AB 1715
Author: Muratsuchi (D)
Amended: 6/15/22 in Senate
Vote: 21

SENATE MILITARY & VETERANS COMMITTEE: 5-0, 6/14/22
AYES: Newman, Grove, Eggman, Melendez, Umberg
NO VOTE RECORDED: Archuleta, Roth

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-0, 5/5/22 (Consent) - See last page for vote

SUBJECT: Space Force

SOURCE: Author

DIGEST: This bill amends certain provisions in state law to include the United States Space Force among the lists of Armed Forces entities.

ANALYSIS: Existing law defines "Armed Forces" as including the United States Army, Navy, Air Force, Marine Corps, and other entities, and defines "veteran" as including members or veterans of those entities, as specified, for various purposes, including the allocation of merit points for civil service hiring practices and for state aid and protections for veterans.

This bill:

1) Amends Section 23450 of the Business and Professions Code to include Space Force in the definition of "veteran".

2) Amends Section 1791 of the Civil Code to include Space Force in the definition of "Member of the Armed Forces".

3) Amends Section 45294 of the Education Code to include Space Force in the definition of "veteran" and "Armed Forces".

4) Amends Section 66010.99 of the Education Code to include Space Force in the definition of "Armed Forces of the United States".

5) Amends Section 66025.8 of the Education Code to include Space Force in the definition of "Armed Forces of the United States".

6) Amends Section 68075 of the Education Code to include Space Force in the definition of "Armed Forces of the United States".

7) Amends Section 76396.3 of the Education Code to include Space Force in the definition of "Armed Forces of the United States".

8) Amends Section 88113 of the Education Code to include Space Force in the definition of "Armed Forces".

9) Amends Section 18540 of the Government Code to include Space Force in the definition of "Armed Forces".

10) Amends Section 37460 of the Government Code to include airman and guardian in the definition of "veteran".

11) Amends Section 260 of the Military and Veterans Code to include Space Force among the lists of Armed Forces entities.

12) Amends Section 400 of the Military and Veterans Code to include Space Force in the definition of "Armed Forces."

13) Amends Section 422 of the Military and Veterans Code to include Space Force among the lists of Armed Forces entities.

14) Amends Section 502.1 of the Military and Veterans Code to include Space Force among the lists of Armed Forces entities.

15) Amends Section 920 of the Military and Veterans Code to include Space Force in the definition of "veteran".

16) Amends Section 1120 of the Military and Veterans Code to include guardian.

17) Amends Section 2695.5 of the Penal Code to include Space Force in the definition of "veteran".

18) Amends Section 2827 of the Public Utilities Code to include Space Force in the definition of "United States Armed Forces base or facility".

19) Amends Section 205.5 of the Revenue and Taxation Code to include Space Force in the definition of "veteran".

Background

On December 20, 2019, the enactment of the United States Space Force Act, and signing of the National Defense Authorization Act, founded The United States Space Force. The US Space Force is the eighth branch of the United States uniformed services, and is organized under the Department of the Air Force.

The US Space Force is the smallest armed service, consisting of 6,434 military personnel and operating 77 spacecraft. In California, the US Space Force is active in Vandenberg Space Force Base as well as Los Angeles Air Force Base. California statute currently does not include the United States Space Force within the definitions and references when pertaining to the Armed Forces, Armed Services, and Veterans. This bill creates conforming and technical revisions to state code that defines which military branches are included in the encompassing terms of Armed Forces, Armed Services, and veteran, for the protections and benefits of members of this newly created military force.

Comments

Committee Comments. Future action may include updating additional code sections to include the Air Force and Space Force among the lists of Armed Forces entities.

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

SUPPORT: (Verified 8/2/22)

California Manufacturers and Technology Association
Military Services in California
U.S. Department of Defense

OPPOSITION: (Verified 8/2/2022)

None received

ARGUMENTS IN SUPPORT: According to the Author, "The United States Space Force is a new branch within the United States Armed Services, organized under the Department of the Air Force. AB 1715 would update the California statute to include Space Force within the definitions and references to the Armed Forces, Armed Services, and Veterans."

ASSEMBLY FLOOR: 61-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Friedman, Gallagher, Cristina Garcia, Gipson, Levine, McCarty, Medina, Villapudua, Waldron, Wicks

Prepared by: Bill Herms / M.&V.A. / (916) 651-1503
8/4/22 13:58:16

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

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

THIRD READING

Bill No: AB 1720
Author: Holden (D)
Amended: 6/21/22 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 3-1, 6/20/22
AYES: Hurtado, Cortese, Pan
NOES: Jones
NO VOTE RECORDED: Kamlager

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/28/22
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 50-17, 5/26/22 - See last page for vote

SUBJECT: Care facilities: criminal background checks

SOURCE: East Bay Community Law Center

DIGEST: This bill authorizes the California Department of Social Services (CDSS) to process a simplified criminal record exemption for an individual seeking a license to operate, be employed by, or otherwise have contact with clients in a community care facility or be registered as a home care aide, if that individual meets specified criteria. This bill prohibits CDSS from requiring such an individual to sign a declaration under penalty of perjury regarding any prior criminal convictions.

ANALYSIS:

Existing law:

1) Establishes the California Community Care Facilities Act, which provides regulatory structure for a coordinated and comprehensive statewide system of

care for individuals with mental illnesses, individuals with disabilities, and children and adults who require care or services provided by licensed community care facilities. (HSC §1500 et seq.)

2) Requires an individual to obtain either a criminal record clearance or a criminal record exemption from CDSS before their initial presence in a community care facility, residential care facility for persons with chronic life-threatening illness, residential care facility for the elderly, or child day care facility, as specified. (HSC §1522 et seq.; HSC §1568.09 et seq.; HSC §1569.17 et seq.; HSC §1596.871 et seq.)

3) Defines "registered home care aide" as an affiliated home care aide or independent home care aide, 18 years of age or older, who is listed on the home care aide registry. (HSC §1796.12(o))

4) Requires an individual to obtain either a criminal record clearance or a criminal record exemption from CDSS before they may be listed on the home care aide registry. (HSC §1796.24))

5) Allows the Department of Justice (DOJ) to provide subsequent state or federal arrest or disposition notification to any entity authorized by state or federal law to receive state or federal summary criminal history information as the result of an application for licensing, employment, certification, or approval, as provided. (Penal Code §11105.2(a))

6) Requires DOJ to notify CDSS within 14 calendar days of a person's criminal record information and, if no criminal information has been recorded, provide a statement of that fact. (HSC §1522(c)(2))

This bill:

1) Prohibits CDSS from requiring that an individual seeking a license to operate, be employed by, or otherwise have contact with clients in a community care facility, including a residential care facility for persons with chronic, life-threatening illness, a residential care facility for the elderly, or a child daycare facility, sign a declaration under penalty of perjury regarding any prior criminal convictions. Retains the requirement an individual be fingerprinted in order to obtain either a criminal record clearance or an exemption from CDSS prior to employment, residence, or initial presence in a community care facility.

2) Removes the requirement that a person initiating a background examination to be a registered home care aide sign a declaration under penalty of perjury

regarding any prior criminal convictions. Retains the requirement that a person initiating a background examination to be a registered home care aide be fingerprinted in order to obtain either a criminal record clearance or an exemption from CDSS prior to becoming a registered home care aide.

3) Prohibits CDSS from requiring an individual described in 1) and 2), above, to disclose their criminal history information prior to the receipt of live scan results.

4) Allows CDSS to process a simplified criminal record exemption for an individual described in 1) and 2), above, excluding an individual applying to operate a foster family home, certified family home, or be a resource family, as provided, if the individual meets all of the following criteria:

   a) The individual has not been convicted of a violent crime.
   b) The individual has not been convicted of a crime within the last five years.
   c) The individual has not been convicted of a felony within the last 10 years.
   d) The individual has five or fewer misdemeanor convictions.
   e) The individual has no more than one felony conviction.
   f) The individual has not been convicted of a crime for which CDSS is prohibited from granting an exemption.

5) Allows CDSS to require, in its discretion, an individual who is otherwise eligible for a simplified exemption described in 4), above, to complete the standard exemption process if CDSS determines that doing so will protect the health and safety of any person who is a client of a community care facility.

6) States that a simplified criminal record exemption does not relieve the person from compliance with other applicable background check provisions.

7) Makes other technical and conforming changes.

Background

Community Care Licensing Division (CCLD). CDSS's CCLD licenses and oversees community care facilities—including child care facilities, foster family homes, and residential care facilities for the elderly—throughout California. These facilities typically provide non-medical care and supervision for children and adults in need, including individuals with disabilities, older adults in residential care, children in foster care, and children in child day care facilities. As of June

2021, there are 67,622 licensed community care facilities in the state with total capacity to serve approximately 1.4 million Californians.

Home Care Aide Registry. The Home Care Services Bureau (HCSB), under CDSS, is responsible for licensing home care organizations, including processing applications, receiving and responding to complaints, and conducting unannounced visits to ensure compliance. HCSB is also responsible for maintaining the Home Care Aide Registry, which is a public online registry for home care aides who have been background checked. The Home Care Aide Registry is intended to promote consumer protection for older adults and individuals with disabilities who hire private aides to come into their homes and provide assistance with activities of daily living.

Criminal Background Checks. To protect the vulnerable populations served by CCLD-licensed facilities, state law requires all applicants, licensees, adult residents, volunteers under certain conditions, and employees of licensed facilities who have contact with clients to be subject to a background check. These background checks are conducted by DOJ and used to determine whether individuals should be allowed to be present in a licensed facility. Registered home care aides are also subject to a background check. If an individual has no history of arrests and convictions, a clearance notice is sent to CDSS. If an individual has a criminal history, a separate process will result in either a denial or exemption.

Criminal Record Exemptions. An exemption is a CDSS-authorized written document that "exempts" the individual from the requirement of having a criminal record clearance. CDSS is prohibited by law from granting exemptions to individuals convicted of certain “non-exemptible” crimes. Currently, there are 60 non-exemptible crimes, including murder, rape, torture, kidnapping, and crimes requiring sex offender registration. If an individual is convicted of a non-exemptible crime, that individual cannot work in any licensed facility or for a health care organization, and an individual’s application will be denied or the license revoked based on the conviction.

When considering an exemption for individuals who have committed crimes that are exemptible, CDSS is required to consider a number of factors, including, but not limited to: the nature of the crime, including whether it involved violence; the period of time since the crime was committed and number of offenses; the circumstances surrounding the crime; activities since conviction, such as employment or participation in therapy or education; pardons granted; character references; a certificate of rehabilitation from a superior court; and, evidence of honesty and truthfulness. CDSS also has the authority to grant a criminal record

exemption that places conditions on the individual's continued licensure and employment or presence in a licensed facility.

Standard and simplified exemption process. Regulations (22 CCR 80019.1) establish criteria for CDSS to grant a criminal record exemption using either a standard exemption process or a simplified exemption process. Pursuant to regulations, CDSS may consider granting a standard exemption for an individual who has not been convicted of any non-exemptible crime or violent felony, as defined, and who provides CDSS with substantial and convincing evidence of good character. Regulations further establish criteria for issuing a standard exemption based on the type of crime and length of time that has passed since the completion of incarceration, probation, or parole.

Under the simplified exemption process, CDSS is required to consider granting, but is not required to process, a simplified criminal record exemption only if the individual meets all of the following criteria:

- Does not have a demonstrated pattern of criminal activity;
- Has one or more convictions arising from a single incident of criminal conduct;
- Each conviction is a misdemeanor and is for a crime that is nonviolent and does not pose a risk of harm to an individual; and
- It has been at least five consecutive years since the date of the conviction.

CDSS is allowed is require an individual who is otherwise eligible for a simplified exemption to go through the standard exemption process if CDSS determines such action will help protect the health and safety of clients.

Comments

Purpose of this bill. According to the author, "the Department of Social Services (CDSS) requires any applicant who has ever been convicted of any crime, other than a minor traffic violation, to obtain a criminal record 'exemption' from CDSS before they can work in a facility (i.e. community care, residential, elderly, child care). CDSS can and does deny exemptions based on conviction, even if the conviction is very old or unrelated to caregivers' work, and even when applicants have shown success as caregivers. While ensuring the safety of the young and elderly should always be of utmost importance, the system CDSS uses is inefficient and has duplicative processes that can disadvantage good applicants, ultimately negatively affecting the caregiving system and those who depend on it. These overly burdensome criminal record screening rules, given the disproportionate rate of arrests and low-level criminal convictions in communities

of color, cause people of color to have a difficult task in advancing in these caregiver roles without the proper licensing. The bill removes a duplicative process by prohibiting CDSS from requiring applicants to disclose any information regarding their criminal history as a condition of employment."

Related/Prior Legislation

AB 1608 (Holden, 2019) would have prohibited CDSS from requiring certain individuals subject to the criminal background check process to self-disclose their criminal history information, would have required CDSS to annually post certain data related to criminal record clearance and exemption approvals and denials on its website, and would have prohibited certain conduct from serving as the basis of a suspension or revocation of a license to operate a community care facility, or as the basis to prohibit an individual from serving in certain administrative capacities over a community care facility, unless certain circumstances exist. AB 1608 was not heard by the Senate Human Services Committee.

AB 3039 (Holden, 2018) would have made numerous changes to the criminal background check process for certain community care facilities, home care aide registry applicants, and home care organizations. AB 3039 was held in the Assembly Appropriations Committee.

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

SUPPORT: (Verified 8/1/22)

East Bay Community Law Center (source)
A New Way of Life Reentry Project
Alameda County Public Defender's Office
Alliance for Boys and Men of Color
California Public Defenders Association
Californians for Safety and Justice
Community Legal Services in East Palo Alto
East Bay Community Law Center
East Bay Family Defenders
Ella Baker Center for Human Rights
Friends Committee on Legislation of California
Hillsides
Initiate Justice
Legal Aid At Work
Legal Services for Prisoner With Children
Mental Health Advocacy Services

National Association of Social Workers, California Chapter
National Employment Law Project
Pillars of the Community
Roberts Enterprise Development Fund
Root and Rebound
Rubicon Programs
Sister Warriors Freedom Coalition
Starting Over, Inc.

OPPOSITION: (Verified 8/1/22)

None received

ASSEMBLY FLOOR: 50-17, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Mayes, McCarty, Medina, Mullin, Nazarian, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cooper, Cunningham, Megan Dahle, Flora, Fong, Gallagher, Irwin, Kiley, Mathis, Nguyen, Petrie-Norris, Seyarto, Smith, Valladares
NO VOTE RECORDED: Berman, Boerner Horvath, Davies, Lackey, Maienschein, Muratsuchi, O'Donnell, Patterson, Rodriguez, Salas, Voepel

Prepared by: Elizabeth Schmitt / HUMAN S. / (916) 651-1524
8/3/22 14:26:41

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

SENATE RULES COMMITTEE AB 1726
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1726
Author: Aguiar-Curry (D)
Amended: 8/8/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 8-0, 5/31/22
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas, Jones, Stern

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 68-0, 4/21/22 (Consent) - See last page for vote

SUBJECT: Address confidentiality program

SOURCE: California Partnership to End Domestic Violence

DIGEST: This bill provides additional protections and eases requirements applicable to participants in the Secretary of State's (SOS) Safe at Home address confidentiality program.

Senate Floor Amendments of 8/8/22 insert the word "any" in two places to correct drafting errors.

Senate Floor Amendments of 6/27/22 address chaptering out issues.

ANALYSIS:

Existing law:

1) Establishes the Safe at Home program in order to enable: (a) agencies to respond to requests for public records without disclosing the changed name or location of a victim; (b) interagency cooperation with the SOS in providing

name and address confidentiality for such victims; and (c) state and local agencies to accept a program participant's use of an address designated by the SOS as a substitute mailing address. (Gov. Code § 6205.)

2) Authorizes an adult, or a guardian on behalf of a minor or an incapacitated person, to apply to participate in the Safe at Home program by stating that they are a victim of the conduct described above, designating the SOS as the agent for service of process and receipt of mail, and providing the SOS with any address they wish to be kept confidential. (Gov. Code § 6206.)

3) Provides that a person who falsifies information on an application, as specified, is guilty of a misdemeanor, and requires that a conspicuous notice of this penalty be printed on the face of the application. (Gov. Code § 6206.)

4) Requires the SOS to provide each program participant a notice that contains information relating to: (a) using the confidential address in real property deeds and transactions, (b) changing one's name, and (c) entities that provide legal services. (Gov. Code § 6209.5.)

5) Provides that all moving and supporting papers shall be served and filed at least 16 court days before a hearing and that the moving and supporting papers served shall be a copy of the papers filed or to be filed with the court, except as provided. (Code Civ. Proc. § 1005(b).)

6) Provides that in the case of service by mail, service is complete when a notice or other paper is deposited in a post office box or other office or receptacle maintained by the U.S. Postal Service, in a sealed envelope with postage paid and properly addressed. The time period for timely service is extended for specified periods as provided. (Code Civ. Proc. § 1013.)

7) Requires that a defendant's response in a summary proceeding to obtain real property shall be filed within five days, excluding Saturdays and Sundays and other judicial holidays, after the complaint is served upon the defendant. (Code Civ. Proc. § 1167(a).)

8) Authorizes the SOS to terminate a Safe at Home participant's certification and invalidate their authorization card for several reasons, including failure to update their residential address within seven days and when a service of process document or mail forwarded to the program participant by the SOS is returned as nondeliverable. (Gov. Code § 6206.)

9) Authorizes the SOS to refuse to renew a participant's certification if the person has abandoned their domicile in this state. (Gov. Code § 6206.7.)

10) Prohibits disclosure of a participant's home address with the intent to threaten or to incite harm against them. (Gov. Code § 6208.1.)

11) States that participation in the Safe at Home program does not constitute evidence of domestic violence, stalking, sexual assault, human trafficking, or elder or dependent adult abuse for purposes of making custody or visitation orders. (Gov. Code § 6209.7.)

This bill:

1) Extends the time period within which various moving and supporting papers must be served and filed and the time within which specified responses must be made where the relevant place of address is the SOS address confidentiality program, Safe at Home.

2) Revises Safe at Home application requirements regarding an applicant's minor child's additional parent. The bill allows for this section to be left blank where no other parent has been established for the minor child.

3) Requires an applicant to provide an email address where they can be contacted, if available.

4) Provides that certification in the Safe at Home program cannot be used as evidence that minor children in the participant's care are at risk.

5) Extends from seven days to 30 days the time period in which a Safe at Home program participant must update their residential address or legal name change, after which the SOS may terminate a program participant's certification.

6) Requires the SOS to first attempt to contact the participant by telephone and email to resolve a mail delivery issue before terminating a Safe at Home participant's certification due to nondeliverable mail.

7) Modifies the ability of the SOS to terminate a Safe at Home participant from the program on the grounds of having abandoned their domicile in this state in the following ways:

    a) If the program participant or parent or guardian acting on behalf of a minor or incapacitated person relocates to a state *with* an address confidentiality program, they shall not be terminated until they have resided outside of this state for over 60 consecutive days; and

b) If the relocation is to a state *without* an address confidentiality program, the participant shall remain enrolled in the program and have their mail forwarded to them for the remainder of their certification term.

8) Clarifies that intentional, public disclosure of a participant's home address, telephone number, or image is prohibited on the internet or any other public space with the intent to incite harm to the participant or to threaten the participant. The bill makes clear that disclosure alone may be considered a threat, depending on the totality of the circumstances.

9) Provides that the fact that a participant is registered with the program creates a rebuttable presumption that disclosure of information about the participant's location and activities during the period of the registration, including, but not limited to, the participant's current and past residential, work, or school addresses, and other location information would lead to the discovery of the participant's actual residential address or physical location; would endanger the safety of the participant; and is not authorized. This presumption affects the burden of producing evidence and may be rebutted by clear and convincing evidence of the contrary.

10) Provides that the presumption governs discovery requests under the Civil Discovery Act. A participant shall not be required to provide their residential address or other location information reasonably likely to lead to the discovery of these addresses unless ordered to do so by a court after the other party has rebutted the presumption.

11) Specifies that the presumption may not be rebutted merely by the other parent's desire to know the participant's address and requires the court to weigh participant safety. If the court finds the presumption is rebutted, it must provide its reasons on the record.

12) Include provisions to avoid chaptering out issues with AB 2872 (Weber, 2022).

Background

Safe at Home is a confidential address program administered by the SOS that enables victims of domestic violence, stalking, sexual assault, human trafficking, and elder and dependent adult abuse to obtain a substitute mailing address. Agencies in California must accept this address in lieu of a residential or other address. The program, established in 1999, has protected thousands of victims.

The author and sponsor have identified a number of challenges facing participants in the Safe at Home program. The goal of this bill is to address those challenges

and make the program more accessible and successful for participants. This includes extending various deadlines in civil cases, easing provisions that might jeopardize participation in the program, and clarifying the information necessary for applicants. This bill also bolsters existing protections within the program and creates a rebuttable presumption that prevents unnecessary disclosure of participants' addresses and locations.

This bill is sponsored by the California Partnership to End Domestic Violence. It is supported by the Sunita Jain Anti-Trafficking Initiative at Loyola Law School.

Comments

According to the author:

> For 25 years, Safe at Home has provided a critical measure of protection and safety to survivors of domestic violence and stalking, sexual assault, human trafficking, and elder and dependent abuse, as well as reproductive health care workers. Safe at Home offers these survivors, as well as reproductive health care workers, a substitute mailing address to receive first class, certified, and registered mail. This address is also accepted by California state, county, and city government agencies in lieu of a residential or other mailing address where a victim can be tracked down, keeping the residence address confidential and out of the hands of someone who might want to harm the victim.
>
> Safe at Home is provided free of charge to California residents who qualify as participants. Since the program began in 1999, Safe at Home has helped protect thousands of victims and reproductive health care workers. A recent Executive Order extended Safe at Home's protections to local health officers and other public health officials, due to this group being subject to threats and other harassment in connection with their contributions to protecting public health against COVID-19.
>
> AB 1726 seeks to update the program in several ways to improve functionality for its participants:
>
> - Clarify that applicants are only required to provide information about additional parents if there is a 2nd or 3rd legal parent. Currently, the application process requires this information even if there is no additional legal parent.
>
> - Clarify that participation in the program does not indicate children are at risk in the participant's care, an important clarification to protect survivors in

custody or dependency case proceedings. Survivors should feel confident enrolling in the program without worrying that it will negatively impact their ability to retain custody.

- Strengthen protections against disclosing a participant's home address and contact information.

- Expand timelines for court documents to be served if the person is a Safe At Home participant. Since court documents must be sent to the Secretary of State's office and then forwarded to the participants, extended timelines are needed to ensure that participants receive their court paperwork with sufficient time to respond.

Bolstering the Safe at Home program and protecting its participants. As indicated by the author, this bill seeks to address a series of issues and barriers for participants within the program and associated with other laws that have been identified by advocates and survivors.

Existing law governing civil procedure establishes various timelines for serving and filing notices and motions and supporting or responsive documentation. The relevant statutes already extend these timelines in certain situations based on the location of the sender or recipient. Given the inherently indirect path that mail flows to participants in the Safe at Home program, the bill extends several of these timelines to ensure participants are provided adequate leeway.

This bill streamlines various elements of the program's initial application and maintenance of status within the program. It addresses an issue for applicants where there is no additional parent to include on the application. It also eases the events that would trigger termination. This bill requires the SOS to attempt to contact the participant by telephone and email to resolve a mail delivery issue before terminating a Safe at Home participant's certification due to nondeliverable mail. It also extends from seven days to 30 days the time period in which a Safe at Home program participant must update their residential address or legal name change, before the SOS may terminate a program participant's certification.

This bill also modifies the authority of the SOS to terminate a participant on the grounds of having abandoned their domicile in California. It establishes a 60-consecutive-day grace period for participants that relocate to a state *with* an address confidentiality program. And, if the relocation is to a state *without* an address confidentiality program, the participant can remain enrolled in the program and have their mail forwarded to them for the remainder of their certification term.

These timelines provide participants the opportunity to relocate and either enroll in the new state's address confidentiality program or put in place other safety plans.

This bill also bolsters the protection of participants' location in several ways. First, by clarifying that intentional, public disclosure of a participant's home address, telephone number, or image is prohibited on the internet or any other public space when done with the intent to incite harm to the participant or to threaten the participant. This bill makes clear that disclosure alone may be considered a threat, depending on the totality of the circumstances.

Secondly, this bill provides that the fact that a participant is registered with the program creates a rebuttable presumption that disclosure of information about the participant's location and activities during the period of the registration: (1) would lead to the discovery of the participant's actual residential address or physical location; (2) would endanger the safety of the participant; and (3) is not authorized. This includes disclosure of the participant's current and past residential, work, or school addresses, and other location information.

The presumption affects the burden of producing evidence and may be rebutted by another party by clear and convincing evidence of the contrary. This presumption governs discovery requests, and a participant shall not be required to provide their residential address or other location information reasonably likely to lead to the discovery of these addresses unless ordered to do so by a court after the other party has rebutted the presumption. The author highlights cases where the opposing party has sought to use the discovery process as a way to gather information which will disclose the participant's actual residential address.

As for rebuttal, this bill specifies that the presumption may not be rebutted merely by another parent's desire to know the participant's address and requires the court to weigh participant safety. If the court finds the presumption is rebutted, it must provide its reasons on the record.

To avoid jeopardizing participants' custody of their children or related apprehension regarding applying for the program, this bill makes clear that certification in the Safe at Home program cannot be used as evidence that minor children in the participant's care are at risk.

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

According to the Senate Appropriations Committee, "The Secretary of State (SOS) reports one-time costs of up to $10,000 to develop regulations. The SOS anticipates that these costs will be absorbable within its existing budget."

SUPPORT: (Verified 8/8/22)

California Partnership to End Domestic Violence (source)
American Association of Doctors of Behavioral Health
Family Violence Appellate Project
Futures Without Violence
Gray's Trauma-Informed Care Services Corp.
Jewish Family Service LA
Los Angeles Center for Law and Justice
Sunita Jain Anti-Trafficking Initiative at Loyola Law School

OPPOSITION: (Verified 8/8/22)

None received

ARGUMENTS IN SUPPORT: Sunita Jain Anti-Trafficking Initiative at Loyola Law School writes: "Since court documents must be sent to the SOS's office and then forwarded to the participants', extended timelines are needed to ensure that participants receive their court paperwork with sufficient time to respond."

ASSEMBLY FLOOR: 68-0, 4/21/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Carrillo, Cervantes, Chen, Choi, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Gipson, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wilson, Wood, Rendon
NO VOTE RECORDED: Bennett, Bigelow, Calderon, Cooley, Cooper, Eduardo Garcia, Gray, Blanca Rubio, Wicks

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
8/10/22 14:57:26

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

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

CONSENT

Bill No: AB 1734
Author: Bennett (D)
Amended: 4/18/22 in Assembly
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 14-0, 6/14/22
AYES: Dodd, Nielsen, Allen, Becker, Borgeas, Bradford, Hertzberg, Hueso, Jones, Kamlager, Melendez, Portantino, Roth, Wilk
NO VOTE RECORDED: Glazer

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 65-0, 5/12/22 (Consent) - See last page for vote

SUBJECT: Alcoholic beverages: licensed premises: retail sales and consumption

SOURCE: Author

DIGEST: This bill allows the holder of a beer manufacturer's license and a winegrower's license that holds both of those licenses for a single premises to have alcoholic beverages that are authorized under those licenses at the same time anywhere within the premises, and to maintain a designated area where retail sales and consumption authorized under those licenses can occur, subject to specified conditions.

ANALYSIS:

Existing law:

1) Establishes the Department of Alcoholic Beverage Control (ABC) and grants it exclusive authority to administer the provisions of the ABC Act in accordance with laws enacted by the Legislature.

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

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

4) Prohibits, generally, a licensee to have upon its licensed premises any alcoholic beverages other than the alcoholic beverages for which the licensee is authorized to sell at the premises under their license, and provides that a violation of this prohibition is punishable as a misdemeanor. Existing law authorizes the Department of ABC to seize any alcoholic beverages found in violation of this prohibition.

5) Allows a licensed winegrower and a licensed small beer manufacturer, whose premises of production are immediately adjacent to each other, to share a common area in which the consumption of alcoholic beverages is permitted, under specified circumstances.

6) Allows on-sale licensees to share a common area under specified conditions, including that both on-sale licensees have joint responsibility.

7) Allows an alcohol manufacturer to share a common licensed area with multiple retailers, as specified.

This bill:

1) Authorizes a holder of a beer manufacturer's license and a winegrower's license that holds both of those licenses for a single premises to have alcoholic beverages that are authorized under those licenses at the same time anywhere within the premises and to maintain a designated area where retail sales and consumption authorized under those licenses may occur.

2) Provides that this privilege may only be exercised if all of the following apply:

    a) The licenses are held under identical ownership.
    b) The manufacturer's licenses are either both master licenses or both branch offices, and not a combination of a master license and a branch office.

c) For overlapping branch offices, only alcoholic beverages produced by the licensees are sold.

Background

Shared Common Areas. The Department of ABC issues licenses in California for the legal manufacture and sale of alcoholic beverages. There are more than 80 different types of ABC licenses authorized in California. Each license has its own set of privileges and obligations specific to the category of license involved. The privileges of a license are expressly limited to those conferred by the specific type of license involved for the premises and time period covered by the license.

In addition to issuing licenses for the sale of alcohol at restaurants, bars, businesses, and events, the Department of ABC also provides licenses to manufacturers of beer, wine, brandy, and spirits. Specifically, a licensed beer manufacturer with a Type 01 or Type 23 license is authorized to sell beer to consumers for consumption on or off the manufacturer's licensed premises. Similarly, a winegrower with a Type 02 license is authorized to sell wine to consumers for consumption on or off the manufacturer's licensed premises.

Under existing law, it is generally illegal for any licensed business to sell alcohol or have any type of alcohol on their premises that is not included in that license type. For example, a beer manufacturer's licensee would not be able to have wine on their licensed premises even if the licensee also has a winegrower's license. The law presumes that all alcoholic beverages found at licensed premises belong to the licensee, and therefore the person who obtained the license would be guilty of a misdemeanor.

While this is normally not a problem, given the fact that most alcohol licensees don't share their licensed premises with any other licensees, over the years new types of businesses have begun to include a number of alcohol licensees under the same roof. Many times, these businesses include a large common area where customers have the ability to enjoy food and beverages from a number of different vendors.

Unfortunately, given the various different licensing requirements, alcohol manufactures could be in violation of the ABC Act if a customer were to buy an alcoholic drink and take that drink into the common area. This not only creates frustration for the consumer, but also opens up these businesses for violations of the ABC Act.

This bill allows the holder of a beer manufacturer's license and a winegrower's license that holds both of those licenses for a single premises to have alcoholic beverages that are authorized under those licenses at the same time anywhere within the premises and to maintain a designated area where retail sales and consumption may occur.

ABC License Type 01 (Beer Manufacturer). A Type 01 license is required by beer manufactures in California that produce more than 60,000 barrels per year. The license authorizes the sale of beer to any person holding a license authorizing the sale of beer, and to consumers for consumption on or off the manufacturer's licensed premises. Without any additional licenses, may sell beer and wine, regardless of source, to consumers for consumption at a bona fide public eating place on the manufacturer's licensed premises or at a bona fide eating place contiguous to the manufacturer's licensed premises. Minors are allowed on the premises.

ABC License Type 02 (Winegrower). A Type 02 license authorizes the sale of wine and brandy to any person holding a license authorizing the sale of wine and brandy, and to consumers for consumption off the premises where sold. Authorizes the sale of all wines and brandies, regardless of source, to consumers for consumption on the premises in a bona fide eating place that is located on the licensed premises or on premises owned by the licensee that are contiguous to the licensed premises and operated by and for the licensee.

ABC License Type 23 (Small Beer Manufacturer - Brew Pub or Micro-brewery). A Type 23 license authorizes the same privileges and restrictions as a Type 01. A brewpub is typically a very small brewery with a restaurant. A micro-brewery is a small-scale brewery operation that typically is dedicated solely to the production of specialty beers, although some do have a restaurant or pub on their manufacturing plant.

Tied-house laws. The "tied-house" or "three-tier" system, separates the alcoholic beverage industry into three component parts of the manufacturer (the first tier), wholesaler (the second tier), and retailer (the third tier). The original policy rationale for this body of law was to: (1) promote the state's interest in an orderly market; (2) prohibit the vertical integration and dominance by a single producer in the marketplace; (3) prohibit commercial bribery and protect the public from predatory marketing practices; and, (4) discourage and/or prevent the intemperate use of alcoholic beverages.

Exceptions to these restrictions have been enacted throughout the years in those specific instances where the Legislature determined that the public's interests are protected.

Comments

Purpose of this bill. According to the author's office, "if there is one thing the pandemic has shown us is that giving small businesses more flexibility helps them succeed, particularly in these challenging times. Many of these types of restrictions are leftover from prohibition and need to be brought into the 21st Century. AB 1734 is a common sense measure that would allow multiple license holders, under identical ownership, to sell their beer and wine product together at their location."

Related/Prior Legislation

SB 314 (Wiener, Chapter 656, Statutes of 2021), among other things, allowed a licensed manufacturer to share a common licensed area with multiple licensed retailers, as specified.

AB 997 (Aguiar-Curry, Chapter 788, Statutes of 2017) allowed a licensed winegrower and a licensed small beer manufacturer, whose premises of production are immediately adjacent to each other, to share a common area in which the consumption of alcoholic beverages is permitted, under specified circumstances.

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

According to the Senate Appropriations Committee, staff notes that the Department of ABC's activities are funded by regulatory and license fees and generally the department does not receive support from the General Fund. New legislative mandates, although modest in scope, may in totality create new cost pressures and impact the department's operating costs and future budget requests.

SUPPORT: (Verified 8/8/22)

California Craft Brewers Association

OPPOSITION: (Verified 8/8/22)

None received

ARGUMENTS IN SUPPORT: According to the California Craft Brewers Association, "licensed alcoholic beverage manufacturers in California are

beginning to produce and sell more than one category of alcoholic beverages form the same licensed premises. For example, some traditional wineries and breweries are not beginning to manufacture and sell both beer and wine from the same property. Existing law does not adequately account for this co-production and sales phenomenon. Thus, considerable confusion over compliance has been created for both affected members of the industry and the state regulator ABC. This bill makes necessary and reasonable changes to the current statutes in order to minimize confusion and increase compliance for manufacturers that produce both wine and beer."

ASSEMBLY FLOOR: 65-0, 5/12/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Salas, Santiago, Seyarto, Smith, Stone, Ting, Villapudua, Voepel, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Boerner Horvath, Cunningham, Davies, Gray, Grayson, Kiley, Lackey, Lee, Quirk-Silva, Rodriguez, Blanca Rubio, Valladares, Ward

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
8/10/22 14:20:30

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

SENATE RULES COMMITTEE AB 1743
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1743
Author: McKinnor (D)
Amended: 6/29/22 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 7-0, 6/21/22
AYES: Wiener, Caballero, Cortese, McGuire, Roth, Skinner, Umberg
NO VOTE RECORDED: Bates, Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: Not relevant

SUBJECT: General plan: annual report

SOURCE: Author

DIGEST: This bill requires local planning agencies to include information in their annual progress report (APR) about the number of new housing units that received their certificate of occupancy in the prior year.

ANALYSIS:

Existing law:

1) Requires each city and county to provide, by April 1 of each year, an APR to the Department of Housing and Community Development (HCD) that includes the status of their general plan and progress in its implementation, including the progress in meeting its share of regional housing needs.

2) Establishes, pursuant to SB 35 (Wiener, Chapter 366, Statutes of 2017), a streamlined, ministerial approval process, not subject to CEQA, for certain infill multifamily affordable housing projects proposed in local jurisdictions that have not met their RHNA allocation.

3) Requires a local agency to ministerially approve, within 60 days, in an area zoned for residential or mixed-use, an application for a building permit to create an ADU and a Junior Accessory Dwelling Unit (JADU) as follows:

This bill requires the APR to include the number of housing units that have received a certificate of occupancy in the prior year, including the number of units constructed using SB 35 (Wiener, Chapter 366, Statutes of 2017), the number of ADUs constructed, and the number of ADU ordinances adopted.

Background

Existing law requires every city and county to prepare a housing element as part of its general plan. This is done every eight years by local governments located within the territory of an metropolitan planning organization (MPO) and every five years by local governments in rural non-MPO regions. Each community's fair share of housing is determined through the regional housing needs allocation (RHNA) process, which is composed of three main stages: (1) the Department of Finance and HCD develop regional housing needs estimates; (b) councils of government allocate housing within each region based on the estimates; and (c) cities and counties incorporate their allocations into their housing elements. The housing element must contain an inventory of land suitable for residential development, which is used to identify sites that can be developed for housing within the planning period and are sufficient to provide for the locality's share of the regional housing need for all income levels.

Each jurisdiction must submit an APR to HCD by April 1st of each year that documents its progress toward meeting its RHNA allocation and the plans outlined in its housing element.

Comments

1) *More data.* The Legislature has approved a number of measures, particularly in recent years, aimed at streamlining and expediting housing development. This bill would require APRs to include information about how many certificates of occupancy local agencies granted in the prior year. Local agencies would also be required to specify how many of those units were permitted through the streamlined, ministerial processes granted by SB 35 and by ADU law. By requiring this information, cities, counties, and the state will have a better understanding of development within their jurisdictions.

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

SUPPORT: (Verified 7/29/22)

None received

OPPOSITION: (Verified 7/29/22)

None received

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
8/3/22 14:26:42

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

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

THIRD READING

Bill No: AB 1744
Author: Levine (D)
Amended: 8/2/22 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 2-0, 5/31/22 (FAIL)
AYES: Ochoa Bogh, Wiener
NO VOTE RECORDED: Bradford, Kamlager, Skinner

SENATE PUBLIC SAFETY COMMITTEE: 3-0, 6/14/22
AYES: Ochoa Bogh, Skinner, Wiener
NO VOTE RECORDED: Bradford, Kamlager

ASSEMBLY FLOOR: 65-0, 3/17/22 - See last page for vote

SUBJECT: Probation and mandatory supervision: flash incarceration

SOURCE: Chief Probation Officers of California

DIGEST: This bill extends authorization to use flash incarceration for individuals on probation or mandatory supervision until January 1, 2028.

Senate Floor Amendments of 8/2/22 change the operative date of a related code section to reflect the extension of the sunset date for the authorization of flash incarceration.

ANALYSIS:

Existing law:

1) Defines "flash incarceration" as a period of detention in a county jail due to a violation of an offender's conditions of parole, post-release community supervision (PRCS), probation, or mandatory supervision. Provides that the length of the detention period may range between one and 10 consecutive days.

Specifies in cases where there are multiple violations in a single incident, only one flash incarceration booking is authorized and may range between one and 10 consecutive days. (Pen. Code, §§ 1203.35, subd. (b), 3000.08, subd. (e), 3454, subd. (c).)

2) Provides that in any case where the court grants probation or imposes a sentence that includes mandatory supervision, the county probation department is authorized to use flash incarceration for any violation of the conditions of probation or mandatory supervision if, at the time of granting probation or ordering mandatory supervision, the court obtains from the defendant a waiver to a court hearing prior to the imposition of a period of flash incarceration. Prohibits the denial of probation based on a refusal to sign a waiver for flash incarceration. (Pen. Code, § 1203.35, subd. (a)(1).)

3) Requires each county probation department to develop a response matrix that establishes protocols for the imposition of graduated sanctions for violations of the conditions of probation to determine appropriate interventions to include the use of flash incarceration. (Pen. Code, § 1203.35, subd. (a)(2).)

4) Requires a supervisor to approve the term of flash incarceration prior to the imposition of flash incarceration. (Pen. Code, § 1203.35, subd. (a)(3).)

5) Requires the probation department, upon a decision to impose a period of flash incarceration, to notify the court, public defender, district attorney, and sheriff of each imposition of flash incarceration. (Pen. Code, § 1203.35, subd. (a)(4).)

6) Provides that if the person on probation or mandatory supervision does not agree to accept a recommended period of flash incarceration, upon a determination that there has been a violation, the probation officer is authorized to address the alleged violation by filing a declaration or revocation request with the court. (Pen. Code, § 1203.35, subd. (a)(5).)

7) Provides that flash incarceration is not applicable to anyone put on probation for nonviolent drug possession, as specified. (Pen. Code, § 1203.35, subd. (c).)

8) Provides that the provisions related to flash incarceration for probationers and those on mandatory supervision sunsets on January 1, 2023. (Pen. Code, § 1203.35, subd. (d).)

9) Authorizes, as a general matter, the court to suspend a felony sentence and order the conditional and revocable release of the defendant in the community to probation supervision. (Pen. Code, § 1203.)

10) Provides if any probation officer, parole officer, or peace officer has probable cause to believe that a supervised person is violating any term or condition of his/her supervision, the officer may, without a warrant and at any time until the final disposition of the case, rearrest the supervised person and bring the person before the court for further disposition such as modification, revocation, or termination of the person's supervision, as specified. (Pen. Code, § 1203.2.)

11) Gives the sentencing judge discretion to impose two types of sentences to county jail. Provides the court may commit the defendant for the entire term allowed by law, or the court may impose a "split sentence" in which part of the term is served in custody and the remaining part of the term is comprised of a period of mandatory supervision. Provides that the presumption is that the defendant receive a split sentence, unless the court finds that, in the interests of justice, it is not appropriate in a particular case. (Pen. Code, §1170, subd. (h)(5).)

12) Provides that the traditional procedures used to modify probation as well as those used for violations of probation are applicable to mandatory supervision. (Pen. Code, §1170, subd. (h)(5)(B).)

This bill extends authorization for the use of flash incarceration for individuals on probation or mandatory supervision until January 1, 2028.

Background

AB 109 (Committee on Budget, Chapter 15, Statutes of 2011) realigned responsibility of some offenders from the state to the counties. Specifically, offenders convicted of non-violent and non-serious felonies were rehoused in the state's county jails. Additionally, supervision of this population was transferred from CDCR's Division of Adult Parole Operations to county probation departments and was named post-release community supervision. As part of their duty to supervise the PRCS population, probation departments were authorized to impose newly created intermediate sanctions, including flash incarceration, for violations of supervised release. Flash incarceration is defined as a period of detention in a county jail due to a violation of an offender's conditions of parole, PRCS, probation, or mandatory supervision that may range between one and 10 consecutive days. (Pen. Code, §§ 3000.08, subd. (e), 1203.35, subd. (b), 3455, subd. (c).)

The Legislative Analyst's Office explained the context and reasoning behind flash incarceration as part of realignment:

> [T]he realignment legislation provided counties with some additional options for how to manage the realigned offenders. . . . [T]he legislation allows county probation officers to return offenders who violate the terms of their community supervision to jail for up to ten days, which is commonly referred to as "flash incarceration." The rationale for using flash incarceration is that short terms of incarceration when applied soon after the offense is identified can be more effective at deterring subsequent violations than the threat of longer terms following what can be lengthy criminal proceedings.

(Legislative Analyst's Office, *The 2012-13 Budget: The 2011 Realignment of Adult Offenders—An Update* (Feb. 22, 2012), pp. 8-9.)

The intent of intermediate sanctions, such as flash incarceration, is to hold offenders accountable for violating the conditions of supervision while creating shorter disruptions from work, home, or programming which often result from longer term revocations. Because flash incarceration had been used successfully by probation departments on the PRCS population, SB 266 (Block, Chapter 706, Statutes of 2016) extended the use of flash incarceration to individuals granted probation or placed on mandatory supervision. At the time of its enactment, SB 266 drew opposition based on concerns that there would be a lack of due process afforded to individuals on probation or mandatory supervision with respect to the use of flash incarceration. Proponents of the bill argued that the sanction is less punitive than initiating a formal revocation proceeding which takes weeks or months, and during which time the probationer or supervisee is incarcerated in jail.

SB 266 sought to address the due process concerns in several ways. First, an offender has to agree to the use of flash incarceration as a condition of probation or mandatory supervision at the time probation is granted or mandatory supervision is ordered. Additionally, a defendant may refuse the imposition of flash incarceration at the time a condition of release is violated, and instead request a revocation hearing in front of a judge. Finally, the bill specifically stated that a refusal to sign a waiver cannot be used as a reason to deny probation.

The existing code section that authorizes the use of flash incarceration for individuals on probation or mandatory supervision sunsets on January 1, 2023. This bill seeks to extend the sunset until January 1, 2028.

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

SUPPORT: (Verified 8/2/22)

Chief Probation Officers of California (source)
AFSCME Local 685
AFSCME Local 1587
AFSCME Local 1967
Arcadia Police Officers' Association
Burbank Police Officers' Association
California Coalition of School Safety Professionals
California State Association of Counties
California State Sheriffs' Association
Claremont Police Officers' Association
Corona Police Officers' Association
Culver City Police Officers' Association
Fullerton Police Officers' Association
Inglewood Police Association;
Judicial Council of California
Los Angeles Schools Police Association
Newport Beach Police Association
Palos Verdes Police Officers' Association
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers' Association
Riverside Sheriffs' Association
Santa Ana Police Officers' Association
Upland Police Officers' Association

OPPOSITION: (Verified 8/2/22)

California Attorneys for Criminal Justice

ARGUMENT IN SUPPORT: According to this bill's sponsor, the Chief Probation Officers of California:

> Probation utilizes graduated responses to address an individual's behavior and violations of the terms and conditions of probation. Graduated responses are structured, incremental, and proportional and intended to reflect research on the effectiveness of swift and certain responses to addressing behavior while continuing to support rehabilitation. Similarly, probation utilizes incentives and rewards which are effective in enhancing an individual's motivation to

change behavior, engage in treatment, comply with court ordered conditions, and make sustainable changes.

Flash incarceration is one tool used as a graduated response that is used in instances of violations of court ordered probation terms and is a short period of detention in county jail, not exceeding 10 days. The length of the detention period can range from one to ten consecutive days. Probation understands change is a process, and in the vast majority of cases, it is not immediate. Therefore, violations of an individual's agreed upon terms of probation are often part of an individual's change process and probation uses options short of using flash or filing a petition for revocation when at all possible.

Without flash incarceration as an intermediate response to violations that rise to the level of bringing someone back before the court, the existing mechanism to address these types of violations of probation is to initiate formal revocation court proceedings which is a much lengthier process and can result in longer periods of custody. However, graduated responses, like flash, balance the need to hold individuals accountable for violations of their conditions of supervision while focusing on shorter disruptions from work, home, or programing which can result from longer term formal revocations, thereby keeping more continuity in rehabilitative services and supports.

AB 1744 would allow for the continued ability to use flash incarceration as a graduated response for individuals on felony probation and mandatory supervision that was previously authorized via AB 597 (Levine, Statutes of 2019, Chapter 44) and SB 266 (Block, Statutes of 2015, Chapter 706). Further, AB 1744 would maintain current requirements in statute to allow an individual to decline flash incarceration and have a court revocation hearing as well as includes notification for example to the court and public defender upon imposition of flash incarceration.

ARGUMENT IN OPPOSITION: The California Attorneys for Criminal Justice writes:

We acknowledge that the use of flash incarcerations has been a tool of law enforcement supervision to punish people who have been suspected of violating their terms of probation or community supervision. This tool provides the supervising officer to allege a violation of condition, offer the offender to admit a violation of condition and serve 10 days in county jail as an immediate punishment. The person found in violation is held in custody, waives his/her right to a court hearing, waives his right to counsel, and agrees

to not challenge the alleged violation outside of any court proceeding or review. For some offenders this is an option they seek to agree to.

Flash incarcerations were implemented … temporarily … to observe its use and effectiveness of community supervision of people on probation or community released supervision. We have experienced its use regularly across all counties in the state. While it has been an accepted method for some supervised persons to resolve their alleged violation in a timely manner, we also must report that its indefinite use should not be implemented at this time because the laws of incarceration without review are in a flux of change at this time including incarceration and bail reforms that no longer permit immediate incarceration for some alleged violations of probation or community supervision, and some prosecutors have been asking clients to prematurely waive any rights to hearings on violations including accepting flash incarcerations as a punishment in order to reach agreements on plea bargaining. We feel that plea bargaining should not include an agreement to waive a person's due process rights to fair hearings if violations are alleged in the future.

In an effort to acknowledge the continued desire of policy makers to offer flash incarcerations to resolve alleged violations, while protecting the due process rights of those accused, and avoid a conflict in law with current law reforms, we propose that this bill be amended by: extending the current law to January 1, 2024, providing time to work with new reform laws that avoids permanent conflicts in the law related to reform and custody status' for alleged violations of conditions, and adding language to the current law that prohibits plea bargaining a waiver of rights to due process hearings for alleged future violations. Lastly, we recommend that language be added to this statute stating that a person's due process and acceptance of a flash incarceration with admission of violation cannot be used as a basis to deny expungement relief under Penal Code Sections 1203.4 so that their willingness to waive counsel and hearing rights is not unfairly used against them in the future when they have rehabilitated successfully and are otherwise eligible this relief.

ASSEMBLY FLOOR: 65-0, 3/17/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Carrillo, Cervantes, Chen, Choi, Cooper, Cunningham, Megan Dahle, Daly, Davies, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kiley, Lackey, Levine, Low, Maienschein, Mathis, Mayes, McCarty,

Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Bryan, Calderon, Cooley, Flora, Cristina Garcia, Kalra, Lee, Quirk, Ramos, Salas, Seyarto

Prepared by: Stephanie Jordan / PUB. S. /
8/3/22 14:26:43

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

SENATE RULES COMMITTEE AB 1747
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1747
Author: Quirk (D)
Introduced: 1/31/22
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 12-0, 6/13/22
AYES: Roth, Melendez, Bates, Becker, Dodd, Eggman, Hurtado, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Archuleta, Jones

SENATE APPROPRIATIONS COMMITTEE: 5-1, 6/27/22
AYES: Portantino, Bates, Bradford, Kamlager, Wieckowski
NOES: Jones
NO VOTE RECORDED: Laird

ASSEMBLY FLOOR: 76-0, 5/25/22 - See last page for vote

SUBJECT: Contractors: disciplinary action

SOURCE: Contractors State License Board

DIGEST: This bill provides that willful or deliberate disregard of any state or local law relating to the issuance of building permits constitutes a cause for disciplinary action against a licensed contractor, and subjects certain disciplinary actions to a civil penalty, as specified.

ANALYSIS:

Existing law:

1) Establishes the Contractors State License Board (CSLB) to enforce and administer the Contractors State License Law (license law). (Business and Professions Code (BPC) § 7000 *et seq*.)

2) Requires the CSLB to appoint a Registrar of Contractors who is the Executive Officer of the CSLB and carries out the administrative duties of the license law. (BPC § 7011(a)(b))

3) Requires the Registrar to issue a citation to a person whom, upon inspection or investigation, either upon complaint or otherwise, the Registrar has probable cause to believe is acting in the capacity of or engaging in the business of a contractor or salesperson within this state without having a license or registration in good standing and is not otherwise exempted from the law. (BPC § 7028.7(a))

4) Authorizes CSLB to assess a civil penalty up to $30,000 for the willful or deliberate disregard of the various state building, labor and safety laws. (BPC § 7099.2)

This bill:

1) Adds willful or deliberate disregard of various state building, labor, and safety laws that exist outside of the license law as a cause for disciplinary action of a licensed contractor by CSLB.

2) Authorizes the CSLB to assess a civil penalty up to $30,000 for the willful or deliberate disregard of the various state building, labor and safety laws.

3) Makes three minor and technical corrections.

Background

Contractors and the CSLB. The CSLB is responsible for the implementation and enforcement of the laws and regulations related to the licensure, practice and discipline of the construction industry in California. All businesses and individuals who construct or alter, or offer to construct or alter, any building, highway, road, parking facility, railroad, excavation, or other structure in California must be licensed by the CSLB if the total cost, including both labor and materials, of one or more contracts on the project is $500 or more.

Building Permits. Local jurisdictions require building permits for various construction related projects to ensure compliance with the California building standards code, and the various local jurisdiction's building and construction requirements. The permit is designed to help ensure that construction related projects meet the required standards in order to ensure the safety and integrity of construction-related projects. There are often exemptions to permit requirements; which vary by local jurisdiction.

Current law (BPC § 7110) does not include a specific reference to violations of any state or local law relating to the issuance of a building permit as a reason for the CSLB to take certain disciplinary actions against a licensed contractor who violates specified laws. However, the CSLB has recognized for years that a violation of obtaining required building permits is a reason for disciplinary action. This bill affirmatively states, and makes it explicitly clear that a violation of local building permits requirements is a cause for disciplinary action, and further enhances its disciplinary authority for these cases by adding the violations specified in BPC Section 7110 to the list of violations that the CSLB may assess a civil penalty for, up to $30,000.

As noted by the CSLB, the impetus for this bill arose out of CSLB consultation with the California Energy Commission on ways to increase compliance with Title 24 clean energy and quality installation standards for heating, ventilating, and air conditioning (HVAC) equipment. Construction projects not installed to code place owners at a risk, and in the case of HVAC systems, prevents consumers from achieving energy savings and compromises California's building decarbonization efforts. The workgroup recommended CSLB disciplinary authority be expanded with higher consequences for contractors who fail to pull permits that meet CEC quality HVAC installation standards. This bill makes seeks to ensure compliance with current building permit requirements for all contractors, including for HVAC system work by contractors, and ensures that violations of permit requirements can result in a civil penalty, up to $30,000.

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

According to the Senate Appropriations Committee, unknown increase in fine revenue for the CSLB, likely in the low millions of dollars annually, to be deposited in the Contractors License Fund. The CSLB does not anticipate additional enforcement workload, as this bill increases the maximum fine amount the CSLB can assess for specified violations but does not change the amount of time the board would take to issue civil penalties or conduct any associated enforcement activity.

SUPPORT: (Verified 6/28/22)

Contractors State License Board (source)
American Subcontractors Association-California
California Building Officials
California State Association of Electrical Workers
California State Pipe Trades Council
Campaign for Clean Air

City of Menifee
Flasher Barricade Association
Los Angeles County Solid Waste Management Committee/integrated Waste Management Task Force
Sheet Metal Workers' Local Union No. 104
Western Electrical Contractors Association
Western States Council Sheet Metal, Air, Rail and Transportation

OPPOSITION: (Verified 6/28/22)

None received

ARGUMENTS IN SUPPORT: Supporters generally note that this bill provides the CSLB with necessary enforcement tools, provides increased penalties, enhances public safety, and protects worker safety.

ASSEMBLY FLOOR: 76-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
6/28/22 14:28:10

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

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

THIRD READING

Bill No: AB 1749
Author: Cristina Garcia (D)
Amended: 8/9/22 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-1, 6/29/22
AYES: Allen, McGuire, Skinner, Stern, Wieckowski
NOES: Dahle
NO VOTE RECORDED: Bates

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 48-18, 5/26/22 - See last page for vote

SUBJECT: Community emissions reduction programs: toxic air contaminants and criteria air pollutants

SOURCE: Author

DIGEST: This bill updates requirements of AB 617 (Cristina Garcia, Chapter 136, Statutes of 2017) to permit an additional year for completion of community emissions reduction programs (CERPs); requires the Air Resources Board (ARB) to identify specified emissions reduction measures; and enhances reporting by local air districts.

Senate Floor Amendments of 8/9/22 require an air district to obtain agreement with all the groups that statutorily are required to be engaged in the creation of the CERP in order to delay implementation of a CERP by a year.

ANALYSIS:

Existing law:

1) Sets, through the Federal Clean Air Act (FCAA) and its implementing regulations, National Ambient Air Quality Standards (NAAQS) for six criteria

pollutants, designates air basins that do not achieve NAAQS as nonattainment, allows only California to set emissions standards stricter than the federal government, and requires states with nonattainment areas to submit a State Implementation Plan (SIP) detailing how they will achieve compliance with NAAQS. (42 U.S.C. §7401 et seq.)

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

3) Requires, subject to the powers and duties of ARB, local air pollution control districts and air quality management districts (air districts) to adopt and enforce rules and regulations to achieve and maintain the state and federal ambient air quality standards in all areas affected by emission sources under their jurisdiction, and to enforce all applicable provisions of state and federal law. (HSC §40001)

4) Requires air districts to develop attainment plans detailing how they will attain and maintain state air quality standards, and submit those plans to ARB. (HSC §40910 et seq.)

5) Requires, under AB 617 (Christina Garcia, Chapter 136, Statutes of 2017), ARB to prepare a statewide strategy to reduce emissions of toxic air contaminants (TACs) and criteria pollutants in communities affected by a high cumulative exposure burden, and update the strategy every five years. (HSC §44391.2)

6) Specifies criteria to be included in the strategy for the development of CERPs including:

   a) An assessment and identification of communities with high cumulative exposure burdens for TACs and criteria air pollutants, prioritizing disadvantaged communities (DACs) and sensitive receptor locations;

   b) A methodology for assessing and identifying the contributing sources or categories of sources, including stationary and mobile sources, and an estimate of their relative contribution to elevated exposure to air pollution in impacted communities;

   c) An assessment of whether a district should update and implement the risk reduction audit and emissions reduction plan for any facility to achieve

emission reductions commensurate with its relative contribution, if the facility's emissions significantly contribute to a material impact on a sensitive receptor location or DAC; and

d) An assessment of the existing and available measures for reducing emissions from the contributing sources or categories of sources.

7) Requires ARB to select locations around the state for preparation of CERPs, concurrent with the statewide strategy, with additional locations selected annually thereafter, as appropriate.

8) Requires a district, within one year of ARB selection, to adopt a CERP to achieve emissions reductions using cost-effective measures identified by ARB. The CERP must include emissions reduction targets, specific reduction measures, an implementation schedule, and an enforcement plan. The CERP must be reviewed and approved by ARB, be supported by the concurrent development of mobile source elements by ARB, and result in emission reductions based on monitoring and other data.

9) Requires districts to prepare an annual report summarizing the results and actions taken to further reduce emissions pursuant to a CERP.

10) Requires ARB to provide grants to community-based organizations for technical assistance and to support participation in implementation of a CERP.

This bill:

1) Authorizes an air district, with the agreement of ARB and individuals, community-based organizations, affected sources, and local governmental bodies in the affected community, to take up to one additional year to adopt a CERP.

2) Requires an air district's annual report to include updates to the CERP made to ensure consistency with updates to ARB's statewide strategy.

3) Requires ARB's statewide strategy, the Community Air Protection Blueprint, to identify measures to reduce criteria air pollutants and TACs.

4) Requires each air district with a population over one million to make available in an easily identifiable location on the district's internet website all permits issued by the district for stationary sources of criteria air pollutants or TACs.

Background

1) *National Ambient Air Quality Standards (NAAQS) and attainment.* The FCAA protects public health and environmental quality by limiting and reducing pollution from various sources. Under the FCAA, the US EPA establishes NAAQS that apply to outdoor air throughout the country. In 1969 and 1971, ARB set the first air quality standards for ozone, Particulate Matter (PM), oxides of nitrogen (NOx), oxides of sulfur (SOx), and carbon monoxide due to their negative impacts on public health above specified concentrations. The federal government followed suit and set NAAQS for six "criteria pollutants." These included ground-level ozone, PM, NOx, SOx, carbon monoxide, and added lead. Now, the US EPA reviews each NAAQS at five-year intervals to ensure that the standards are based on the most recent scientific information, and periodically issue more health- protective standards. Regions that do not meet the national standards for any one of the standards are designated "nonattainment areas."

2) *Community Air Protection Program.* ARB established the Community Air Protection Program (CAPP) in response to AB 617 in order to reduce exposure in communities most impacted by air pollution. Under CAPP, ARB has selected 13 communities for the development of additional air pollution monitoring programs or the development of CERPs. After selection by ARB these air districts must form local steering committees, using an open and transparent nomination process, that is composed of community members who live, work, or own businesses within each community. These community steering committees then work with the air district and ARB to develop a CERP designed to focus on health-based air quality objectives for reducing emissions and exposure caused by local sources within and directly surrounding the selected communities. As a part of these CERPs, communities and air districts can benefit from the $704 million appropriated by the Legislature since 2017 for Community Air Protection Incentives. These incentives are directed by local air districts to put advanced technologies to work for cleaner air in the California communities that are most heavily impacted by disproportionate levels of air pollution.

3) *Having pollutant level above a NAAQS can lead to severe health impacts*. The NAAQS are the result of an intensive science assessment process and risk exposure assessments to determine levels that will protect human and environmental health. When not adequately controlled, air pollution has dire consequences on the health and safety of both people and the environment. Poor air quality causes the lungs to constrict, resulting in wheezing, shortness

of breath and chest tightness, especially during exercise or physical activity. Depending on exposure, air pollution alone can cause an increased risk of cardiovascular and respiratory illness, cancerous tumors, birth defects, developmental disorders, central nervous system damage, epilepsy, dementia, and premature death.

4) *Health impacts from air pollution are often concentrated in disadvantaged communities*. The health burden of air pollution depends on several key factors including exposure to the pollutant, susceptibility to its effects, access to healthcare, and psychological stress. Because of redlining and other discriminatory practices and policies people of color are disproportionality located in areas closer to sources of air pollution. There is also evidence that having a low income also increases risk from air pollution due to having fewer resources to relocate away from sources as well as less access to quality and affordable healthcare.

Comments

Purpose of this bill. According to the author, "A study released March 9, 2022 analyzed the effects of the discriminatory practice of redlining, which drove low-income communities and communities of color into housing surrounding or very near high polluting sources, and found that residents in those areas suffer from disproportionately high levels of fine particulate air pollution (PM2.5) which is a known factor in early death. In response to this problem, I authored AB 617 in 2017, which injects the community into the process of how to clean up our air in these communities. However, after several years of the program, there are many issues to be worked out through legislation. AB 1749 provides transparency in permitting by providing said permits online and gives another year for CERP approval if the community agrees, among other things. The way we address the health of people living in frontline communities needs to shift and AB 617 started the process. AB 1749 is continuing to build upon my previous work in this space."

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

SUPPORT: (Verified 8/10/22)

California Air Pollution Control Officers Association
Californians for Pesticide Reform
Central California Asthma Collaborative
Central Valley Air Quality Coalition
Little Manila Rising

Madera Coalition for Community Justice
National Association of Social Workers, California Chapter
Pesticide Action Network of North America
Plug in America
South Coast Air Quality Management District

OPPOSITION: (Verified 8/10/22)

California Manufacturers and Technology Association
Western States Petroleum Association

ASSEMBLY FLOOR: 48-18, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Choi, Daly, Gipson, Gray, Grayson, Mayes, McCarty, O'Donnell, Quirk-Silva, Ramos, Villapudua

Prepared by: Jacob O'Connor / E.Q. / (916) 651-4108
8/10/22 14:57:27

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

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THIRD READING

Bill No: AB 1758
Author: Aguiar-Curry (D)
Amended: 3/29/22 in Assembly
Vote: 27 - Urgency

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 12-0, 6/6/22
AYES: Roth, Melendez, Archuleta, Bates, Becker, Dodd, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Eggman, Hurtado

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-0, 5/5/22 (Consent) - See last page for vote

SUBJECT: Board of Behavioral Sciences: marriage and family therapists: clinical social workers: professional clinical counselors: supervision of applicants for licensure via videoconferencing

SOURCE: Board of Behavioral Sciences

DIGEST: This bill permits, until January 1, 2026, required weekly supervision via two-way, real-time videoconferencing in all settings, if the supervisor makes an assessment that it is appropriate, for purposes of meeting requirements for licensure as a Licensed Marriage and Family Therapist (LMFT), Licensed Clinical Social Worker (LCSW), or a Licensed Professional Clinical Counselor (LPCC).

ANALYSIS:

Existing law:

1) Establishes the Board of Behavioral Sciences (BBS) to administer the LMFT Act, the Licensed Educational Psychologist Practice Act, the LCSW Practice Act, and the LPCC Act. (Business and Professions Code (BPC) § 4990.12)

2) Requires an applicant for licensure or registration as an LPCC, to complete a master's or doctoral degree that is counseling or psychotherapy in content, and meets specified coursework requirements. (BPC § 4999.32)

3) Requires all applicants for LMFT and LPCC to have an active associate registration with the BBS, as specified. (BPC §§ 4980.43, 4999.46)

4) Specifies that direct supervisor contact must include at least one hour of direct supervisor contact, as defined, in each week for which experience credited in each work setting for purposes of licensure as an LMFT, LPCC and LCSW. (BPC §§ 4980.32(a)(1), 4996.23.1, 4999.46.2(a)(1))

5) Requires each LCSW applicant to complete 3,000 post master's degree hours of supervised experience related to the practice of clinical social work, as specified. (BPC § 4996.23)

This bill:

1) Revises, until January 1, 2026, supervision requirements for purposes of licensure for associates seeking licensure as an LMFT, LCSW, and LPCC as follows:

   a) Defines "face-to-face contact" for purposes of supervision to mean in-person contact, contact via two-way, real time videoconferencing, or some combination of these.

   b) Requires, within 60 days of the commencement of supervision, a supervisor to conduct a meeting with the supervisee during which the supervisor must assess the appropriateness of allowing the supervisee to receive supervision via two-way, real time video conferencing. The assessment of appropriateness must include, but is not limited to include, the preferences of both the supervisee and supervisor, and the privacy of the locations of the supervisee while supervision is conducted.

   c) Requires the supervisor to document the results of the assessment and not utilize supervision via two-way, real-time videoconferencing if their assessment finds it is not appropriate.

2) States that this bill is an urgency necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution

Background

BBS and Supervision Requirements for Obtaining Licensure. The BBS licenses and regulates LCSWs, LMFTs, Licensed Educational Psychologists and LPCCs. Additionally, the BBS registers Associate Clinical Social Workers (ASWs), Associate Marriage and Family Therapists (AMFTs), and Associate Professional Clinical Counselors (APCCs).

Under current law, the pathway to licensure for LMFTs, LCSWs and LPCCs is complex and includes both a qualifying degree and accumulated hours of supervised work experience. Specifically, in order to qualify for licensure, applicants for those license types must obtain at a minimum, a master's degree, and two years of supervised work experience, which consists of at least 3,000-hours. Within the 3,000-hour requirement for supervised experience, there are limitations on the types of hours, which count towards the supervision requirement and specified requirements for licensees who act in a supervisor capacity. In addition, supervised work experience hours can only be acquired in certain practice settings. Current law permits associates working in exempt settings (government entity, a school, college or university, or an institution that is a non-profit) to be supervised via videoconferencing. However, that is not the case in all settings.

COVID and Emergency Waivers. On, March 30, 2020, the Governor issued Executive Order N-39-20 authorizing the Director of DCA to waive any statutory or regulatory professional licensing relating to healing arts– including requirements related to the education, training, and experience necessary to obtain licensure as a LMFT, LPCC, and LCSW. One specific waiver, DCA-22-215, waives the current requirement for an AMFT, ASW, and APCC to obtain their required weekly direct supervisor contact via videoconferencing if they are working only in an exempt setting.

Although the waiver was temporary and meant to address the short-term issues related to stay-at-home orders and the need to social distance during the COVID-19 pandemic, the BBS, the sponsor of this bill, noted benefits of the waiver. The current waiver is set to expire on June 30, 2022. Because of the current waiver ending, this bill is an urgency measure to continue to allow required weekly supervision via two-way, real-time videoconferencing in *all* settings, if the supervisor makes an assessment that this is appropriate. In addition, this bill sunsets the supervision via videoconferencing in all settings on January 1, 2026, to allow the BBS an opportunity to review the usage and success of the revised supervision options to ensure it is appropriate, if problems exist or if changes are warranted.

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

SUPPORT: (Verified 6/21/22)

Board of Behavioral Sciences (source)
California Alliance of Child and Family Services
California Association of Marriage and Family Therapists
California Council of Community Behavioral Health Agencies
California Dialysis Council
County Behavioral Health Directors Association
Fresenius Medical Care North America
Govern for California
Kaiser Permanente
Lyra Health
National Association of Social Workers, California Chapter

OPPOSITION: (Verified 6/21/22)

None received

ARGUMENTS IN SUPPORT: Supporters note that the waiver provided many benefits and support its continuation.

ASSEMBLY FLOOR: 61-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Friedman, Gallagher, Cristina Garcia, Gipson, Levine, McCarty, Medina, Villapudua, Waldron, Wicks

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
6/22/22 14:42:27

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

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THIRD READING

Bill No: AB 1759
Author: Aguiar-Curry (D)
Introduced: 2/2/22
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 11-0, 6/6/22
AYES: Roth, Archuleta, Bates, Becker, Dodd, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Melendez, Eggman, Hurtado

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-0, 5/5/22 (Consent) - See last page for vote

SUBJECT: Board of Behavioral Sciences: licensees and registrants: marriage and family therapy, educational psychology, clinical social work, and professional clinical counseling

SOURCE: Board of Behavioral Sciences

DIGEST: This bill requires, on or after January 1, 2023, applicants for licensure, as a Licensed Marriage and Family Therapist (LMFT), Licensed Clinical Social Worker (LCSWs), Licensed Educational Psychologist (LEP), and Licensed Professional Clinical Counselor (LPCC), and current licensees before their first renewal after January 1, 2023, to complete three-hours of training or coursework in the provision of mental health services via telehealth and revises the requirements for registrants to take and pass the California Law and Ethics Examination (CLEE) every renewal period, as specified.

ANALYSIS:

Existing law:

1) Establishes the Board of Behavioral Sciences (BBS) to administer the LMFT Act, the LEP Practice Act, the LCSW Practice Act, and the LPCC Act. (Business and Professions Code (BPC) § 4990.12)

2) Requires LMFTs, LEPs, LCSWs, and LPCC to complete no less than 36 hours of Continuing Education (CE) in each renewal cycle, as specified. (BPC §§ 4980.54(c), 4989.34(a), 4996.22(a)(1), 4999.76(a))

3) Requires specified applicants and registrants under the BBS to obtain a passing score on the board-administered CLEE in order to qualify for licensure and registrant renewal. (BPC §§ 4980.399, 4992.09, 4999.55)

4) Includes an associate professional clinical counselor in the definition of "health care provider" for purposes of state laws governing telehealth. (BPC § 2290.5)

This bill:

1) Adds a clinical counselor trainee to the definition of "health care provider" for purposes of providing telehealth services.

2) Requires an applicant for licensure as a LMFT, LEP, LCSW, and LPCC to show, as part of the application, that they have completed a minimum of three-hours of training or coursework in the provision of mental health services via telehealth, which must include law and ethics related to telehealth and must be met in one of the following ways:

   a) Obtained as part of their qualifying graduate degree program. To satisfy this requirement, the applicant must submit to the board a written certification from the registrar or training director of the educational institution or program from which the applicant graduated stating the coursework required is included within the institution's curriculum required for graduation at the time the applicant graduated, or within the coursework that was completed by the applicant; or,

   b) Obtained by completing a CE course, as specified, which the applicant must submit a certification of completion to the BBS.

3) Requires, as a one-time requirement, a licensee before the time of their first renewal after July 1, 2023, or an applicant for reactivation or reinstatement to active license status on or after July 1, 2023, to complete a minimum of three-hours of training or coursework in the provision of mental health services via telehealth, which must include law and ethics related to telehealth, as specified.

4) Requires the proof of compliance with 3) above be certified under penalty of perjury that they are in compliance and must be retained for submission to the BBS upon request.

5) Prohibits the BBS from issuing a subsequent registration number unless the applicant has passed the CLEE.

6) Requires a MFT and PCC registrant to complete a minimum of three-hours of CE on law and ethics from a BBS-approved provider during each registrant renewal period regardless of whether they have passed the CLEE, instead of requiring a registrant to take a 12-hour CE course on law and ethics if they failed the CLEE, as specified.

7) Prohibits the BBS from renewing any registration unless the registrant certifies under penalty of perjury that they have completed not less than three-hours of CE on the subject of California law and ethics during the preceding year.

8) Clarifies that associate clinical social workers, associate professional clinical counselors, and clinical counselor trainees may provide services with clients via telehealth.

9) Makes other technical, clarifying and conforming changes.

Background

Licensure Requirements for Applicants for LMFTs and LPCCs and LCSWs. To be eligible for licensure as a LMFT, LCSW, or LPCC, an individual must obtain a master's or doctoral degree from an accredited institution, gain supervised hours of experience and take and pass a law and ethics examination along with an industry-specific licensing examination. While individuals are working towards licensure and gaining required hours of supervised experience, they must register with the BBS as a registrant. Current law requires registrants to take the CLEE each annual renewal period. If they do not pass the CLEE, they are still permitted to renew the registration as long as they complete a minimum 12-hour CE course in California law and ethics. The BBS has noted that this current requirement has led to confusion for registrants, courses are taken at the wrong time to allow for registration renewal and that the cost may be challenging for participants. The BBS noted that its licensing committee determined that instead, it would better serve the public for all registrants to take a three-hour CE course on law and ethics. This bill simply revises the CE requirement for those that do not pass the CLEE, to instead require all registrants to take and pass a three-hour CE course in law and ethics each renewal period. Registrants are still required to take and pass the CLEE in order to qualify for licensure. Further, this bill will prohibit the BBS from renewing the registration unless the board receives a form certified under penalty of perjury, that the registrant has completed the required law and ethics coursework.

Telehealth Services. Telehealth is the delivery of health-related services and information via telecommunications technologies. Telecommunication technologies used in telehealth provide support to long distance clinical health care, patient education and public health and health information. Current law requires a healthcare provider to verbally inform the patient that telehealth may be used and obtain verbal consent from the patient. In order to provide telehealth services, an individual must be one of the licensed healing arts professionals licensed under Division 2, in the BPC. Current law requires PCC associates to complete a specified number of supervised hours to qualify for licensure and permits the use of telehealth to count as supervised experience for purposes of licensure; however, current law does not specifically include PCC trainees in the definition of health care provider for purposes of providing telehealth services. This bill will add PCC trainees functioning pursuant to the supervised experience requirements to the definition of a "health care provider" for purposes of providing services via telehealth.

Current law already permits licensees under the BBS, along with associate MFTs, PCCs and CSWs and MFT trainees (and proposed by this bill PCC trainees) to provide services via telehealth. In response to the growth of telehealth use, BBS-staff conducted a survey of supervisors, school program, associates and students regarding various topic surrounding telehealth, including, but not limited to, the use of telehealth, supervision requirements for telehealth, benefits or challenges of telehealth and whether or not they plan to keep using telehealth. As a result of the survey and responses, the BBS telehealth committee recommended to the full board there be a one-time required training or coursework regarding the delivery of mental health services to clients via telehealth. This bill will require all applicants for licensure, as well as current licensees, to complete three hours of coursework or training in the provision of mental health services via telehealth, including law and ethics related to telehealth, as a one-time requirement. This requirement could be satisfied if it has been included as coursework in the applicant's qualifying graduate degree program, or as a separate CE coursework.

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

SUPPORT: (Verified 6/21/22)

Board of Behavioral Sciences (source)
California Association of Marriage and Family Therapists
California Council of Community Behavioral Health Agencies
Govern for California
Kaiser Permanente

National Association of Social Workers, California Chapter

OPPOSITION: (Verified 6/21/22)

None received

ARGUMENTS IN SUPPORT: Supporters note their support for the use of telehealth and the required law and ethics coursework requirements.

ASSEMBLY FLOOR: 61-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Friedman, Gallagher, Cristina Garcia, Gipson, Levine, McCarty, Medina, Villapudua, Waldron, Wicks

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
6/22/22 14:42:27

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

SENATE RULES COMMITTEE AB 1765
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1765
Author: Nazarian (D)
Amended: 6/9/22 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/15/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 62-0, 5/25/22 - See last page for vote

SUBJECT: Marks-Roos Local Bond Pooling Act of 1985: rate reduction bonds: review

SOURCE: Author

DIGEST: This bill allows the California Pollution Control Financing Authority to charge additional fees in an amount equal to the amount of any additional expenses incurred by the authority in retaining an independent financial advisor to review an application for a local agency to issue rate reduction bonds.

ANALYSIS:

Existing law:

1) Enacts the Joint Exercise of Powers Act which allows two or more public agencies to use their powers in common if they sign a joint powers agreement. Sometimes, an agreement creates a new, separate government called a joint powers agency or joint powers authority (JPA).

2) Allows federal agencies, state departments, counties, cities, special districts, school districts, federally recognized Indian tribes, and even other JPAs to be members of JPAs.

3) Enacts the Marks-Roos Local Bond Pooling Act, which allows public agencies to use JPAs to finance infrastructure. These JPAs issue Marks-Roos Act bonds and loan the capital to local agencies for public works, working capital, and insurance programs.

4) Allows local agencies to form Publicly-Owned Utilities (POUs) to furnish services, such as water services, to retail customers and are owned and operated by a local agency or a subdivision of a local agency. Locally-elected boards, city councils, and county boards of supervisors regulate POUs activities and rates

5) Authorizes JPAs to issue rate reduction bonds to finance projects for POUs with at least 25,000 retail customers that provide water service (AB 850, Nazarian, Chapter 636, Statutes of 2013) for eligible projects

6) Provides that for purposes of the RRB authorization, eligible projects must be for conservation or reclamation purposes or necessary to respond to, or comply with, a water quality mandate, such as the Safe Drinking Water Act. Projects can include storm water capture and treatment, water recycling, development of local groundwater resources, groundwater recharging, and water reclamation.

7) Establishes the California Pollution Control Financing Authority (CPCFA) in the State Treasurer's Office, to provide low-cost financing for projects that control pollution, assist with the clean-up of various types of environment contamination, and administer the California Capital Access Program, among other responsibilities

8) Requires CPCFA to independently review each issue of rate reduction bonds under AB 850 to ensure it meets specified criteria, including that its projected financing costs fall within the normal range of financing costs for comparable types of debt issuance.

This bill:

1) Allows CPCFA to charge additional fees in an amount equal to the amount of any additional expenses it incurs to retain an independent financial advisor to review an application for a local agency to issue rate reduction bonds under AB 850.

2) Provides that any fees for review and processing of the application shall be nonrefundable.

3) Makes technical and grammatical changes.

Background

Rate reduction bonds (RRBs) are asset-backed securities structured to minimize a local agency's borrowing costs by allowing them to qualify bonds for more favorable credit ratings. If a bond receives AAA ratings, instead of a lower rating, the utility can borrow funds at an interest rate that is well below the rate that would otherwise apply to a utility's long-term debt. To increase the likelihood for a RRB to qualify for AAA rating, rate reduction bond financing typically includes:

- Statutory authority to impose a dedicated charge on utility customers, referred to as a utility project charge, to repay the bonds.
- A requirement that bonds be issued, and the dedicated charge must be imposed, by a "bankruptcy remote special purpose entity," like a JPA.
- A "true-up" mechanism by which charges collected to pay debt service are regularly adjusted to ensure that bonds are paid off at the final maturity date.
- A pledge made by the state not to impair the right to collect charges until bonds are paid in full.

Investor-owned utilities (IOUs) initially developed the RRB securitization structure to recover so-called "stranded" costs of investments the utilities made before deregulation of the electricity market deregulation in the 1990s. For example, California's IOUs used rate reduction bonds when the state restructured its energy industry. In that instance, the California Infrastructure and Development Bank (I-Bank) formed a trust that issued the bonds on behalf of the utilities.

A bankruptcy-remote entity is an entity established for the sole purpose of issuing debt and securities. If the underlying local agency that issued the bonds goes bankrupt, it does not affect the bankruptcy-remote entity because the entity's debt is considered separate from the local agency's debt. For example, in 2001, Pacific Gas and Electric, an investor-owned utility, declared bankruptcy following the state's energy crisis, but had already issued rate reduction bonds secured by utility charges on customers' bills. The rating agencies affirmed the AAA rating of the outstanding rate reduction bonds because they were not considered subject to the utility's bankruptcy proceedings and bondholders continued to receive payments. Under AB 850, the JPA serves as the bankruptcy-remote entity for the public utility constructing an eligible project.

Thus far, no public utility has applied to CPCFA for RRB approval under AB 850. However, the Treasurer notes that CPCFA does not directly employ individuals

with expertise in this form of securitization, even if it does employ other financial experts. As a result, it may need to contract with technical experts to perform the review required by AB 850.

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

SUPPORT: (Verified 6/28/22)

State Treasurer Fiona Ma

OPPOSITION: (Verified 6/28/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "AB 1765 provides technical changes to last year's AB 758. Simply, AB 1765 will allow for the California Pollution Control Financing Authority to charge the appropriate fees to outside financial experts, when assisting with and reviewing rate reductions bonds."

ASSEMBLY FLOOR: 62-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Flora, Mike Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Stone, Ting, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Bigelow, Chen, Choi, Megan Dahle, Davies, Fong, Kiley, Lackey, Nguyen, O'Donnell, Patterson, Salas, Seyarto, Smith, Valladares

Prepared by: Colin Grinnell / GOV. & F. / (916) 651-4119
6/29/22 18:44:11

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

SENATE RULES COMMITTEE AB 1780
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1780
Author: Chen (R)
Amended: 6/30/22 in Senate
Vote: 21

SENATE BANKING & F.I. COMMITTEE: 9-0, 6/15/22
AYES: Limón, Ochoa Bogh, Bradford, Caballero, Dahle, Durazo, Hueso, Min, Portantino

SENATE JUDICIARY COMMITTEE: 10-0, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, Jones, McGuire, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas

ASSEMBLY FLOOR: 72-0, 4/18/22 - See last page for vote

SUBJECT: Corporations: shareholders' meetings: remote communication

SOURCE: Author

DIGEST: This bill authorizes a corporation to hold a fully remote shareholder meeting, without prior consent from shareholders, if the meeting is conducted on or before December 31, 2025, and the meeting includes a live audiovisual feed for the duration of the meeting.

ANALYSIS:

Existing law:

1) Establishes formation and governance requirements related to corporations pursuant to the General Corporation Law. (Corporations Code Section 100 et seq.)

2) Defines an "electronic transmission by the corporation" to mean a communication delivered by fax, e-mail, electronic message board, or other

means of electronic communication to a recipient who has provided an unrevoked consent to the use of those means of transmission. (Corporations Code Section 20)

3) Defines an "emergency" – in the context of certain corporate governance actions – as specified events or circumstances as a result of which, and only so long as, a quorum of the corporation's board of directors cannot be readily convened for action. (Corporations Code Section 207)

4) Allows for a shareholder or member meeting to be conducted solely by electronic transmission if all of the shareholders or members consent or if the board of directors determines it is necessary or appropriate because of an emergency or if the meeting is conducted on or before June 30, 2022. (Corporations Code Sections 600)

This bill authorizes the board of directors of a corporation, in its sole discretion and irrespective of whether any shareholder has opted out of electronic transmission by the corporation, to determine that a meeting of shareholders may be conducted by electronic transmission by and to the corporation or by electronic video screen communication, conference telephone, or other means of remote communication, if the meeting is conducted on or before December 31, 2025, and includes a live audiovisual feed for the duration of the meeting, as specified.

Comments

1) *Purpose*

The purpose of this bill is to allow the board of directors of a corporation to determine that a shareholder meeting will be conducted exclusively via electronic transmission or other means of remote communication without first receiving consent of all shareholders. Three investor-owned utility companies – PG&E, Sempra Energy Utilities, and Southern California Edison – support this bill.

2) *Remote shareholder meetings during the pandemic*

Historically, state law required corporations organized in California to hold their annual shareholder meetings at a physical location unless the corporation received unanimous consent from all shareholders to conduct a remote-only meeting. In the early stages of the COVID-19 pandemic, the Governor issued Executive Order N-40-20, which allowed corporations to conduct remote-only meetings given the public health risks associated with large gatherings in a physical setting.

In 2021, the Legislature passed and the Governor signed AB 663 (Chen, Chapter 523, Statutes of 2021) which provided additional flexibility to corporations related to conducting their annual shareholder meetings remotely. Starting January 1, 2022, the new law permits a corporation to hold its shareholder meetings remotely without first needing to receive unanimous consent of its shareholders, so long as the board of directors of the corporation determines it necessary and appropriate because of an emergency.

Importantly, the definition of "emergency" in the Corporations Code hinges on whether a quorum of the board of directors can be readily convened for action. As corporations evaluated the new law in late 2021 and assessed health risks associated with rising cases of the Omicron variant, corporate managers were concerned that (a) the phrase "readily convened for action" was not a clear standard, potentially exposing a corporation to a lawsuit from shareholders if a remote-only meeting were convened, and (b) the risks of the Omicron variant were unclear and convening an in-person meeting could put shareholders, corporate officers, and board members in harm's way.

Due to the abovementioned concerns, the Governor included in Executive Order N-23-21 a provision that allowed for remote-only shareholder meetings even if a quorum of the board of directors could be readily convened for action. The executive order was in effect through March 31, 2022, after which the law as amended by AB 663 would have been effective.

In March 2022, Sempra Energy supported AB 769 (Grayson, Chapter 12, Statutes of 2022) that permitted a board of directors to hold a remote-only shareholder meeting for any reason, if the meeting was held prior to June 30, 2022. Sempra had a shareholder meeting scheduled for mid-May, and the corporation stated concerns about convening an in-person meeting under the evolving public health situation. AB 769 was approved by the Senate Banking and Financial Institutions Committee on March 21, 2022, signed by the Governor on March 25, 2022, and became effective immediately given the urgency clause contained in the bill.

Supporters of this bill desire to hold remote-only shareholder meetings in the future, irrespective of any public health risks or other emergencies that may be present. Supporters feel that remote-only meetings have worked well during the pandemic, and corporate boards should be permitted to decide whether shareholder meetings are held in-person or remotely. Supporters state that shareholder meetings are more accessible to shareholders when held remotely, though existing law already permits corporate boards to hold hybrid meetings

where those shareholders who want to participate remotely are provided a method to do so.

3) *Concerns about remote-only meetings*

Shareholder meetings are the primary forum through which the owners of corporations – the shareholders – exercise governance authority over the board of directors who have a fiduciary duty to those shareholders. These meetings provide shareholders the opportunity to vote on appointments to the board of directors, consider changes to corporate bylaws, approve executive compensation, and vote on shareholder proposals for how the corporation should be managed and operated. In summary, the annual meeting is where shareholders have an opportunity to voice how the board of directors and the executive management team should behave as stewards of the shareholders' money.

This bill allows the board of directors to determine the format of a shareholder meeting, which is analogous to the proverbial fox being able to design the henhouse. Corporate governance researchers cite that a large group of shareholders has voiced strong objections to remote-only meetings as interfering with their ability to exercise their rights to hold boards of directors accountable. The Rutgers Center for Corporate Law and Governance, the Council of Institutional Investors, and the Society for Corporate Governance issued on December, 10, 2020, their "Report of the 2020 Multi-Stakeholder Working Group on Practices for Virtual Shareholder Meetings."[1] Concerns raised by shareholders to the working group included the following:

- General sense that companies had much tighter control over the structure and flow of the Q&A sessions than at in-person meetings, including a feeling that some companies were "cherry picking" innocuous questions and favorable comments over difficult questions and critiques.

- Apprehension created by a lack of transparency about certain companies' use of discretion to combine or paraphrase similar questions or reword questions.

- Suspicion that some questions asked and answered during the Q&A sessions at certain companies were generated by the companies themselves, as opposed to verified shareholders, with rehearsed answers from the meeting

[1] https://cclg.rutgers.edu/wp-content/uploads/VSM-Working-Group-Report-12_10_2020.pdf

chairs as a way to avoid difficult questions and fill the time allotted for Q&A.

- Inability for shareholders to ask follow-up questions the way they could at in-person meetings.

- Loss of opportunities for shareholders to interact with eye contact, both formally and informally, with board members, company executives, and other shareholders.[2]

Not all shareholders held such unfavorable views of remote-only meetings. Some shareholders stated that they were able to attend meetings of more corporations than typical years and were able to ask more questions at some meetings. Despite these positive features, many shareholders held that remote-only meetings continue to be an inadequate replacement for an in-person meeting.

4) *Who should decide?*

The main question posed by this bill is: who should determine the format of shareholder meetings – the shareholders or corporate management? As stated above, existing law allows a corporation to provide a hybrid option where shareholders who prefer remote participation can do so, while those shareholders who prefer in-person attendance can exercise that option. This bill shifts the discretion solely into the hands of the people who are supposed to be accountable to shareholders. Supporters claim that remote participation increases access for some shareholders, and that is likely true. But if the Legislature wanted to take a shareholder-first perspective in this area of corporate governance, would requiring that corporations provide an option for hybrid meetings not be a better solution?

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

SUPPORT: (Verified 7/1/22)

Pacific Gas & Electric Company
Sempra Energy Utilities
Southern California Edison

[2] https://corpgov.law.harvard.edu/2021/01/11/report-on-practices-for-virtual-shareholder-meetings/

OPPOSITION: (Verified 7/1/22)

None received

ARGUMENTS IN SUPPORT: The Pacific Gas & Electric Company writes:

> AB 1780 authorizes corporations to continue to hold shareholder meetings remotely, regardless of whether there is a state of emergency declaration in effect. In doing so, the bill permits shareholders who are only able to attend remotely (for health, time conflict, travel cost, or other reasons) to participate virtually in the meeting. Currently, the Corporations Code only sanctions electronically enabled virtual meetings if every shareholder has consented, an impossibility for publicly traded corporations with widely dispersed shareholdings. Given this reality, it is prudent to allow shareholder meetings via remote communication.

ASSEMBLY FLOOR: 72-0, 4/18/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooper, Cunningham, Megan Dahle, Daly, Davies, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Cooley, Flora, Gray, Mayes, Voepel

Prepared by: Michael Burdick / B. & F.I. /
7/28/22 10:35:18

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

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THIRD READING

Bill No: AB 1782
Author: Jones-Sawyer (D)
Introduced: 2/3/22
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/14/22
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

ASSEMBLY FLOOR: 45-10, 5/12/22 - See last page for vote

SUBJECT: Jails: commissary

SOURCE: Author

DIGEST: This bill renames the inmate welfare fund to the incarcerated peoples' welfare fund and requires money in the fund to be expended solely for the benefit, education, and welfare of the incarcerated population.

ANALYSIS:

Existing law:

1) Authorizes the sheriff of each county to establish, maintain and operate a store in connection with the county jail and for this purpose to purchase confectionery, tobacco and tobacco users' supplies, postage and writing materials, and toilet articles and supplies and sell these goods, articles, and supplies for cash to inmates in the jail. (Pen. Code, § 4025, subd. (a).)

2) Provides that any profit from the store be deposited in an inmate welfare fund (IWF) to be kept in the treasury of the county. (Pen. Code, § 4025, subd. (b).)

3) Provides that 10 percent of all gross sales of inmate hobbycraft be deposited in the IWF. (Pen. Code, § 4025, subd. (c).)

4) Requires that any money, refund, rebate, or commission received from a telephone company or pay telephone provider when the money, refund, rebate,

or commission is attributable to the use of pay telephones which are primarily used by inmates while incarcerated to be deposited in the IWF. (Pen. Code, § 4025, subd. (d).)

5) Requires that the money and property deposited in the IWF is to be expended by the sheriff primarily for the benefit, education, and welfare of the inmates confined within the jail. (Pen. Code, § 4025, subd. (e).)

6) Provides that any funds that are not needed for the welfare of the inmates may be expended for the maintenance of county jail facilities, as provided. (Pen. Code, § 4025, subd. (e).)

7) Prohibits the use of the IWFs to pay required county expenses of confining inmates in a local detention system, such as meals, clothing, housing, or medical services or expenses, except that IWFs may be used to augment those required county expenses as determined by the sheriff to be in the best interests of inmates. Requires an itemized report of these expenditures to be submitted annually to the board of supervisors. (Pen. Code, § 4025, subd. (e).)

8) Authorizes the sheriff to expend money from the IWF to provide indigent inmates, prior to release from the county jail or any other adult detention facility under the jurisdiction of the sheriff, with essential clothing and transportation expenses within the county or, at the discretion of the sheriff, transportation to the inmate's county of residence, if the county is within the state or within 500 miles from the county of incarceration. (Pen. Code, § 4025, subd. (i).)

This bill renames the IWF to the incarcerated peoples' welfare fund and requires money in the fund to be expended solely for the benefit, education, and welfare of the incarcerated population.

Background

The IWF is funded largely by commissions received from contracted telephone services as well as commissary sales and vending machine sales. Existing law requires these funds be expended by the sheriff *primarily* for the benefit, education, and welfare of the individuals confined within the jail. Any funds that are not needed for the welfare of the incarcerated population may be used for the maintenance of county jail facilities, including but not limited to, the salary and benefits of personnel used in the programs to benefit incarcerated individuals, including, but not limited to, education, drug and alcohol treatment, welfare, library, accounting, and other programs deemed appropriate by the sheriff. There

are some restrictions to the use of IWF funds. For example, IWF funds may not be used to pay for required county expenses of confining individuals in a local detention system, such as meals, clothing, housing, or medical services or expenses. However, IWF funds may be used to augment required county expenses as determined by the sheriff to be in the best interests of incarcerated individuals.

Advocates have argued that IWF funds have not been used appropriately. Management of these funds has been the subject of grand jury inquiries across the state. (*See* <http://www.scscourt.org/court_divisions/civil/cgj/2003/MgmtInmateWelfareFunds.pdf ; <http://www.ocgrandjury.org/pdfs/GJInmate.pdf ; <https://www.sandiegocounty.gov/content/dam/sdc/grandjury/reports/2015-2016/InmateWelfareFundAudit.pdf ; <https://www.sanmateocourt.org/documents/grand_jury/2013/InmateWelfareTrustFund.pdf .) Allegations of misuse of funds has also resulted in litigation, including a class action in Santa Clara County. (*See* <https://www.mercurynews.com/2008/09/12/county-jail-inmates-will-get-expanded-services-under-settlement-agreement/ [as of Jun. 7, 2022].)

In 2021, the Sacramento Bee reported that since 2014, the Sacramento County Sheriff's Department used money from the IWF to purchase equipment for the sheriff's office, fund travel expenses, and supplement employee salaries. The investigation found that in some years, more than nine out of every $10 from the IWF was spent on salaries, benefits, training, and facility maintenance. (Jason Pohl & Michael Finch II, *How Sacramento Sheriff Used Inmate Welfare Fund for Cameras, Fencing—and a Tahoe Resort* (July 13, 2021) available at <https://www.sacbee.com/news/investigations/the-public-eye/article252730348.html .) The article noted that during the time period examined, programs that directly benefited the incarcerated population accounted for, at most, 31% of IWF expenditures.

In order to limit the sheriff's discretion with respect to IWF expenditures, this bill requires that the money and property deposited in the IWF be expended by the sheriff *solely* for the benefit, education, and welfare of the inmates confined within the jail.

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

SUPPORT: (Verified 6/15/22)

California Public Defenders Association
Essie Justice Group

Initiate Justice
Media Alliance
National Association of Social Workers, California Chapter

OPPOSITION: (Verified 6/15/22)

California State Sheriffs' Association

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

> CPDA members can attest based on our close relationships with those entangled in the criminal legal system that referring to people who are incarcerated as 'inmates' dehumanizes them. Dehumanization of people who are incarcerated is an antiquated practice that perpetuates harm. Language matters. While culture cannot change overnight, changing the language used by the Legislature sends a strong message.
>
> Additionally, AB 1782 will mandate that the money in the incarcerated peoples' welfare fund is used for its intended recipients rather than being misused or channeled for other purposes.

ARGUMENT IN OPPOSITION: The California State Sheriffs' Association writes:

> By way of background, this proposed change cannot be considered in a vacuum. It is important to note that the California Public Utilities Commission recently capped inmate phone rates for intrastate calls at $0.07 per minute. This change, built on the arbitrary selection of a rate that has little to do with the realities of providing jail inmate communication services, stands to decimate inmate welfare funds around the state.
>
> Understanding that IWF balances have and will continue to decrease, eliminating flexibility within this program will not benefit incarcerated persons. Rather, eliminating the ability of these funds to be spent on things like salaries will make it more difficult for jails to provide these programs because someone has to deliver the programs. Any changes to these statutes should consider a full accounting of the fund conditions and consideration of providing state resources to backfill funds that are no longer available or not allowed to be used for certain functions.

Existing law already requires sheriffs to submit an itemized report of these expenditures annually to the board of supervisors, thereby fostering transparency and accountability.

ASSEMBLY FLOOR: 45-10, 5/12/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Levine, Low, Maienschein, McCarty, Medina, Mullin, Nazarian, O'Donnell, Quirk, Reyes, Luz Rivas, Robert Rivas, Salas, Santiago, Stone, Ting, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Megan Dahle, Fong, Gallagher, Mathis, Nguyen, Patterson, Seyarto, Smith, Voepel
NO VOTE RECORDED: Boerner Horvath, Chen, Choi, Cooper, Cunningham, Davies, Flora, Gray, Grayson, Kiley, Lackey, Lee, Mayes, Muratsuchi, Petrie-Norris, Quirk-Silva, Ramos, Rodriguez, Blanca Rubio, Valladares, Villapudua, Waldron, Ward

Prepared by: Stephanie Jordan / PUB. S. /
6/15/22 14:25:12

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

SENATE RULES COMMITTEE
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THIRD READING

Bill No: AB 1796
Author: Choi (R), et al.
Amended: 3/23/22 in Assembly
Vote: 21

SENATE EDUCATION COMMITTEE: 6-0, 6/15/22
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, McGuire, Pan
NO VOTE RECORDED: Glazer

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-0, 5/5/22 (Consent) - See last page for vote

SUBJECT: Public postsecondary education: reenrollment

SOURCE: Author

DIGEST: This bill requests the University of California (UC) Regents and requires the California State University (CSU) Trustees to require each campus of their respective systems to grant students the right to reenroll in their baccalaureate degree program after withdrawing or stopping out if the students was in good academic standing with the university.

ANALYSIS:

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

2) Establishes the Donahoe Higher Education Act and assigns the mission of the UC and the CSU (Education Code (EC) Section 66010, et seq.).

3) Stipulates no provision of the Donahue Higher Education Act shall apply to the UC unless the UC Regents adopts the provision (EC Section 67400).

4) Establishes the CSU system, made of 23 campuses, and bestows upon the CSU Trustees, through the Board of Trustees, the power, duties, and functions with respect to the management, administration, and control of the CSU system (EC Section 66606 and 89030 et seq.).

5) Expresses the Legislature's intent for the Regents of the UC and the Board of Trustees for the CSU when determining the standards and criteria for undergraduate and graduate admissions to their respective universities to do the following:

   a) Develop a process which is fair and easily understandable;

   b) Consider the use of criteria and procedures that allow students to enroll even if they are not deemed eligible due to circumstances beyond their control and when appropriate require the student to make up the deficiency; and,

   c) Consult with California's diverse ethnic and cultural communities (EC Section 66205 (a)).

6) Expresses the Legislature's intent for the UC and CSU to enroll a student body, as defined, that meets high academic standards and reflects the cultural, racial, geographic, economic, and social diversity of California (EDC Section 66205 (b)).

This bill:

1) Requests the UC Regents and requires the CSU Trustees to require each campus of their respective systems to grant students the right to reenroll in their baccalaureate degree program after withdrawing or stopping out, if the students was in good academic standing with the university.

2) Provides that a student may be required to pay any outstanding tuition and fees to be eligible for reenrollment pursuant to the bill.

3) Provides that nothing in this bill precludes the CSU and UC from adopting policies requiring a student to submit transcripts and proof of good academic standing if the student enrolled at another college or university after leaving the respective campus.

4) Allows CSU and UC for purposes of calculating the student's real graduation time under a graduation initiative to omit the semester or years in which the student was not enrolled in any classes from the student's time to graduation.

5) Encourages the CSU and UC to begin outreach programs to students who left campus without completing their baccalaureate degree program beginning with students' closest graduation.

Comments

1) *Need for the bill*. According to the author, "While attrition rates are on the decline, those who have left the system, face an uphill battle should they wish to continue their degree. The CSU allows students to proactively submit an "Undergraduate planned education leave request" before a leave of absence. The request must be completed by the fourth week of the semester, all current classes must have been dropped and the leave may only be granted for a maximum of two semesters. If the student does not report for their approved term, they must reapply for admissions.

   "While most college students drop of the system due to financial issues, every student has their own personal reasons for not completing their degree. Some unfortunately might have family issues, a lack of support or unexpected medical problems that are beyond their control. While graduating rates are important, CSU's and UC's should also recognize the students who have faced hardships. By allowing students the right to reenroll after leaving the system, this is encouraging students to continue pursuing their higher education when the time is right. The current practice of reenrolling is time-limiting and doesn't account for the students who are faced with unexpected situations."

2) *CSU and UC enrollment trends*. According to the Legislative Analyst's Office (LAO) 2022-23, Overview of the Governor's Higher Education Budget Proposal, in a summary of enrollment trends, all three segments of public higher education segments seeing lower than anticipated enrollment in 2021-22. Largely at California Community Colleges but CSU and UC are also expected to experience declines in 2021-22. CSU resident undergraduate enrollment has generally increased over the past decade, peaking at about 353,000 full-time equivalent (FTE) students in 2020-21. In 2021-22, however, enrollment is declining. CSU is estimating about 13,000 (3.6) fewer resident undergraduate FTE students in 2021-22 than in 2020-21. CSU attributes this decline to the

effects of the COVID-19 pandemic, which led to fewer applications from entering freshmen, as well as a smaller pipeline of transfer students due to enrollment declines at CCC. UC estimates 2021-22 resident undergraduate enrollment to be 199,358 students—717 students (0.4 percent) below the level in 2020-21. Though UC saw a drop in summer 2021 enrollment, fall 2021 enrollment increased, which likely will translate into a corresponding increase in the spring 2022 term. It is unclear to committee staff the extent of which student withdrawals have contributed to the declines in enrollment experienced at CSU and UC.

3) *Reenrollment practices*. This calls upon UC and CSU to grant students the right to reenroll in their baccalaureate degree program after withdrawing or stopping out, provided that the students were in good academic standing with the university. Neither the CSU nor the UC have a system-wide policy in place for reenrollment to the system. Instead, they have localized campus policies in place for the reenrollment of students who have stopped attending courses of study. Within the CSU system, all campuses engage in outreach efforts to reenroll students who left the campus without completing their degrees. This bill would essentially codify current practices for reenrolling students at CSU. Since UC reenrollment policies have a greater degree of variation by campus and in some cases by major (e.g. STEM majors) related to academic requirements this bill could have a greater impact on UC. The author may wish to consider working with UC to ensure campuses have some flexibility to request other academic requirements for students wishing to reenroll into a specific major or campus.

4) *Graduation initiatives.* This bill states that for purposes of calculating the student's real graduation time under a graduation initiative, CSU and UC may omit the period that the student was not enrolled from the student's graduation time. Historically, CSU's four-year graduation rate for incoming freshmen was below 20 percent and the two-year graduation rate for transfer students was below 30 percent. To address its low graduation rates, CSU launched the Graduation Initiative 2025 and set a systemwide goal to increase the four-year graduation for first-time freshmen to 40 percent, and the two-year transfer graduation rate to 45 percent by 2025. Currently, the systemwide four-year graduation rate is 33 percent and the two-year graduation rate is 44 percent. Although graduation rates are higher at UC, the system similarly established goals for improvement in this area. UC's system-wide freshmen four-year graduation rate stands at 72 percent systemwide with the goal of reaching 76

percent by 2030. Its transfer 2-year graduation rate is about 63 percent systemwide with the goal of reaching 70 percent by 2030.

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

SUPPORT: (Verified 6/28/22)

Campaign for College Opportunity
Genup
Villines Group, LLC

OPPOSITION: (Verified 6/28/22)

None received

ASSEMBLY FLOOR: 61-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Friedman, Gallagher, Cristina Garcia, Gipson, Levine, McCarty, Medina, Villapudua, Waldron, Wicks

Prepared by: Olgalilia Ramirez / ED. / (916) 651-4105
6/28/22 14:28:11

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

SENATE RULES COMMITTEE AB 1798
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1798
Author: Bryan (D)
Amended: 8/1/22 in Senate
Vote: 27

SENATE ELECTIONS & C.A. COMMITTEE: 4-0, 6/13/22
AYES: Newman, Nielsen, Hertzberg, Leyva
NO VOTE RECORDED: Glazer

ASSEMBLY FLOOR: 65-0, 4/7/22 (Consent) - See last page for vote

SUBJECT: Campaign disclosure: advertisements

SOURCE: Fair Political Practices Commission

DIGEST: This bill amends the Political Reform Act of 1974 (PRA) to allow an electronic media advertisement to include the prescribed disclosures directly on the advertisement itself as an alternative to linking to an Internet website that contains the disclosures.

Senate Floor Amendments of 8/1/22 make minor technical changes and provide for contingent enactment with SB 1360 (Umberg, 2022).

ANALYSIS:

Existing law:

1) Creates the Fair Political Practices Commission (FPPC), and makes it responsible for the impartial, effective administration and implementation of the PRA.

2) Defines "advertisement," for the purposes of the PRA, as any general or public communication that is authorized and paid for by a committee for the purpose of supporting or opposing a candidate or candidates for elective office or a ballot measure or ballot measures, except as specified. Provides that the term

"advertisement" does not include any communication as determined by regulations of the FPPC.

3) Requires advertisements that support or oppose candidates or ballot measures to include disclosure statements in specified circumstances. Requires these disclosures to comply with certain formatting, display, legibility, and audibility requirements.

   a) Requires an advertisement supporting or opposing a candidate that is paid for by an independent expenditure (IE) to include a statement that the advertisement was not authorized by a candidate or a committee controlled by a candidate, as specified.

   b) Defines “top contributors,” for the purposes of these disclosure statements, as the persons from whom the committee paying for an advertisement has received its three highest cumulative contributions of $50,000 or more.

   c) Requires generally that an advertisement supporting or opposing a candidate or ballot measure paid for by a committee, other than a political party committee or a candidate’s own campaign committee, include the words “committee major funding from” followed by the names of the committee’s top contributors, as defined above. Prescribes requirements regarding the form, content, and presentation of the top contributors disclosures on advertisements, which vary significantly based on the medium of the advertisement, as specified.

4) Requires an electronic media advertisement that is a graphic, image, animated graphic, or animated image that the online platform hosting the advertisement allows to link to an internet website paid for by a committee, except as specified, to include comply with both of the following:

   a) Include the text “Who funded this ad?,” “Paid for by,” or “Ad Paid for by” in a contrasting color and a type size that is easily readable by the average viewer for the duration of the advertisement.

   b) Requires the text to be included or displayed as a hyperlink, icon, button, or tab to an internet website containing the following disclosures (if they apply) in a contrasting color and in no less than 8-point type:

i) A disclosure of the committee that is paying for the advertisement.

ii) A disclosure of the top contributors to the committee paying for the advertisement, as specified.

iii) A statement (in the case for an IE supporting or opposing a candidate) that the advertisement was not authorized by a candidate or a committee controlled by a candidate for that office.

5) Provides that the text required by 4) above is not required if including the language in an 8-point type would take up more than one-third of the graphic or image. Provides in those circumstances that the advertisement need only include a hyperlink to an internet website containing the disclosures required.

6) Requires an internet website that is linked pursuant to 4) or 5) above to remain online and available to the public until 30 days after the date of the election in which the candidate or ballot measure supported or opposed by the advertisement was voted upon.

7) Makes violations of the PRA subject to administrative, civil, and criminal penalties.

This bill:

1) Permits an electronic media advertisement that is a graphic, image, animated graphic, or animated image that the online platform hosting the advertisement allows to link to an internet website paid for by a committee the option to include required disclosures by either of the following methods:

   a) Including the text, "Who funded this ad?," "Paid for by," or "Ad Paid for by," as specified, with the text being a hyperlink, icon, button, or tab to a link to an internet website that includes more detailed disclosures that are required by existing law.

   b) Including the required disclosures directly on the electronic media advertisement itself.

2) Makes technical and conforming changes.

3) Provides that this bill does not become operative if SB 1360 enacted by the Legislature during the 2022 calendar year, takes effect on or before January 1, 2023, and amends Section 84504.3 of the Government Code.

Background

Political Reform Act of 1974. California voters passed an initiative, Proposition 9, in 1974, which created the FPPC and codified significant restrictions and prohibitions on candidates, officeholders and lobbyists. That initiative is commonly known as the PRA. Amendments to the PRA that are not submitted to the voters, such as those contained in this bill, must further the purposes of the initiative and require a two-thirds vote of both houses of the Legislature.

Campaign Finance Advertisement Disclosures and Previous Legislation. Under the PRA, candidates and political committees must include disclosures on campaign advertisements that identify the committee that paid for or authorized the communication. An advertisement is a communication that is made for the purpose of supporting or opposing a candidate or ballot measure, and includes campaign mailers (including blast e-mails), paid telephone calls, radio and television ads, billboards, yard signs, and electronic media ads. An advertisement disclosure is the portion of a political message that identifies the committee that paid for or authorized the communication. “Paid for by [committee name]” or "Ad paid for by [committee name]" is the basic disclosure required on campaign communications. Under the PRA, different advertisement disclosure rules apply depending on who pays for the ad and the method of the communication. In general, basic disclosures apply to materials disseminated by a candidate for their own election because it is generally clear to the public that the candidate is sending the communication. However, there are stricter advertisement disclosure requirements for ballot measure and independent expenditure advertisements because it is less clear to the public who is responsible for these ads.

Since 2017, the Legislature has passed a number of bills updating campaign finance disclosure rules to ensure they provide accurate information to voters on who is paying for campaign advertisements. Notably, AB 249 (Mullin, Chapter 546, Statutes of 2017), commonly known as the "Disclose Act." The passage of AB 249 marked the culmination of seven years of debate and negotiation over similar legislation. AB 249 took effect on January 1, 2018.

Since the enactment of AB 249, there have been several other bills that have modified the content and format of the disclosure statements, including electronic media advertisements. AB 2155 (Mullin, Chapter 777, Statutes of 2018) made

various changes to the Disclose Act that generally were minor, clarifying, or technical in nature, or otherwise were consistent with disclosure examples that were provided by supporters when AB 249 was being considered by the Legislature. AB 2188 (Mullin, Chapter 754, Statutes of 2018) required online platforms that sell political ads to make specified information about those political ads available to the public and made various changes to the required format for disclosures on electronic media ads. Specifically, AB 2188 permitted electronic ads to use the text "Paid for by," or "Ad Paid for by," instead of "Who funded this ad?" when linking to more detailed disclosure statements. AB 2188 is known as the "Social Media Disclose Act." Additionally, AB 864 (Mullin, Chapter 558, Statutes of 2019) made numerous, mostly technical changes to the Disclose Act and other provisions of state law governing the content and format of disclosure statements that are required to appear on communications disseminated by candidates and committees, including electronic media advertisements.

Comments

1) According to the author, since 2017, the Legislature has passed a number of bills updating campaign advertisement disclosure rules. Notably, AB 249 significantly changed the content and format of disclosure statements required on specified campaign advertisements in a manner that generally required such disclosures to be more prominent. AB 249 generally allowed for shorter and less extensive disclosures on smaller advertisements and on advertisements where it otherwise was less practical to include the full disclosures required by the law.

   In seeking to balance these concerns, AB 249 required electronic media advertisements like banner ads on websites to include the text "Who funded this ad?" with the text being a hyperlink to a website that contained the full text of the required disclosures. Subsequent legislation allowed digital advertisements to use the text "Paid for by" or "Ad paid for by" instead of "Who funded this ad?," but maintained the requirement that the text must link to a separate internet page that includes the full disclosures

   Under a strict reading of the PRA, a committee arguably violates the law if it includes the full text of required disclosures in an electronic media advertisement itself, rather than including a link to the more-detailed disclosures in the advertisement.

   AB 1798 allows committees to include the full disclaimer directly on the digital advertisement itself, rather than linking to those disclosures on a separate

website. According to the Fair Political Practices Commission, eliminating penalties for over-disclosure on political advertisement ads would free up enforcement resources to pursue more serious violations of the PRA and would allow committees to avoid technical violations that do not result in any public harm.

2) *Argument in Support.* In a letter sponsoring AB 1798, the FPPC states, in part, the following

> The bill would make a minor change to a specified advertisement disclosure requirement to allow the full disclosure text to appear on the ad itself, instead of the current rule that only permits a hyperlink to the full disclosure text.
>
> This minor change creates common sense flexibility in the disclosure requirement that benefits the regulated community, without any loss of transparency, thereby easing the burden of compliance and preventing the occurrence of technical violations where there is no public harm.

Related/Prior legislation

SB 921 (Newman, 2022) establishes the Digital Advertisement Transparency and Accountability Act, or DATA Act, a state-run archive to collect and make publicly available copies of, and information about, specified digital political advertisements, as specified. SB 921 was held on the Senate Appropriations Committee's Suspense File.

SB 1360 (Umberg, 2022) makes changes to disclosure requirements for political advertisements, including changes to the required form, content, and presentation of the disclosures depending on the medium in which the advertisement appears, among other provisions.

SB 752 (Allen, 2021) would have changed the text and formatting of required disclosures on petitions and electronic media and video campaign advertisements, as specified. SB 752 was held on the Assembly Appropriations Committee's Suspense File.

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

SUPPORT: (Verified 8/3/22)

Fair Political Practices Commission (source)
Govern for California

OPPOSITION: (Verified 8/3/22)

None received

ASSEMBLY FLOOR: 65-0, 4/7/22
AYES: Arambula, Bennett, Berman, Bloom, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Irwin, Kalra, Kiley, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wilson, Rendon
NO VOTE RECORDED: Aguiar-Curry, Bauer-Kahan, Bigelow, Boerner Horvath, Mia Bonta, Jones-Sawyer, Lackey, Mayes, Petrie-Norris, Quirk, Wicks, Wood

Prepared by: Karen French / E. & C.A. / (916) 651-4106
8/3/22 14:26:46

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

SENATE RULES COMMITTEE
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THIRD READING

Bill No: AB 1810
Author: Levine (D), et al.
Amended: 3/30/22 in Assembly
Vote: 21

SENATE EDUCATION COMMITTEE: 6-0, 6/15/22
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, McGuire, Pan
NO VOTE RECORDED: Glazer

SENATE JUDICIARY COMMITTEE: 8-0, 6/21/22
AYES: Umberg, Borgeas, Caballero, Hertzberg, Jones, Laird, McGuire, Wiener
NO VOTE RECORDED: Durazo, Gonzalez, Stern

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 5/25/22 - See last page for vote

SUBJECT: Pupil health: seizure disorders

SOURCE: Epilepsy Foundation Los Angeles

DIGEST: This bill authorizes a trained employee volunteer to administer emergency anti-seizure medication to a pupil upon the request of the parent, requires the development of state standards for the training, and requires the parent to provide specified information to the local educational agencies (LEA), including a seizure action plan.

ANALYSIS:

Existing law:

1) Allows pupils to be assisted if the pupil's health care provider gives a written statement with specific information, such as the medication the pupil is to take, the dosage, the period of time during which the medication is to be taken, and if the pupil's parent provides a written statement initiating a request

to have the medication administered to the pupil or to have the pupil otherwise assisted in the administration of the medication. (CCR Title 5, § 600)

2) Requires a LEA or county office of education (COE) to provide emergency epinephrine auto-injectors to school nurses or trained volunteers and allows those individuals to utilize epinephrine auto-injectors to provide emergency medical aid to persons suffering from an anaphylactic reaction. (EC § 49414(a))

3) Requires a LEA, COE, or charter school to ensure that each employee who volunteers under this section will be provided defense and indemnification by the LEA, COE, or charter school for any and all civil liability, in accordance with, but not limited to, as specified in Government Code. (EC § 49414(j) and 49414.7(i))

4) Requires the State Superintendent of Public Instruction Superintendent (SSPI) to review, every five years, or sooner as deemed necessary by the SSPI, standards of training for the administration of epinephrine auto-injectors (EC § 49414(e)(1) – (3))

This bill authorizes a trained employee volunteer to administer emergency anti-seizure medication to a pupil upon the request of the parent, requires the development of state standards for the training, and requires the parent to provide specified information to the LEA, including a seizure action plan. Specially, this bill:

General Provisions

1) Authorizes a school or LEA, upon receipt of a request from the pupil's parent or guardian, to designate one or more volunteers at the pupil's school to receive initial and annual refresher training, based on the standards developed as specified by the State Superintendent of Public Instruction (SSPI) regarding the emergency use of anti-seizure medication from the school nurse or other qualified person designated by an authorizing physician and surgeon if a pupil diagnosed with seizures, a seizure disorder, or epilepsy has been prescribed an emergency anti-seizure medication by the pupil's health care provider.

2) Specifies there shall be no retaliation against any individual who chooses not to volunteer or who rescinds the individual's offer to volunteer, including after receiving training.

3) Authorizes an employee who volunteers to provide emergency anti-seizure medication to rescind their offer to administer emergency anti-seizure medication at any time, including after receiving training.

4) Authorizes a volunteer who is designated to administer emergency anti-seizure medication and has received training to administer emergency anti-seizure medication to a pupil diagnosed with seizures, a seizure disorder, or epilepsy if the pupil is suffering from a seizure, if a school nurse is not onsite or available or if the school does not have a school nurse.

5) Requires an LEA or school, upon receipt of a parent or guardian's request for a trained school employee to administer emergency anti-seizure medication, to distribute a notice at least once but no more than two times per school year to all staff if a trained employee volunteers to administer emergency anti-seizure medication.

6) Requires the notice to include specified information relative to the training of the volunteer.

7) Specifies if a volunteer rescinds their offer to volunteer or is no longer able to act as a volunteer for any reason, or if the placement of a pupil changes and the pupil no longer has access to a trained volunteer, an additional two notices per school year may be distributed to all staff.

8) Requires the LEA, upon receipt of a parent or guardian's request for a trained school employee to administer emergency anti-seizure medication, to shall notify the parent or guardian that their child may qualify for services or accommodations such as a 504 Plan and IEP and shall assist the parent or guardian with the exploration of that option.

9) Requires an LEA to notify the pupil's parent or guardian of the pupil's right to be assessed for services and accommodations such as a 504 plan and IEP if there are no volunteers at the pupil's school to administer emergency anti-seizure medication.

10) Clarifies that the Seizure Safe Schools Act shall not be construed to preclude the negotiation by collective bargaining of additional compensation for volunteers.

Training Materials from California Department of Education

11) Requires the SPI to establish minimum standards of training to recognize and respond to seizures, including training for the administration of emergency anti-seizure medication on or before July 1, 2023 and to review the minimum standards of training for the administration of emergency anti-seizure medication every five years, or sooner as deemed necessary.

12) Requires the SPI to develop minimum standards of training in consultation with organizations and providers with expertise in epilepsy and administering emergency anti-seizure medication and administering medication in a school environment including, but not limited to the Epilepsy Foundation, Epilepsy Foundations in California, The California School Nurses Organization, The California Medical Association, and the American Academy of Pediatrics.

13) Requires the SPI, in consultation with appropriate stakeholders, to include in the minimum standards of training recognition of the signs and symptoms of seizures and the appropriate steps to be taken to respond to those symptoms, administration, or assisting with the self-administration of, an emergency anti-seizure medication, or a medication or therapy prescribed to treat the symptoms of seizures, seizure disorders, or epilepsy, basic emergency follow-up procedures, and written materials.

14) Clarifies training administering emergency anti-seizure medication shall be consistent with the most recent guidelines for medication administration issued by CDE and that training shall be provided to the volunteer at no cost to the volunteer and during the volunteer's regular working hours.

15) Requires CDE to include on its internet website a clearinghouse for best practices in training nonmedical personnel to administer emergency anti-seizure medication and for schools to retain the written information provided by CDE.

Seizure Action Plan

16) Requires an LEA to obtain from the pupil's parent or guardian a seizure action plan before administering emergency anti-seizure medication or therapy prescribed to treat seizures in a pupil diagnosed with seizures, a seizure disorder, or epilepsy. The seizure action plan must, among other things, include specified parental consent and a statement from the pupil's physician

with specified information related to the medication, its frequency, and method of administration:

17) Requires the school administrator or their designee to notify the school nurse assigned to the school or LEA if an employee at the schoolsite administers an emergency anti-seizure medication.

18) Requires the school administrator or their designee to notify the SSPI of the LEA, the county superintendent of schools, or the charter school administrator or their designees as appropriate, when an employee at the school administers an emergency anti-seizure medication if a school nurse is not assigned to the LEA.

19) Requires the school nurse assigned to the school or a nurse from LEA shall collaborate with the parent or guardian of each pupil diagnosed with seizures, a seizure disorder, or epilepsy to create a seizure action plan if the pupil does not have a 504 Plan or IEP.

20) Clarifies, a pupil's parent or guardian written consent shall distributed to any school personnel or volunteers responsible for the supervision or care of that pupil.

21) Requires the school nurse or a school administrator to store the notice and seizure action plan in compliance with all applicable state and federal privacy laws.

22) Requires emergency anti-seizure medication or medication prescribed to a pupil to treat the pupil's seizures, a seizure disorder, or epilepsy symptoms to be provided to the school with the label affixed by the dispensing pharmacy intact.

Protections for School Employees Who Volunteer

23) Requires that an LEA that designates volunteers ensure that each employee who volunteers will be provided defense and indemnification by the LEA for any and all civil liability.

24) Protects a volunteer who administers emergency anti-seizure medication or medication prescribed for seizure disorder symptoms in compliance with this article, in good faith and not for compensation, to a pupil diagnosed with

seizures, a seizure disorder, or epilepsy who appears to be experiencing a seizure from being subject to professional review, be liable in a civil action, or be subject to criminal prosecution for the person's acts or omissions in administering the emergency anti-seizure medication

25) Clarifies any public employee who volunteers to administer emergency anti-seizure medication is not providing emergency medical care for compensation, notwithstanding the fact that the employee is a paid public employee.

Comments

1) *Need for the bill.* According to the author, "Seizures are unpredictable and can occur at any time—including during school hours. While school nurses are trained to administer medication, school nurses may not be onsite or available when one occurs. In 2013, the California Supreme Court ruled that non-medical school employees could administer anti-seizure medication to students suffering from seizures. It is important that those who are supervising a child with epilepsy have the opportunity to be trained properly to recognize and, if necessary, to respond to a seizure and help the child. AB 1810 (Levine) would establish the Seizure Safe Schools Act to allow schools to designate one or more volunteers to receive initial and annual refresher training for the emergency use of anti-seizure medication for a pupil diagnosed with seizures, a seizure disorder, or epilepsy, if the pupil is suffering from a seizure."

2) *The provisions of SB 161 (Huff; 2011) expired 2017.* SB 161 (Huff, Chapter 560, Statutes of 2011) added to Education Code 49414.7 which authorized LEAs to train non-medical school employees, who volunteer, to administer emergency anti-seizure medication to students with epilepsy.

   Schools electing to participate were required to develop a school plan including the identification of staff to be trained, pupils who may require anti-seizure medication, authorization from the parent, and written instructions from the pupil's healthcare provider. The measure also authorized, but did not require, schools to prepare an individualized health plan or seizure action plan to prepare for the child's health care needs in school. The CDE was required to develop guidelines for the training and supervision of employees under these provisions and to post this information on its website. This statute also contained significant protections for employee volunteers to avoid coercion by school administrators, as well as protections from civil liability.

This bill essentially reinstates the authority for trained non-medical school employees to administer anti-seizure medication. The CDE has maintained information and guidelines on the administration of seizure rescue medications, and other considerations for schools dealing with a pupil with a seizure disorder despite the provision of SB 161 ending in 2017. The provision of this bill require CDE to update that information. This bill provides similar options for schools to provide emergency medication to students experiencing a seizure.

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

SUPPORT: (Verified 8/1/22)

Epilepsy Foundation Los Angeles (source)
American Academy of Pediatrics, California
Association of Regional Center Agencies
California Chronic Care Coalition
California Life Sciences
California Neurology Society
California School Nurse Organization
National Association of Pediatric Nurse Practitioners

OPPOSITION: (Verified 8/1/22)

California Nurses Association
California Teachers Association

ARGUMENTS IN SUPPORT: According to the sponsor, "In 2013, the Supreme Court of California ruled that non-medical school personnel may respond to a student having a seizure and administer their prescribed emergency anti-seizure medication, medications which were designed to be administered outside of a medical setting by a responsible adult and were approved by the FDA for that purpose. But as of now, there is no uniform standard for the training and education on seizure recognition and response these school employees receive. AB 1810 would close that gap, as well as offer additional protections to the school employees who assist a student having a seizure. California has already enacted similar laws to protect students who have allergic reactions (SB 1266, Huff 2014) or suffer from opioid overdoses (AB 1748, Mayes 2016) while attending school. Students who have seizures should be afforded the same protections. We also strongly support the provision of AB 1810 that would help keep students who have seizures safe at school by providing for the development of "seizure action plans"

for all students diagnosed with epilepsy or seizures and identify students eligible for individualized education plans (IEPs) and Section 504 accommodations"

ARGUMENTS IN OPPOSITION: According to the California Teachers Association "AB 1810 authorizes, if a pupil diagnosed with seizures, a seizure disorder, or epilepsy has been prescribed an emergency anti-seizure medication by the pupil's health care provider, the pupil's local educational agency, upon receipt of a request from the pupil's parent or guardian, to designate one or more volunteers at the pupil's school to receive initial and annual refresher training regarding the emergency use of anti-seizure medication and requires the Superintendent of Public Instruction to establish minimum standards of training of volunteers for the administration of emergency anti-seizure medication. CTA appreciates the opportunities to share our concerns with the author's staff and bill supporters and is thankful for the "corrective" amendments agreed to but the organization's internal policies, written and adopted by CTA members does not allow for a support position."

ASSEMBLY FLOOR: 76-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Kordell Hampton / ED. / (916) 651-4105
8/3/22 14:29:07

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

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

THIRD READING

Bill No: AB 1817
Author: Ting (D) and Cristina Garcia (D), et al.
Amended: 6/30/22 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-1, 6/29/22
AYES: Allen, McGuire, Skinner, Stern, Wieckowski
NOES: Bates
NO VOTE RECORDED: Dahle

ASSEMBLY FLOOR: 52-2, 5/23/22 - See last page for vote

SUBJECT: Product safety: textile articles: perfluoroalkyl and polyfluoroalkyl substances

SOURCE: Breast Cancer Prevention Partners
Clean Water Action
Natural Resources Defense Council

DIGEST: This bill prohibits, beginning January 1, 2025 any person from manufacturing, distributing, selling, or offering for sale any textile articles that contain intentionally added per- and polyfluoroalkyl substances (PFAS), except for textiles used for personal protective equipment or certain other regulated products. This bill requires manufacturers to use the least toxic alternative when complying with this prohibition and to provide distributers with certification of compliance.

ANALYSIS:

Existing law:

1) Requires, under the Safer Consumer Products statutes the Department of Toxic Substances Control (DTSC) to adopt regulations to establish a process to identify and prioritize chemicals or chemical ingredients in consumer products that may be considered chemicals of concern, as specified. (Health and Safety Code (HSC) § 25252)

2) Requires DTSC to adopt regulations to establish a process to evaluate chemicals of concern in consumer products, and their potential alternatives, to determine how to best limit exposure or to reduce the level of hazard posed by a chemical of concern. (HSC § 25253 (a))

3) Specifies, but does not limit, regulatory responses that DTSC can take following the completion of an alternatives analysis, ranging from no action, to a prohibition of the chemical in the product. (HSC § 25253)

4) Requires, under the California Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65), the Governor to publish a list of chemicals known to cause cancer or reproductive toxicity and to annually revise the list. The Office of Environmental Health Hazard Assessment (OEHHA) has listed perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS), which are members of the per- and polyfluoroalkyl substances (PFAS) class, as chemicals known to the state to cause developmental toxicity. (HSC § 25249.8)

5) Requires, commencing January 1, 2022, a person that sells firefighter personal protective equipment to provide a written notice to the purchaser if the firefighter personal protective equipment contains intentionally added PFAS chemicals. (HSC § 13029)

6) Prohibits, commencing January 1, 2022, a manufacturer of class B firefighting foam from manufacturing, or knowingly selling, offering for sale, distributing for sale, or distributing for use, and a person from using, class B firefighting foam containing intentionally added PFAS chemicals. (HSC § 13061)

7) Prohibits, on and after July 1, 2023, a person, including, but not limited to, a manufacturer, from selling or distributing in commerce in this state any new, not previously owned, juvenile product that contains regulated PFAS chemicals. (HSC § 108946)

8) Prohibits, commencing on January 1, 2023, a person from distributing, selling, or offering for sale in the state any food packaging that contains regulated PFAS. (HSC § 109000)

9) Authorizes the State Water Resources Control Board (State Water Board) to order a public water system to monitor for PFAS, requires community water systems to report detections, and where a detected level of these substances

exceeds the response level, to take a water source out of use or provide a prescribed public notification. (HSC §116378)

This bill:

1) Defines for the purpose of this legislation:

   a) "Apparel" as clothing items intended for regular wear or formal occasions or use in outdoor activities, excluding personal protective equipment or clothing items for exclusive use by the United States military;
   b) "Personal protective equipment" as equipment worn to minimize exposure to hazards that cause serious workplace injuries and illnesses that may result from contact with chemical, radiological, physical, biological, electrical, mechanical, or other workplace hazards;
   c) "Perfluoroalkyl and polyfluoroalkyl substances" (PFAS) as fluorinated organic chemicals containing at least one fully fluorinated carbon atom;
   d) "Regulated PFAS" as PFAS that a manufacturer has intentionally added to a product or that are intentional breakdown products of a product, or the presence of PFAS in a product or product component at or above the following thresholds as measured in total organic fluorine:

      i) Commencing January 1, 2025, 100 parts per million (ppm);
      ii) Commencing January 1, 2027, 50 ppm; and
      iii) Commencing January 1, 2029, 10 ppm.

   e) "Textile" as any item made in whole or part from a natural, manmade, or synthetic fiber, yarn or fabric including leather, cotton, silk, jute, hemp, wool, viscose, nylon, or polyester. "Textile" does not include disposable hygiene products made from paper, such as, toilet paper, paper towels, tissues, or disposable absorbent hygiene products; and
   f) "Textile articles" as textile goods of a type customarily used in household and businesses including apparel, accessories, handbags, backpacks, draperies, shower curtains, furnishing, upholstery, beddings, towels, napkins, and tablecloths. "Textile articles" does not include:

      i) Carpets and rugs;
      ii) Treatments containing PFAS for use on converted textiles or leathers;
      iii) Vehicles or their component parts;
      iv) Vessels or their component parts, including boat covers;
      v) Filtration media and filter products used in industrial applications; and

vi) Textile articles used in or for laboratory analysis and testing.

2) Prohibits the manufacturing, distribution, or selling in the state any new, not previously used, textile articles that contain regulated PFAS after January 1, 2025.

3) Exempts outdoor apparel for severe wet conditions from this prohibition until January 1, 2027.

4) Requires, commencing January 1, 2025, outdoor apparel for severe wet conditions that contain regulated PGAS must be sold with a legible and easily discernable disclosure with the statement "Made with PFAS chemicals."

5) Requires manufacturers to use the least toxic alternative, including alternative design, when removing regulated PFAS in textile articles to comply with this prohibition.

6) Requires manufacturers of textile articles to provide retailers and distributers a signed certificate of compliance stating that a textile article is in compliance with this prohibition. Specifies this certificate can be provided electronically.

7) Specifies that a distributer or retailer shall not be in violation of this prohibition if they relied in good faith on the provided certificate and did not know, or should have known, that the textile article contains regulated PFAS.

Background

1) *Perfluoroalkyl and polyfluoroalkyl substances (PFAS).* PFAS are a class of man-made chemical compounds that contain multiple fluorine atoms bonded to a single carbon atom. These carbon-fluorine bonds are extremely stable and chemically unreactive, which makes PFAS very useful in creating long-lasting and resistant products. As such PFAS have been produced and used in consumer products since the 1940s, often as surface coatings to repel water, dirt, oil, and grease. They have been used in food packaging, stain- and water-repellent fabrics, nonstick products such as Teflon, and in fire-fighting foams.

   Unfortunately, PFAS' stability also means that these compounds are resistant to being metabolized by organisms or otherwise degraded and so have slowly built up in the environment. Their chemical properties also make many PFAS highly mobile – able to travel long distances, move through soil, seep into groundwater, or be carried through the air far from their point of production or

use. These factors combined with their widespread use have made PFAS so ubiquitous that almost every person on Earth has been exposed to PFAS and scientists have found these toxins in the blood of nearly all people tested.

2) *PFAS, don't you know that you're toxic?* Several PFAS have been shown to bioaccumulate significantly in animals or plants and emerging evidence points to their phytotoxicity, aquatic toxicity, and terrestrial ecotoxicity. The Agency for Toxic Substances and Disease Registry (ATSDR) and the US EPA developed the toxicologic profile of 14 PFAS chemicals. Based on a number of factors, including the consistency of findings across studies, the available epidemiology studies suggest associations between perfluoroalkyl exposure and several adverse health effects, including liver damage, increased risk of thyroid disease, decreased antibody response to vaccines, increased risk of asthma, risk of decreased fertility, and small decreases in birth weight.

3) *PFAS are a diverse class of chemical compounds*. Because PFAS have been so industrially useful, many different types of PFAS have been created. As of September 2020, more than 9,000 PFAS chemicals were included in the US EPA's Master List of PFAS Substances. Each one has variations in their chemical properties, but all share a resistance to chemical reactivity and to environmental and biological degradation. Perfluorooctanesulfonic acid (PFOS), used to create Teflon, and perfluorooctanoic acid (PFOA), previously used in Scotchgarde, have been the most extensively studied.

   Because of extensive research demonstrating the health risks of these PFAS have been phased out of production and replaced with new PFAS touted as safer alternatives based on the idea that they linger for a shorter time in human bodies. Unfortunately, further research has shown that many of these alternatives are associated with similar adverse health effects as the original PFAS and can travel even more easily in the environment.

4) *To meaningfully regulate PFAS they must be treated as a chemical class*. Performing a complete assessment of the health impacts of all 9,000 PFAS is impractical. As such, DTSC has adopted a rationale for regulating PFAS chemicals as a class, concluding, "It is both ineffective and impractical to regulate this complex class of chemicals with a piecemeal approach." This rationale was presented in the February, 2021, Environmental Health Perspectives article, "Regulating PFAS as a Chemical Class under the California Safer Consumer Products Program." The authors of the article state, "The widespread use, large number, and diverse chemical structures of PFAS

pose challenges to any sufficiently protective regulation, emissions reduction, and remediation at contaminated sites. Regulating only a subset of PFAS has led to their replacement with other members of the class with similar hazards, that is, regrettable substitutions… Regulating PFAS as a class is thus logical, necessary, and forward-thinking."

5) *PFAS make textiles harder, better, faster, stronger*. A study commissioned by the European Commission Directorate-General for Environment found that PFAS have been used for a wide range of functional applications within textiles, upholstery, leather, apparel, and carpets in both the consumer and industrial segments. The study reports that water, oil, and dirt repellence were the primary functions for use of PFAS in textiles. Thermal resistance and 'breathability' were other uses of PFAS identified in certain types of clothing applications. According to industry representatives, PFAS are essential to the durability and functioning of many textiles designed to withstand harsh conditions or extended use, including personal protective equipment, some medical equipment, and extreme weather gear.

6) *Textiles are a major source of PFAS pollution.* According to the US EPA 2009 perfluorinated chemicals action plan, globally, coatings for textiles represent 50% of the total use of fluorotelomers, a broad class of PFAS that covers most PFAS used at large scale in industry. The US EPA is currently in the process of evaluating the PFAS content of wastewater from major industry sectors, including the textile industry.

   DTSC states, "Most waste or end-of-life converted textiles or leathers in California are disposed of in landfills, where they become sources of PFASs to the environment via leachates and gaseous emissions. Wastewater treatment plants that collect landfill leachates, surface runoff, and residential and commercial wastewater do not effectively remove PFASs. As a result, when wastewater effluent is discharged into surface waters, PFASs are released into the environment, contaminating aquatic ecosystems and drinking water sources. Sewage sludge also contains PFASs, thus the application of biosolids on soil can contaminate terrestrial ecosystems, drinking water, and human food supplies. Carpets, rugs, upholstery, clothing, shoes, and other consumer products to which treatments containing PFASs have been applied become major sources of exposure for infants and children via direct contact and incidental indoor dust ingestion."

7) *Alternatives to PFAS in textiles*. According to the Washington State Department of Ecology, there are a number of ways to meet the function of stain, oil, and water resistance in textiles and furnishings, including by using PFAS chemistries, non-PFAS "drop in" alternatives, or fibers that are inherently stain resistant. Non-PFAS "drop in" solutions include siloxane polymers, polyurethanes, sulfonation, and silicate clay-based repellent. Inherently stain resistant fibers include wool, polypropylene, polyethylene terephthalate, and polytrimethylene terephthalate. These alternatives require further study to ensure that there are no toxic impacts, and to consider their other environmental impacts, but they should not share the same exposure hazards as PFAS chemicals.

   The Danish Environmental Protection Agency published a report in 2015 on alternative to PFAS that can be used to treat textiles to achieve similar effects. They list paraffin, stearic acid-melamine, silicone, dendrimer, and nano-material based repellant chemistries as currently used viable alternatives, though they do note these treatments only provide water resistance and not the oil and stain-resistance properties of PFAS.

   While safer, less environmentally toxic alternatives to PFAS exist for many functions in textiles, many will not perform as well in all circumstances. In phasing out PFAS to protect the environment, a reduction in the performance of certain treated clothing will likely occur. As such this bill exempts critical classes of treated textiles where performance is essential to protecting human health in workplace, medical, and military settings.

Comments

1) According to the author, “Perfluoroalkyl and polyfluoroalkyl substances (PFAS) are a class of “forever” chemicals that are widely used, extremely persistent, and can lead to adverse health outcomes. While PFAS has been banned in a variety of consumer products, these chemicals are still utilized in textiles, including clothing, predominantly for stain and water repellency. The use of PFAS in textiles not only impacts the health of consumers, but contaminates our environment when PFAS-containing fabrics get washed. In California, water systems serving up to 16 million people have already been found to have PFAS contamination, and it is more prevalent in disadvantaged communities. California has already enacted a series of laws to protect consumers and the environment from the hazardous impacts of PFAS, including AB 1200, which I championed and was signed into law just last year, prohibiting the use of PFAS in paper-based food packaging. These laws were

passed on the premise that prevention is the best cure, and eliminating PFAS in consumer products is the best way to reduce the adverse health impacts of these chemicals on California residents. AB 1817 would extend this same logic to the textile industry by banning the sale of textiles that contain PFAS by 2025. By forcing manufactures to use safer alternatives, AB 1817 ensures California consumers and the environment are protected the toxic impacts of these forever chemicals."

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

SUPPORT: (Verified 6/30/22)

Breast Cancer Prevention Partners (co-source)
Clean Water Action (co-source)
Natural Resources Defense Council (co-source)
Active San Gabriel Valley
Alliance of Nurses for Healthy Environments
American College of Obstetricians and Gynecologists District IX
Bay Area Pollution Prevention Group
Breast Cancer Action
Breast Cancer Over Time
Breathe Southern California
California Association of Sanitation Agencies
California Black Health Network
California Coastkeeper Alliance
California Municipal Utilities Association
California Product Stewardship Council
California Professional Firefighters
California Special Districts Association
California Public Interest Research Group
CBU Productions
Center for Biological Diversity
Center for Community Action & Environmental Justice
Center for Oceanic Awareness, Research, and Education
Center for Public Environmental Oversight
Central California Asthma Collaborative
City of Oceanside Water Utilities Department
City of Santa Rosa
Clean and Healthy New York
Clean Label Project
Clean Production Action

Community Water Center
Consumer Federation of California
East Bay Municipal Utility District
Educate. Advocate.
Emphysema Foundation of America
Environmental Health Trust
Environmental Working Group
Erin Brockovich Foundation
Facts: Families Advocating for Chemical & Toxins Safety
Fashion Revolution USA
Fibershed
Friends Committee on Legislation of California
Friends of the Earth
Goodwill Industries of San Francisco, San Mateo and Marin Counties
Green America
Green Science Policy Institute
Heal the Bay
Integrated Resource Management
Leadership Counsel for Justice and Accountability
Los Angeles County Sanitation Districts
Made Safe
Metropolitan Water District of Southern California
National Association of Environmental Medicine
National Stewardship Action Council
Natural Resources Defense Council
Northern California Recycling Association
Orange County Water District
Physicians for Social Responsibility - Los Angeles
Plastic Oceans International
Plastic Pollution Coalition
Safer States
San Francisco Bay Physicians for Social Responsibility
San Francisco Baykeeper
Santa Clara Valley Water District
Save Our Shores
Save the Albatross Coalition
Seventh Generation Advisors
Sierra Club California
The 5 Gyres Institute
The Keep a Breast Foundation

Upstream
West County Wastewater
Wishtoyo Chumash Foundation
Women's Voices for The Earth
Worksafe
Zero Waste Sonoma
Zero Waste USA

OPPOSITION: (Verified 6/30/22)

American Chemistry Council
American Forest & Paper Association
California Manufacturers & Technology Association
California Retailers Association
Juvenile Products Manufacturers Association
Kokatat Inc.
National Council of Textile Organizations
Outdoor Industry Association
The Toy Association

ARGUMENTS IN SUPPORT: According to the sponsors of the bill, "PFAS are a class of approximately 9,000 man-made chemicals used for a wide range of purposes, including in clothes and textiles. PFAS are called "forever chemicals" because they are extremely resistant to breaking down or break down into other toxic PFAS. Consequently, they persist in the environment indefinitely and bioaccumulate in our bodies and other living organisms. They also move around easily through the environment, making them difficult to control. Virtually all Americans have PFAS in their bodies. PFAS have been linked to severe health problems, including but not limited to breast and other cancers, hormone disruption, kidney and liver damage, thyroid disease, harm to developing infants and children, and immune system disruption. Indeed, health organizations such as the International Federation of Gynecology and Obstetrics, IFIGO, have called for phasing out all unnecessary uses of PFAS…

"Recognizing the health and environmental concerns about PFAS in textiles, many leading companies, like Levi's, Gap, H&M, Puma, Keen, Osprey, Patagonia, Jack Wolfskin, Ikea, and Zara, have either eliminated or made commitments to eliminate PFAS from their products. It's time to require the rest of the industry to phase out this unnecessary use of PFAS, just as California has required the elimination of PFAS in paper-based food packaging, children's products, and fire-fighting foam, to protect our health, drinking water, and environment."

ARGUMENTS IN OPPOSITION: According to the industry coalition opposed to the bill, "Our industries support the responsible production, use and management of fluorinated substances, including regulatory requirements that are protective of human health and the environment. PFAS have varying physical and chemical properties and their environmental and health profiles are not all the same. It is important to consider this point when seeking to regulate a diverse set of products and articles.

"Given global supply chain constraints that have hit apparel retailers particularly hard, product availability for replacements is not assured and is likely to further exacerbate the economic impact on this sector. Additionally, a rigid compliance deadline without appropriate sell through provisions could have unintended consequences both from an economic and environmental perspective. Replacement of durable products, proven to provide long service life (years) with lower performing, much shorter lifetime (months) products will require consumers to replace those products more frequently, significantly increasing aggregated greenhouse gas (GHG) emissions output during production of the replacements. Unsold items may be disposed of in landfills or shipped to neighboring states for sale, incurring additional solid waste management, transportation and re-packaging material GHG impacts to the environment."

ASSEMBLY FLOOR: 52-2, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Seyarto
NO VOTE RECORDED: Berman, Mia Bonta, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Mayes, Nguyen, O'Donnell, Patterson, Quirk-Silva, Blanca Rubio, Smith, Voepel, Waldron

Prepared by: Jacob O'Connor / E.Q. / (916) 651-4108
7/28/22 12:59:54

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

SENATE RULES COMMITTEE AB 1823
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1823
Author: Bryan (D)
Amended: 8/1/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 10-0, 6/29/22
AYES: Pan, Melendez, Eggman, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Gonzalez

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/8/22
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

ASSEMBLY FLOOR: 70-0, 5/23/22 - See last page for vote

SUBJECT: Student health insurance

SOURCE: California Department of Insurance

DIGEST: This bill defines student health insurance as individual health insurance and specifies federal Affordable Care Act requirements that apply to student health insurance, such as coverage of essential health benefits, rating factors consistent with existing law, the annual limit on maximum out-of-pocket expenses as specified, and the prohibition against annual and lifetime limits. This bill includes legislative intent to ensure that self-funded student health insurance offered by the University of California or by any other institution of higher education in California that self-funds student insurance complies with the provisions of this bill.

ANALYSIS:

Existing law:

1) Establishes the California Department of Insurance (CDI) to regulate health insurance, and other forms of insurance. [INS §106, et seq.]

2) Permits as a type of blanket insurance providing benefits to students without necessarily any restriction as to activity, time, or place, or to teachers or employees while performing actions incident to special duties, such as at camps, at summer playgrounds, or during tours or excursions; and providing benefits to students, teachers, or employees, and spouses and dependents of students, teachers, and employees, for death or dismemberment resulting from accident, or for hospital, medical, surgical, drug, or nursing expenses resulting from accident or sickness. Blanket insurance is a form of insurance providing coverage for specified circumstances and insuring by description all or nearly all persons within a class of persons defined in a policy issued to a master policyholder, a college, school, or other institution of learning, a school district or districts or school jurisdictional unit, or to the head, principal, or governing board of an educational unit who or which shall be deemed the policyholder. [INS §10270.2(a)(2)]

3) Requires an individual or small group health insurance policy to include, at a minimum, coverage for essential health benefits, pursuant to the Affordable Care Act (ACA), and describes the benefits and benchmark plan which comprise California's essential health benefits. [INS §10112.27]

4) Defines student health insurance, under federal regulations, as a type of individual health insurance coverage that is provided pursuant to a written agreement between an institution of higher education (as defined in the Higher Education Act of 1965) and a health insurance issuer, and provided to students enrolled in that institution of higher education and their dependents, that does not make health insurance coverage available other than in connection with enrollment as a student (or as a dependent of a student) in the institution of higher education; does not condition eligibility for the health insurance coverage on any health status-related factor relating to a student (or a dependent of a student); and meets any additional requirement that may be imposed under State law. [45 CFR §147.145]

5) Exempts 4) above from ACA requirements on guaranteed availability and guaranteed renewability, levels of coverage, single risk pool. [45 CFR §147.145]

6) Establishes the federal Paul Wellstone and Pete Dominici Mental Health Parity and Addiction Act of 2008 (MHPAEA). [42 U.S.C. §300gg-26]

This bill:

1) Requires, for policy years beginning on or after January 1, 2023, a blanket disability insurance policy that meets the definition of student health insurance coverage to be considered individual health insurance coverage, as specified.

2) Defines "student health insurance coverage" as a blanket disability policy that covers hospital, medical, or surgical benefits, that is provided pursuant to a written agreement between an institution of higher education, as defined in the federal Higher Education Act of 1965, and a disability insurance issuer, and provided to students enrolled in that institution of higher education and their dependents, that meets all of the following conditions:

    a) Does not make coverage available other than in connection with enrollment as a student, or as a dependent of a student, in the institution of higher education;
    b) Does not condition eligibility for the insurance coverage on any health status-related factor relating to a student or a dependent of a student; and,
    c) Does not condition eligibility, an offer, issuance, a sale, or a renewal for the insurance coverage on any factor other than enrollment as a student or dependent of a student in the institution of higher education.

3) Requires, a blanket disability insurance policy that meets the definition of student health insurance coverage to comply with the provisions of Insurance Code that are applicable to nongrandfathered individual health insurance, including, but not limited to, essential health benefits requirements, rating factors consistent with existing law, the annual limit on maximum out-of-pocket expenses as specified, and the prohibition against annual and lifetime limits.

4) Exempts a disability insurance issuer that offers student health insurance coverage from being required to renew or continue in force coverage for individuals who are no longer students or dependents of students. However, requires the student health insurance coverage to be renewable with respect to all eligible students or dependents of students at the option of the student.

5) Exempts student health insurance coverage from the requirement to provide specific levels of coverage as required in existing law for insurers not participating in Covered California. However, requires the benefits provided by student health coverage to provide at least 60% actuarial value. Requires the issuer to specify in any plan materials summarizing the terms of the coverage

the actuarial value and level of coverage, or the next lowest level of coverage, and how the coverage would otherwise satisfy requirements of existing law.

6) Specifies that student health insurance coverage is not subject to single-risk pool requirements in existing law. Permits a health insurance issuer that offers student health insurance coverage to establish one or more separate risk pools for an institution of higher education if the distinction between or among groups of students or dependents of students who form the risk pool is based on a bona fide school-related classification and not based on a health factor. However, requires student health insurance rates to reflect the claims experience of individuals who comprise the risk pool, and any adjustments to rates within a risk pool to be actuarially justified.

7) Exempts student health insurance coverage from nongrandfathered individual health insurance rate review, but requires it to be subject to the nongrandfathered large group market rate review requirements. Requires if CDI determines that a rate is unreasonable or not justified the insurer to notify the policyholder of this decision, including to a student certificate holder in addition to the policyholder.

8) Requires the following notice to be provided in the student health insurance enrollment materials provided to a student or a dependent of a student in clear, conspicuous, 14-point bold type, and permits the notice to be provided on website of the institution:

> California requires residents and their dependents to obtain, and maintain, health coverage or pay a penalty, unless they qualify for an exemption. Enrolling in student health insurance offered by the college or university you are attending is one way to meet this requirement.
>
> You may be eligible to get free or low-cost health coverage through Medi-Cal regardless of immigration status. In addition, you may be eligible for free or low-cost health coverage through Covered California. Visit Covered California at www.coveredca.com to learn about health coverage options that are available for you and your dependents, and how you might qualify to get financial assistance with the cost of coverage.
>
> If you are under 26 years of age, you may be eligible for coverage as a dependent in a group health plan of your parent's employer or under your parents' individual market coverage. In addition, you may be eligible to buy individual health insurance directly from a health insurer or health plan, regardless of immigration status.

Please examine your options carefully to see if other options are more affordable and whether you are currently eligible to enroll in these other forms of coverage pursuant to an open or special enrollment period.

9) Defines a "student administrative health fee" as a fee charged by the institution of higher education on a periodic basis to students of the institution of higher education to offset the cost of providing health care through health clinics regardless of whether the students utilize the health clinics or enroll in student health insurance coverage. This fee is not considered a cost-sharing requirement with respect to specified recommended preventive services.

10) Defines "health factor" as, in relation to an individual, any of the following health status-related factors:

    a) Health status
    b) Medical condition, including both physical and mental illnesses;
    c) Claims experience;
    d) Receipt of health care;
    e) Medical history;
    f) Genetic information;
    g) Evidence of insurability, including conditions arising out of acts of domestic violence;
    h) Disability; and,
    i) Any other health status-related factor as determined by any federal regulation, rule, or guidance issued pursuant to federal Mental Health Parity and Addiction Equity Act.

Background

According to the federal Centers for Medicare and Medicaid Services (CMS), student health plans are often purchased when family coverage is not available. According to some estimates, as many as three million students are covered through student health plans offered by colleges, universities, or other institutions of higher education. Not all student health plans are the same. Some plans are comprehensive but others offer limited benefits, which can put students and their families at risk for catastrophic medical bills. In addition, these plans are treated differently depending on how and where they are offered. This has created a patchwork system of regulation for these plans that makes it difficult for students and their families to understand their coverage and rights. The federal Department of Health and Human Services (HHS) finalized regulations effective April 20, 2012, that would ensure students enrolled in these plans benefit from important consumer protections created by the ACA, and clarified that these plans are

defined as "individual health insurance coverage." There have been updates since 2012. Many commenters to the 2012 CMS rule urged CMS to extend these requirements also to self-funded student plans. The response by CMS included the following, "It is estimated that approximately 200,000 students (less than 1% of the market) are enrolled in coverage offered through self-funded health plans. As discussed earlier in the preamble, these self-funded student plans are not subject to the requirements of the [ACA] because they are neither health insurance coverage nor group health plans, as those terms are defined in the [ACA]." The preamble states that while HHS has no authority to regulate self-funded student insurance, self-funded student health plans may be regulated by the States. The University of California (UC) offers a self-funded student insurance plan in California.

Comments

According to the author, "there are over 140,000 college students and their dependents in California who rely on student blanket coverage provided through the student's university for healthcare benefits. Though these students receive coverage through their university's student blanket insurance, this coverage in practice acts as a form of individual health insurance—a fact that is already recognized federally through the ACA. Yet, here in California, we still define student blanket coverage as a type of disability insurance, rather than as individual health insurance. Because of this, many of our state's consumer protections and regulations, which ensures better benefits and accessibility for consumers, do not technically apply to student blanket insurance and the 140,000 people that it covers. This bill would fix this by redefining student blanket coverage as a form of individual health insurance, thereby bringing it in compliance with our state's high health insurance standards and ensuring that students and their dependents are receiving the quality of healthcare that is guaranteed to them by the state."

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

According to the Senate Appropriations Committee:

- CDI estimates state operations costs of $69,000 in 2022-23, $146,000 in 2023-24, and $125,000 ongoing thereafter (Insurance Fund).

- UC indicates no fiscal impact.

SUPPORT: (Verified 8/10/22)

California Department of Insurance (source)
California Insurance Commissioner Ricardo Lara

University of California Student Association

OPPOSITION: (Verified 8/10/22)

None received

ARGUMENTS IN SUPPORT: California Insurance Commissioner Ricardo Lara and CDI, sponsor this bill and write it would align the definition of student blanket policies with federal law, which considers student blanket policies to be individual health insurance and, thus, subject to more regulator oversight and increased consumer protections available under existing federal and state law. Blanket insurance is a type of disability insurance issued to a master policyholder that provides coverage in specific circumstances for persons that fall into a defined group. Colleges and universities often purchase student insurance blanket policies to provide health benefits for their enrolled students, including DACA (Deferred Action for Childhood Arrivals) recipients and refugee students. As of December 2020, nearly 140,000 students and their dependents rely on their college or university for their health benefits. Federal law defines student blanket coverage as student health insurance coverage, and that coverage is generally subject to the individual market requirements found in the ACA. The current California law definition of "health insurance" fails to sweep in student blanket coverage because that definition only applies to group or individual coverage, and blanket coverage is neither. Even though student blanket policies may provide the same benefits as health insurance -- and federal law requires that these policies comply with individual requirements under the ACA -- state law currently does not require student blanket policies to provide all of the protections that students and dependents would be afforded if they purchased individual health insurance coverage due to existing definitions. This bill defines student blanket coverage as individual health insurance coverage under California law. This definition is taken directly from federal law, and will ensure that student health coverage is subject to the state protections afforded to individual coverage. This alignment will remove ambiguity when state statutes use the term "health insurance."

ASSEMBLY FLOOR: 70-0, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-

Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Mia Bonta, Gabriel, Jones-Sawyer, Mayes, McCarty, O'Donnell, Blanca Rubio

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
8/10/22 14:21:55

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

SENATE RULES COMMITTEE AB 1824
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

CONSENT

Bill No: AB 1824
Author: Committee on Public Employment and Retirement
Amended: 8/1/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 6/29/22
AYES: Cortese, Ochoa Bogh, Durazo, Newman, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 65-0, 4/7/22 (Consent) - See last page for vote

SUBJECT: Public employees' retirement

SOURCE: California State Teachers' Retirement System

DIGEST: This bill is the annual retirement systems' administrative housekeeping bill which makes technical, noncontroversial changes to various sections of the Education and Government Codes administered by the California State Teachers' Retirement System (CalSTRS), the California Public Employees' Retirement System (CalPERS), and the 20 independent County Employee Retirement Law of 1937 Act systems, respectively.

ANALYSIS:

Existing law:

CalSTRS

1) Allows CalSTRS to establish a special account and procedures to pay, on an emergency basis, allowances, death benefits and up to 75 percent of the return balance of an individual's accumulated retirement contributions as a result of a termination of employment or death. Payments under this special account must be paid by checks issued to CalSTRS and subject to auditing

requirements by the State Controller. Payments under this account are deducted from allowances, death benefits and payment of accumulated retirement contributions otherwise due. (Education Code (ED) § 24602)

2) Provides, generally, that a school employer board member is ineligible for CalSTRS membership pursuant to state conflict of interest provisions except for individuals performing specified trustee service for employers that offer the Cash Balance (CB) Benefit program. A person who performs trustee service for such an employer can elect to participate in the CB Benefit program, as specified. Under existing law, creditable service activities includes this kind of trustee service. (ED §§ 26113, 26144.5, and 26403)

3) Provides that all creditable service under the CB Benefit program and all service with the participant's last employer or employers that is creditable under the Defined Benefit (DB) program must be terminated prior to retirement, and all employers with whom the participant is employed to perform creditable service must certify that the participant's employment has been terminated unless the employment was terminated at least 12 months prior to the participant's retirement date. (ED §§ 26803 and 27201)

4) Authorizes a participant of the CB Benefit program to designate or change beneficiaries, including contingent beneficiaries, to receive a lump-sum death benefit that may be payable under the plan. The beneficiary must be a person, trust, or estate of the participant, and the process to designate a beneficiary is prescribed in existing law. (ED § 27100)

CalPERS

5) Requires a CalPERS employer that reports disallowed compensation to CalPERS that CalPERS then used to erroneously calculate a member's retirement allowance to reimburse CalPERS for any overpayment made to the retired member and to pay a penalty equal to 20 percent of the amount calculated as a lump sum of the actuarial equivalent present value representing the difference between the monthly allowance that was based on the disallowed compensation and the adjusted monthly allowance calculated, as specified, for the duration CalPERS projects to pay that allowance to the retired member, survivor, or beneficiary. (Government Code (GC) § 20164.5)

6) Allocates 90 percent of the employer penalty to the retired member and 10 percent of the penalty to CalPERS, as specified. (GC § 20164.5)

'37 ACT Retirement Systems

7) Establishes the County Employees Retirement Law of 1937 (CERL or '37 Act) which governs 20 independent county retirement associations and provides for retirement systems for county and district employees in those counties adopting its provisions. Currently, 20 counties operate retirement systems under the CERL. CERL systems are regulated by, and administer, the CERL, also commonly referred to as the "'37 Act." (GC § 31450 et seq.)

8) Establishes that the purpose of the CERL is to recognize a public obligation to county and district employees who become incapacitated by age or long service in public employment and its accompanying physical disabilities by making provision for retirement compensation and death benefit as additional elements of compensation for future services and to provide a means by which public employees who become incapacitated may be replaced by more capable employees to the betterment of public service without prejudice and without inflicting a hardship upon the employees removed. (GC § 31451)

9) Provides that any retirement allowance earned but not yet paid to a member must, notwithstanding any other provision of law, be paid to the member's designated beneficiary or survivor upon the death of the member after retirement. (GC § 31452.7)

10) Allows a member to receive credit for employment in public service only for service that the member is not entitled to receive a pension or retirement allowance from a public agency. The service that the member elects to contribute and the fact that no pension or retirement allowance will accrue by virtue of the member's employment in the public agency must be certified to by an officer of the public agency where the member rendered such service or must be established to the satisfaction of the board. (GC § 31641.4)

11) Permits, except as otherwise provided, a safety member who has reached the compulsory age or retirement, or a safety member who has completed 10 years of continuous service and who has reached 50 years of age, or a safety member who has completed 20 years of service regardless of age, to retire after filing an application with the board which sets forth the date on which the member desires the retirement to become effective. (GC §§ 31663.25 and 31663.26)

12) Establishes, among other provisions, that upon retirement for a non-service-connected disability, a member who has attained the requisite years of age must receive their service retirement allowance, and a member who is under an age certain, as provided, who is retired for nonservice-connected disability and

not simultaneously retired as a member on deferred retirement from a state public employee retirement system or another ’37 Act system must receive a disability allowance, as prescribed. (GC §§ 31726 and 31726.5)

13) Authorizes optional settlements to a member whereby a member may elect a retirement allowance paid until death and thereafter, paid to the member’s estate or natural person who has an insurable interest in the member’s life, as specified. (GC §§ 31761 through 31764)

14) Provides for death benefits of a member consisting of the member’s accumulated contributions and an amount, provided from contributions by the county or district, as specified. (GC § 31781)

This bill:

CalSTRS

1) Clarifies that the modifier “as a result of termination of employment or death” only applies to payments of “up to 75 percent of the return of the balance of the accumulated retirement contributions,” and not to “allowances and death payments.”

2) Clarifies that “trustee service” as defined in existing law is creditable to the CB Benefit Program when performed by a person who has elected to have such service covered through the prescribed process in existing law.

3) Clarifies that creditable service subject to coverage by the CB Benefit and DB programs that do not include certain specified retired member or retired participant activities must be terminated prior to the retirement date or prior to application for a termination benefit, as provided.

4) Replaces the more limited list of possible CB Benefit beneficiaries (i.e., a person, trust, or the estate of the participant) that a CB Benefit program participant may designate with an expanded list of beneficiaries (i.e., a corporation, trust, charitable organization, parochial institution or public entity) for receipt of lump-sum death benefits, and makes other changes for purposes of consistency and efficiency.

5) Makes other minor and technical changes.

CalPERS

6) Eliminates the provision that allocates to CalPERS a portion of the 20 percent penalty an employer pays as a lump sum to compensate a retired member whose pension allowance CalPERS adjusts due to disallowed compensation reported by the employer. Thus, the employer pays the full compensatory amount to the retired member.

'37 ACT Retirement Systems

7) Allows a '37 Act system member to designate a corporation, trust, or estate to receive his or her last check upon death, but does not allow an estate or trust to receive ongoing payments.

8) Resolves a potential federal pre-emption issue regarding purchasing prior military reserve service due to the supremacy of federal law over state law, and references the relevant legal decision that affirmed the supremacy for purposes of establishing legislative intent.

9) Grants flexibility for retirement boards to allow safety members to file retirement applications more than 60 days before retirement.

10) Restructures certain sections for purposes of increased clarity.

11) Inserts the word "natural" in front of the phrase "person having an insurable interest in the member's life" to clarify that the optional retirement settlement death benefit cannot be paid to a fictitious person such as a trust or corporation.

12) Ensures consistency with other sections of the CERL that provide direction on the calculation of compensation earnable and pensionable compensation when a member is on a leave of absence during the 12 months immediately preceding the member's death.

13) Makes other minor and technical changes.

Comments

Need for this bill. AB 1824 (Assembly Public Employment and Retirement Committee) is the annual housekeeping bill for statutes regulating the CalPERS, CalSTRS, and '37 Act retirement systems. This bill makes various technical,

conforming, and minor changes to the Education and Government Codes necessary to the efficient administration of the retirement systems.

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

SUPPORT: (Verified 8/9/22)

California State Teachers' Retirement System (source)
California Professional Firefighters
Los Angeles County Employees Retirement Association
State Association of County Retirement Systems

OPPOSITION: (Verified 8/9/22)

None received

ARGUMENTS IN SUPPORT: According to CalSTRS, "This bill is necessary to permit continued effective administration of CalSTRS. Any administrative costs associates with these provisions are minor and absorbable, and there are no program costs resulting from them."

According to the State Association of County Retirement Systems (SACRS):

"[This bill] includes various clean up changes to the CERL, including:

- an amendment that would allow a member to designate a corporation, trust, or estate to receive his or her last check upon death,
- a clarification regarding federal pre-emption regarding purchasing prior military reserve service,
- building on prior cleanup by allowing safety members to file retirement applications more than 60 days before retirement,
- restructuring language on non-service-connected disability to provide more clarity, clarifies optional retirement settlement death benefits apply to 'natural' persons,
- and adding language of compensation earnable and pensionable compensation when a member is on leave of absence during the 12 months immediately preceding the member's death.

These changes are noncontroversial and provide the necessary cleanup to CERL. On behalf of SACRS, we respectfully urge your support."

According to the Los Angeles County Employees Retirement Association, “The bill makes several amendments to CERL that provide clarification, technical updates, and conforming changes. These amendments are noncontroversial and ensure efficient administration of plan benefits for our members.”

ASSEMBLY FLOOR: 65-0, 4/7/22
AYES: Arambula, Bennett, Berman, Bloom, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Irwin, Kalra, Kiley, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wilson, Rendon
NO VOTE RECORDED: Aguiar-Curry, Bauer-Kahan, Bigelow, Boerner Horvath, Mia Bonta, Jones-Sawyer, Lackey, Mayes, Petrie-Norris, Quirk, Wicks, Wood

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
8/10/22 14:24:48

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

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THIRD READING

Bill No: AB 1832
Author: Luz Rivas (D), et al.
Amended: 6/14/22 in Senate
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 8-0, 6/1/22
AYES: Limón, Jones, Becker, Grove, Hertzberg, Hueso, Laird, McGuire
NO VOTE RECORDED: Allen

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 62-0, 5/5/22 - See last page for vote

SUBJECT: Waters subject to tidal influence: hard mineral extraction

SOURCE: The Honorable Eleni Kounalakis, Lieutenant Governor of California
Monterey Bay Aquarium
Surfrider Foundation

DIGEST: This bill prohibits the California State Lands Commission or a local trustee of granted public trust lands from granting leases or issuing permits for the extraction or removal of hard minerals from state waters, as provided.

ANALYSIS:

Existing law:

1) Establishes the California State Lands Commission (commission) in the California Natural Resources Agency. (Public Resources Code (PRC) §6101) The commission is composed of the Lieutenant Governor, State Controller, and the Governor's Director of Finance.

   a) The commission has exclusive jurisdiction over all ungranted tidelands and submerged lands owned by the state, and all jurisdiction and authority

remaining in the state for granted tidelands and submerged lands. (PRC §6301)

b) The commission is required to provide oversight to local trustees – such as a county, city or district – who manage public trust lands granted by the Legislature. (PRC §6306)

c) Granted public trust lands must still be managed in accordance with the public trust. The local trustees ability to authorize various activities on granted lands – such as leasing or the granting of rights or privileges related to their use – varies based upon the language in the granting statutes.

2) Authorizes, generally, the commission and local trustees to issue prospecting permits and leases for the extraction and removal of minerals other than oil and gas or other hydrocarbons from tide and submerged lands subject to certain terms and conditions. (PRC §6800)

3) Authorizes the commission, when it appears to be in the public interest, to grant by competitive bidding leases for the extraction of minerals other than oil and gas from tidelands and submerged lands of the state when it will not interfere with certain public trust activities, as provided. (PRC §6900)

This bill prohibits the commission or a local trustee of granted public trust lands from granting leases or issuing permits for the extraction or removal of hard minerals from state waters, as provided. Specifically, this bill:

1) Prohibits the commission or a local trustee of granted public trust lands from granting leases or issuing permits for the extraction or removal of hard minerals from state waters subject to tidal influence, as defined.

2) Removes the commission's authority to grant by competitive bidding leases for the extraction of minerals other than oil and gas from tidelands and submerged lands, as provided.

3) Defines hard minerals to mean natural deposits of valuable minerals including, but not limited to, metals and placer deposits of metals, nonmetallic minerals, gemstones, ores, gold, silver, copper, lead, iron, manganese, silica, chrome, platinum, tungsten, zirconium, titanium, garnet, and phosphorous. Rock, gravel, sand, silt, coal, oyster shells, or hydrocarbons are explicitly excluded.

4) Authorizes scientific research or collections conducted by or on behalf of educational, scientific, or research institution or a governmental agency.

5) Makes appropriate and relevant legislative findings, and conforming statutory changes.

Background

California has the largest ocean-based economy in the nation, and it was recently estimated to be $45 billion annually. Ocean-related pursuits employed over 500,000 Californians in 2017. Coastal tourism and recreation in the state are valued at approximately $27 billion annually. Commercial fishing and seafood generated $28.8 billion in sales in 2017, and supported over 150,000 jobs. California's marine wildlife, such as whales, seals and dolphins, attract millions of visitors annually to the state's coast, including to the state's coastal state parks. The protection of the health of the coast and state waters is fundamental to maintaining the vitality of this part of the state's economy.

The commission manages four million acres of tide and submerged lands and the beds of navigable rivers, streams, lakes, bays, estuaries, inlets and straits. These lands are sovereign or public trust lands, and are located throughout the state and approximately three miles offshore to the west under coastal waters.

The public trust doctrine provides that the public trust lands are held in trust by the state for the benefit of the people of California. According to the commission, the common law doctrine of the public trust protects the public's right to use the state's waterways for navigation, fishing, boating, natural habitat protection and other water-oriented activities. The traditional uses of the state's waterways by the public to engage in "commerce, navigation, and fisheries" have been expanded by court decisions to include the right to swim, boat, and engage in other forms of water recreation and to preserve lands in their natural state in order to protect scenic and wildlife habitat values.

There are over 80 local trustees (grantees) of public trust lands subject to the oversight of the commission.

The commission has no currently approved, or historically approved, permits to mine tide or submerged lands for metals. (Sand mining is authorized in some locations, as is gravel mining and the mining or removal of certain other materials.)

In recent years, there has been increased interest in the mining of certain minerals found in or on the deep sea floor. These include metals such as cobalt – a necessary ingredient for batteries currently used in electric cars, computers, and cell phones. Demand for cobalt, for example, is expected to grow by a factor of four by 2030, according to the World Economic Forum's Global Battery Alliance,

and there is considerable interest in developing other sources of the metal, including the recycling of old batteries.

There is also commercial interest in the exploitation of manganese found in nodules on abyssal plains, and the metal-rich sulfides containing gold, copper, zinc, lead, barium, and silver deposited around deep sea hydrothermal vents. There is also interest in the extraction of methane from gas hydrates found on continental slopes and rises.

Thirty years ago, scientists tested the potential effects of seabed mining by dragging a plow over the ocean floor in the eastern Pacific Ocean. This created a sediment plume that buried the study area. The tracks of the plow from the 1989 experiment remain visible today illustrating the lasting potential damage from seabed mining to the surrounding environment.

Additionally, the sediment plumes can harm or destroy fish, invertebrates, corals, and habitat. The sediment plume can, in addition to smothering marine life, potentially expose them to re-suspended toxic materials and increased local turbidity. Mining is also disruptive to the marine environment through its associated increase in oceanic noise and thermal pollution associated with the return of wastewaters to marine waters, among other concerns.

The deep sea and its health are considered critical to ensuring the health of the ocean. The deep sea remains largely unexplored with only about 20% of the seafloor mapped at high resolution. Approximately 2,000 new species of ocean life are discovered every year. This number does not include the numerous microorganisms that form the base of and facilitate ocean ecosystems, store carbon, and support global fisheries. California's coastal and state waters and the marine environment are already stressed by climate change, including acidification.

According to the Pew Charitable Trust, California state waters do not include a commercially-viable source of battery metals. This is the current justification for most interest in seabed mining. There is some potential for precious metals, such as gold, and phosphorites offshore.

Comments

The state has regularly limited commercial exploitation of natural resources in coastal areas and waters. The commission, for example, cannot issue new oil and gas production leases in state waters pursuant to the California Coastal Sanctuary Act (PRC §§6240 *et seq*.). There are both federal and state marine protected areas

offshore California where uses – including fishing – are restricted. Many of the state's commercial fisheries - such as Dungeness crab – are restricted entry. In this instance, given the potential harm to the seafloor, the coastal marine ecosystem, and the aspects of the ocean economy that depend upon a healthy marine environment, the precautionary approach to seabed mining has merit.

Similar action taken by other governments. According to the Pew Charitable Trusts, Oregon banned seabed mining in 1991, and Washington passed a seabed mining ban in 2021. The European Parliament also adopted a resolution in support of a moratorium on seabed mining in June 2021.

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

SUPPORT: (Verified 6/21/22)

The Honorable Eleni Kounalakis, Lieutenant Governor of California (co-source)
Monterey Bay Aquarium (co-source)
Surfrider Foundation (co-source)
7th Generation Advisors
Audubon California
Bay Planning Coalition
Beach Ecology Coalition
Benioff Ocean Initiative
California Association of Zoos and Aquariums
California Coastal Protection Network
California Grain & Feed Association
California Institute for Biodiversity
California Interfaith Power & Light
California Marine Sanctuary Foundation
California State Lands Commission
Californians Against Waste
CALPIRG Students
Clean Water Action
Crown Prince, Inc.
Dana Point Whale Watching Company
Defenders of Wildlife
E2 (Environmental Entrepreneurs)
Earthworks
Environment California
Environmental Action Committee of West Marin
Environmental Defense Center

Environmental Working Group
Friends Committee on Legislation of California
Grind and Prosper Hospitality
Heal the Bay
Indigenous
Marine Conservation Institute
Monterey Bay Whale Watch
National Parks Conservation Association
Natural Resources Defense Council
Ocean Conservancy
Oceana
Oceanic Preservation Society
Offishial Business
Patagonia
Physicians for Social Responsibility – San Francisco Bay chapter
Pier 23 Café
Plastic Pollution Coalition
REV Ocean
San Fernando Valley Climate Reality Project
Santa Barbara Zoo
Save Our Shores
SeaWorld Parks & Entertainment
Sierra Club California
STOKE
Surf Industry Members Association
Sustainable Ocean Alliance
Tackle Warehouse
The Bolsa Chica Land Trust
The Last Plastic Straw
The Marine Mammal Center
The Nature Conservancy
Thresher Boats
Wholly H2O
Wildflower Events

OPPOSITION: (Verified 6/21/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "AB 1832 proactively protects our unique and diverse coastal ecosystem and its deep-sea marine life.

Safeguarding California's people, culture, and marine habitat from the harmful activity of seabed mining requires a straightforward legislative fix. This legislation would amend the authority of SLC local trustees of granted public trust lands to prohibit hard mineral leases on state submerged lands in California's ocean waters. Our environment has suffered from decades of reactionary policy. We don't need to wait for another disaster to occur when we can take steps to prevent it from happening in the first place."

The California State Lands Commission writes, "Mining the seabed for hard minerals is at odds with California's role as an environmental leader and with its many statutes, policies, and executive orders to protect the environment and the ocean. The Pacific Ocean is facing unprecedented challenges from acidification, over-fishing, and pollution. California's Pacific coast is among the most dazzling in the world and the marine ecosystem underpinning it is invaluable. Protecting this ecosystem and preserving and expanding public access are among the Commission's core responsibilities."

ASSEMBLY FLOOR: 62-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Friedman, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, McCarty, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Gallagher, Cristina Garcia, Gipson, Levine, Mayes, Medina, Villapudua, Waldron, Wicks

Prepared by: Katharine Moore / N.R. & W. / (916) 651-4116
6/22/22 14:42:29

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

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

THIRD READING

Bill No: AB 1845
Author: Calderon (D)
Amended: 6/16/22 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/29/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 70-0, 5/25/22 - See last page for vote

SUBJECT: Metropolitan Water District of Southern California: alternative project delivery methods

SOURCE: Metropolitan Water District of Southern California

DIGEST: This bill allows the Metropolitan Water District of Southern California (MWD) to use various alternative project delivery methods.

ANALYSIS:

Existing law:

1) Requires, pursuant to the Local Agency Public Construction Act, local officials to invite bids for construction projects and then award contracts to the lowest responsible bidder under the traditional design-bid-build project delivery system.

2) Authorizes, until January 1, 2025, cities, counties, and specified special districts, transit and transportation agencies, and specified additional local agencies to use design-build for specified public works contracts in excess of $1 million using either a low bid or best value process.

3) Provides the following parameters for cities and counties that use design-build:

a) Allows design-build for the construction of a building or buildings and improvements directly related to the construction of a building or buildings, county sanitation wastewater treatment facilities, and park and recreational facilities;

b) Allows cities and counties that operate wastewater facilities, solid waste management facilities, or water recycling facilities to use design-build for the construction of such facilities; and,

c) Prohibits cities and counties from using design-build for the construction of other infrastructure, including, but not limited to, streets and highways, public rail transit, or water resources facilities and infrastructure.

4) Provides that transit districts and special districts that operate wastewater facilities, solid waste management facilities, water recycling facilities, or fire protection facilities may also use design-build for the following projects:

a) Transit capital projects that begun project solicitation on or after January 1, 2015, excluding state highway construction or local street and road projects (for transit districts); and

b) Regional and local wastewater treatment facilities, regional and local solid waste facilities, regional and local water recycling facilities, or fire protection facilities (for special districts that operate those types of facilities).

5) Imposes requirements for the use of skilled labor, the issuance of performance bonds, insurance coverage, and identification of subcontractors that will complete at least one-half of 1% of the value of a design-build contract.

This bill:

1) Adds the following alternative project delivery methods to MWDs existing contracting authority for up to 15 regional recycled water projects or other water infrastructure projects to alleviate water supply shortages attributable to drought or climate change:

a) Design-build;

b) Progressive design-build; and

c) Construction manager/general contractor (CM/GC) method.

2) Requires MWD to award design-build contracts using the same procedures in state law for other agencies.

3) Outlines specific procedures for MWD to use progressive design-build or CM/GC, and requires MWD to award these contracts on a best value or qualifications basis, or to the lowest responsible bidder.

4) Requires MWD to do the following to use progressive design-build:

   a) Prepare and issue a request for qualifications (RFQ) to select a design-build entity for the project, which must at least specified information on the project and the bidder, the significant factors the district will use to evaluate qualifications, and the procedure for final selection.

   b) MWD must evaluate the submissions based solely on the information in statement of qualifications, but may also interview the entity to further evaluate their qualifications.

   c) Once MWD issues the award, the district must publicly announce the award, identify the design-build entity, along with a statement regarding how the decision was made with sufficient information to satisfy an external audit.

   d) After selecting the entity, MWD may enter into a contract and begin design and preconstruction activities necessary to establish a guaranteed maximum price. Upon agreement of a guaranteed maximum price for the project, MWD has the sole discretion to amend the contract with the design-build entity to complete the construction of the project. In the case of unforeseen conditions or changes the MWD initiates, it must amend the contract to be consistent with the guaranteed maximum price if necessary. If the costs to complete the project exceed the guaranteed maximum price, the excess costs become the responsibility of the design-build entity. If the costs are less than the guaranteed maximum price, the design-build entity is not entitled to the difference unless there is a prior written agreement to share the proceeds.

   e) Provides that, if MWD and the design-build entity do not agree on a guaranteed maximum price, the district may solicit proposals to complete the project from other firms that submitted proposals. MWD may solicit proposals from other entities if it makes a written determination that is in their best interest to do so.

   f) The design-build entity may award subcontracts once the local agency awards the contract. For subcontracts not listed in the initial proposal, design-build entities must provide public notice of the available work and

specified information on the bidding process. It may award subcontracts on a best value basis or to the lowest responsible bidder. The bill also provides specified liability protections for subcontractors and design professionals.

g) MWD must submit a report describing each public works project it completed using progressive design-build before December 1, 2026, by January 1, 2027.

5) Requires MWD to do the following to use CM/GC:

a) MWD must establish a procedure for the evaluation and selection of a construction manager (CM) by developing a RFQ that includes specified information on the project and the bidder.

b) For each RFQ, MWD must generate a final list of qualified persons or firms before it can enter into contract negotiations. For each contract in the RFQ, MWD must enter into negotiations for the contract with the highest qualified person or firm on the final list. If the RFQ is for multiple contracts, there can be a single negotiation for all the contracts. When making its decision, MWD must take into account the value, scope, complexity, and nature of the services the entity will render.

c) Provides that, if negotiations are unsuccessful, MWD can move onto the next most qualified person or firm.

d) If a contract is entered into, and includes preconstruction services, MWD must enter into a written contract with the CM for these preconstruction services under which the district pays the CM an agreed upon fee. The preconstruction services can include fees for services to be performed during the construction contract, but the district must not request or a obtain a fixed or guaranteed maximum price for the construction contract until after it has entered into a preconstruction services contract, which provides for subsequent negotiation of any or all phases of the project.

e) A construction contract must be awarded after the plans have been sufficiently developed and either a fixed or guaranteed maximum price has been successfully negotiated. If negotiations are unsuccessful, it must not enter into the contract and is not required to enter into a construction contract. Construction must not commence until MWD and the CM agree to a fixed or guaranteed maximum price.

f) For subcontracts not listed in the initial proposal, design-build entities must provide public notice of the available work and information on the bidding process.

g) MWD must submit a report describing each public works project it completes using CM/GC before December 1, 2026, by January 1, 2027.

6) Includes other provisions that govern all three types of contracts this bill authorizes:

a) Requires MWD to develop guidelines for a conflict-of-interest policy;

b) Requires that an enforceable commitment that the entity will use a skilled-and-trained workforce for all work on a project, unless the local agency has entered into a project labor agreement that requires the use of such a workforce;

c) Prohibits the district form awarding a design-build-operate contract for any of these projects, but can cover operations during a training or transition period;

d) Requires MWD to perform construction inspection services for all projects, and use district employees to the fullest extent possible, and contract for any remaining work;

e) Provides that retention proceeds MWD withholds must not exceed 5% of project costs if it requires a performance and payment bond issued by an admitted surety insurer.

f) Sunsets the authority for MWD to use progressive design-build and CM/GC on January 1, 2028. For design-build, MWD has the same sunset as existing agencies with design-build authority. These sunset dates do not effect contracts already entered into, including any subsequent changes or terminations of those contracts.

Background

Progressive design-build. Progressive design-build is a more recent variant on traditional design-build contracting. While there is some variation, the progressive design-build model generally includes two phases. In the first phase, the awarding authority uses a best value process to select a design-build entity who completes preliminary plans and preconstruction services necessary to provide a cost estimate and final design proposal. The project then "progresses" to the second phase of the

project, where the awarding authority and the design-build entity agree to a final design, project cost, and schedule. If they cannot agree, there is an "off ramp" between the two phases where the awarding authority can pursue other options, but still benefit from having the first phase work complete. This is different from traditional design-build where the awarding entity contracts with a single entity to design and construct a project at a set price before design work begins, and without a similar off ramp.

AB 137 (Committee on Budget, Chapter 77, Statutes of 2021) gave state agencies the authority to use progressive design-build with Department of Finance and the State Public Works Board approval. AB 2551 (Gallagher, Chapter 760, Statutes of 2016) first gave local agencies the ability to use progressive design-build, but only for specified water projects. Finally, the California Constitution allows cities that adopt charters to control their own "municipal affairs." Some charter cities have used this authority to implement their own progressive design-build process.

Construction Manager/General Contractor (CM/GC). The CM/GC project-delivery method allows an agency to engage a CM during the design process to provide assistance to the design team, which can ultimately lead to a more constructible project. When design is nearly complete, the agency and the CM negotiate a guaranteed maximum price for the construction of the project based on the defined scope and schedule. If this price is acceptable to both parties, they execute a contract for construction services, and the CM becomes the general contractor. CM/GC can lead to less costly or more expediently delivered projects because of the CM's involvement in the design process.

The Legislature has authorized a number of agencies to use CM/GC, including the California Department of Transportation and various local transportation agencies. Most recently, SB 626 (Dodd, Chapter 247, Statutes of 2021) authorized the Department of Water Resources to use the design-build and CM/GC project delivery methods for facilities of the State Water Project and outlined extensive parameters for the department's use of these methods.

Metropolitan Water District. The Metropolitan Water District Act authorizes the creation of metropolitan water districts for the purpose of developing, storing, and distributing water for municipal and domestic purposes. MWD is the only district organized under this act. MWD is a regional wholesale water district in Southern California that delivers water to 26 member public agencies. These member agencies in turn provide water to 19 million people in Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura counties, making MWD the largest distributor of treated drinking water in the United States. The MWD Act

sets out MWD's governance structure, powers and duties, annexation processes, and taxation and bonding authorities. A 38-member board, representing each of MWD's 26 member agencies governs the district. The board establishes and administers MWD's policies and oversees the operations of the district, including contracting. For contracts of $25,000 or more, MWD must publicly invite bids, and award the contract to the lowest responsible bidder. MWD does not have authority to use alternative contracting methods, so the district relies on design-bid-build to complete all its projects.

Comments

1) *Purpose of the bill*. According to the author, "As climate change and drought brings greater uncertainty to water supplies in our state, there is a vested interest in supporting regional recycled water and drought-response projects. However, these projects are currently statutorily limited to a traditional design-bid-build model for the delivery of public works construction contracts. The arduous process required by this model can be detrimental to the construction of large, innovative, and necessary infrastructure. This is the case for time sensitive projects being developed in Southern California to increase water resiliency. AB 1845 will afford the Metropolitan Water District of Southern California some flexibility to expedite the completion of critical new water infrastructure."

2) *Rolling the dice?* All procurement methods contain some element of risk. Using the lowest bidder for highly complicated projects can sometimes lead local agencies to sacrifices in quality or significant change orders. Also, when methods require a different firm for design and construction, there can be inconsistencies between the two firms, leading to additional costs and delays. Design-build attempts to solve the problem of two firms having inconsistent approaches, but it doesn't provide the collaborative progressive approach that progressive design-build advocates claim can improve outcomes. Similarly, when using the CM/GC model, the CM's involvement in the design process can help expedite delivery. Since local agencies in California have more limited experience with progressive design-build and CM/GC, there is some additional risk to using this new procurement method. For example, a design-build entity or CM could try to convince a local agency to agree to a higher guaranteed maximum price than the local agency initially intended. AB 1845 attempts to mitigate this risk for MWD in a few ways. For both progressive design-build and CM/GC, AB 1845 includes provisions that allow local agencies to move on to other entities if the agency does not agree on a contract with the design entity. Second, AB 1845 limits MWD's use of these alternative procurement tools to 15 projects. Finally, AB 1845 includes reporting language that will

inform the Legislature how it used this authority in time to make changes before the authority to use progressive design-build and CM/GC sunsets on January 1, 2028, and ties its design-build authority to the January 1, 2025, sunset that already exists for other local agencies. Does AB 1845 include sufficient protections to ensure that MWD uses these new tools effectively?

Related/Prior Legislation

SB 991 (Newman, 2022) authorizes, until January 1, 2029, specified local agencies that provide for the production, storage, supply, treatment, or distribution of any water from any source, to use the progressive design-build process for public works projects in excess of $5,000,000. SB 991 is pending in the Assembly Appropriations Committee.

SB 1354 (Jones, 2022) allows cities and counties to use design-build for contracts that are necessary to comply with Americans with Disabilities Act requirements. The bill is currently pending on the Assembly Floor.

AB 902 (O'Donnell, 2021) authorizes larger school districts to procure an alternative design-build contract, like progressive design-build, for school construction projects in excess of $10 million, and includes some similar provisions to SB 991. The bill is currently pending in the Senate Appropriations Committee.

AB 1932 (Daly, 2022) extends the sunset date authorizing counties to enter into CM at-risk (CMAR) contracts. AB 1932 is currently pending on the Senate Floor.

AB 2789 (Mullin, 2022) repeals the January 1, 2023, sunset date authorizing the Midpeninsula Regional Open Space District and the Santa Clara Valley Open-Space Authority to use the design-build process for the construction of facilities or other buildings, and authorizes the East Bay Regional Park District to use the design-build process for the construction of facilities or other buildings. AB 2789 is currently pending on the Senate Floor.

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

SUPPORT: (Verified 8/2/22)

Metropolitan Water District of Southern California (source)
Azusa Chamber of Commerce
BizFed - Los Angeles County
Burbank Water and Power
California Municipal Utilities Association

California Water Association
Calleguas Municipal Water District
Camrosa Water District
City of Beverly Hills
City of Glendale Water & Power
City of Santa Ana
City of Torrance
City of Torrance Public Works
Coalition of Labor, Agriculture & Business, Imperial County
Cucamonga Valley Water District
Eastern Municipal Water District
El Monte/South El Monte Chamber of Commerce
El Segundo Chamber of Commerce
Elsinore Valley Municipal Water District
Foothill Municipal Water District
Glendora Chamber of Commerce
Inland Empire Economic Partnership
Inland Empire Utilities Agency
Las Virgenes Municipal Water District
LAX Coastal Chamber of Commerce
Long Beach Area Chamber of Commerce
Los Angeles County Sanitation Districts
Municipal Water District of Orange County
Orange County Business Council
Pasadena Chamber of Commerce
Pasadena Water and Power
Redondo Beach Chamber of Commerce
Riverside Public Utilities
Rowland Water District
San Dimas Chamber of Commerce
San Gabriel Valley Economic Partnership
San Gabriel Valley Legislative Coalition of Chambers
Simi Valley Chamber of Commerce
South Bay Association of Chambers of Commerce
Southern California Water Coalition
Three Valleys Municipal Water District
Torrance Area Chamber of Commerce
Tri County Chamber Alliance
United Chambers of the San Fernando Valley
Upper San Gabriel Valley Municipal Water District

Valley Industry and Commerce Association
WateReuse California
West Ventura County Business Alliance
Western Municipal Water District
Westside Council of Chambers of Commerce

OPPOSITION: (Verified 8/2/22)

None received

ASSEMBLY FLOOR: 70-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Cooley, Cooper, Cunningham, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Bigelow, Choi, Megan Dahle, Kiley, O'Donnell, Seyarto, Smith

Prepared by: Jonathan Peterson / GOV. & F. / (916) 651-4119
8/3/22 14:29:09

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

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THIRD READING

Bill No: AB 1848
Author: Bryan (D)
Amended: 6/13/22 in Senate
Vote: 21

SENATE ELECTIONS & C.A. COMMITTEE: 4-1, 6/21/22
AYES: Glazer, Hertzberg, Leyva, Newman
NOES: Nielsen

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 57-19, 5/25/22 - See last page for vote

SUBJECT: Redistricting

SOURCE: Author

DIGEST: This bill requires, for the purposes of drawing district lines for Congress, the State Legislature, and the State Board of Equalization (BOE), that each incarcerated person in the state be deemed to reside at that person's last known place of residence, as specified. This bill also repeals an obsolete provision of law that relates to district boundaries that were adopted by the Legislature and makes changes to how final maps are delivered by the Secretary of State (SOS) to the Legislature, BOE, Congress, and county elections officials, as specified.

ANALYSIS:

Existing law:

1) Establishes the California Citizens Redistricting Commission (CCRC), and requires it to adjust the boundary lines of the congressional, State Senatorial, Assembly, and BOE districts in the year following the year in which the national census is taken under the direction of Congress at the beginning of each decade, as specified.

2) Establishes statutory provisions that govern the formation and operation of the CCRC. Provides that these specified provisions of the Government Code may be amended only through one of the following methods:

   a) Through the enactment of a bill that becomes effective only upon approval of the voters.

   b) Through the enactment of a bill that does not require voter approval, provided that all of the following conditions are met:

      i) By the same vote required for the adoption of the final set of maps, the CCRC recommends amendments to those procedures to carry out its purpose and intent.

      ii) The exact language of the amendments provided by the CCRC is enacted as a statute approved by a two-thirds vote of each house of the Legislature and signed by the Governor.

      iii) The bill containing the amendments provided by the CCRC is in print for at least 12 days before final passage by the Legislature.

      iv) The amendments further the purposes of the ballot measure that created the CCRC.

      v) The amendments are not passed by the Legislature in a year ending in 9, 0, or 1.

3) Requires appropriate committees of the Legislature to prepare detailed maps showing the boundaries of any districts established by Division 21 of the Elections Code on or after January 1, 1991. Requires maps to be prepared no later than 90 days following the enactment of any redistricting plan pursuant to Division 21, and requires the maps to illustrate the boundary lines of every district described in the redistricting plan. Requires the maps to be provided to the SOS for distribution as specified.

4) Requires California Department of Corrections and Rehabilitation (CDCR) to furnish specified information to the Legislature and the CCRC regarding each inmate incarcerated in a state adult correctional facility on the decennial Census

Day, including the residential address at which the inmate was domiciled before the inmate's most current term of incarceration, as specified.

5) Requests the CCRC to deem each incarcerated person as residing at that person's last known place of residence, rather than at the institution of the person's incarceration, using information provided by CDCR, as specified.

6) Requires the Legislature to take all steps necessary to ensure that a complete and accurate computerized database is available for redistricting, and that procedures are in place to provide the public ready access to redistricting data and computer software for drawing maps. Requires the Legislature to coordinate these efforts with the CCRC, as specified.

7) Prohibits counties and cities, when adopting or adjusting the boundaries of districts within the jurisdiction, from counting an incarcerated person, as specified, toward the jurisdiction's population, except for an incarcerated person whose last known place of residence can be assigned to a census block in the jurisdiction, if information about the last known place of residence for incarcerated persons is included in the computerized database for redistricting that is developed in accordance with 6) above, and if that database is made publicly available.

This bill:

1) Requires the CCRC, when carrying out its redistricting responsibilities under the California Constitution, to deem each incarcerated person as residing at the person's last known place of residence, rather than at the institution of the person's incarceration, and to use information furnished to it by the CDCR about the last known place of residence of inmates incarcerated in state correctional facilities in carrying out its redistricting responsibilities.

2) Repeals an obsolete requirement that appropriate committees of the Legislature prepare detailed maps showing the boundaries of political districts established by specified provisions of the Elections Code, and that requires the SOS to distribute copies of those maps, as specified. Makes changes to how final maps are delivered by the SOS to the Legislature, BOE, Congress, and county elections officials, as specified.

3) Makes corresponding and technical changes.

Background

Citizens Redistricting Commission and Prior Legislative Redistricting Responsibilities. Proposition 11, which was approved by the voters at the 2008 statewide general election, created the CCRC, and gave it the responsibility for establishing district lines for Assembly, Senate, and the BOE. Proposition 11 also modified the criteria to be used when drawing district lines. Proposition 20, which was approved by the voters at the 2010 statewide general election, gave the CCRC the responsibility for establishing lines for California's congressional districts, and made other changes to the procedures and criteria to be used by the CCRC. With the passage of Propositions 11 and 20, the California Legislature no longer has a direct role in the adoption of district boundaries for congressional, legislative, and BOE districts.

Census Bureau Policy Regarding Prison Inmates. According to information from the United States Census Bureau (Bureau), planners of the first decennial census in 1790 established the concept of a "usual residence" to determine where people would be counted. A person's usual residence is the place where the person lives and sleeps most of the time. Because of the "usual residence" rule, a person who is on vacation on census day (April 1 of each year ending in "0") is not counted as living at the place where the person is vacationing, but rather where that person usually lives. The usual residence policy has been used for every decennial census since the first census, including the 2020 census.

The Bureau's policy for counting people in correctional facilities on census day is that those individuals are to be counted at the facility of incarceration. This is true for adults and juveniles and is true for people who are incarcerated in federal prisons or detention centers, state prisons, and local jails and confinement facilities. Although the Bureau received a large number of comments encouraging it to change the residence criteria for incarcerated individuals for the 2020 census, it announced in 2018 that it would continue to count prisoners at the correctional facility at which they are incarcerated on census day.

Because the state uses population data from the Bureau for redistricting purposes, until 2021, individuals who were incarcerated in California were counted at the place of incarceration when district lines are drawn for the state Legislature, Congress, and the BOE.

Residence of Incarcerated Individuals for Redistricting Purposes. In light of the Bureau’s policy for counting people in correctional facilities on census day at their facilities of incarceration, after the 2010 census, the Legislature approved and

Governor Brown signed AB 420 (Davis, Chapter 548, Statutes of 2011). AB 420 requested the CCRC, when adjusting district boundaries for state Legislature, Congress, and the BOE, to deem an incarcerated person as residing at the person's last known residence, rather than the institution of the person's incarceration. AB 420 was intended to end the practice whereby incarcerated individuals are counted, for redistricting purposes, as residing at the prisons where they are incarcerated, rather than at the locations where they last resided prior to incarceration. The following year, the Legislature approved and Governor Brown signed AB 1986 (Davis, Chapter 318, Statutes of 2012), which made a number of changes to the provisions of AB 420 in an attempt to allow for that bill to be more effectively implemented.

As the 2020 census and the 2021 redistricting process approached, it became apparent that some modifications were required to state law in order to implement AB 420 and AB 1986 as originally envisioned. Accordingly, AB 2172 (Weber, Chapter 232, Statutes of 2018) made various changes to provisions of AB 420 and AB 1986. Among other changes, AB 2172 required CDCR to provide *all* information it maintains about inmates' prior residential addresses, instead of providing information only about inmates' *last* known places of residence, and established a rule for assigning an incarcerated individual to a census block for redistricting purposes in a situation where the residential address information from CDCR for that individual is not sufficiently specific to allow for the address to be assigned to a census block.

Redistricting Dataset. Since 1993, the University of California (UC) system has housed the Statewide Database, which is the official redistricting database for California. According to information from the Statewide Database, it originally emerged from a database that was created by the Assembly for the 1981 redistricting process. In 1993, the state budget included funding to the UC system for the purpose of transferring the Assembly's redistricting database to the Institute of Governmental Studies at UC Berkeley, and for maintaining that database. Since voting to house the Statewide Database in the UC system, the Legislature has played an ongoing role in ensuring that the state's redistricting database remains complete and accurate and regularly works with the SOS and county elections officials to collect that information and to ensure that it is provided to the Statewide Database for inclusion in the redistricting dataset.

Additionally, even as Propositions 11 and 20 eliminated the Legislature's authority to establish the boundaries for legislative, congressional, and BOE districts, Proposition 11 also required the Legislature to continue its role in preparing and maintaining the database that is used for redistricting purposes, and further

required the Legislature to provide ready access to redistricting data and computer software for drawing maps. Under Proposition 11, those efforts are required to be coordinated with the CCRC.

Citizens Redistricting Commission and Use of Adjusted Census Data. Since Propositions 11 and 20 established the CCRC in the Constitution and gave it the independent authority to draw district lines for Assembly, Senate, Congress, and BOE, AB 420, AB 1986, and AB 2172 did not *require* the CCRC to use adjusted census figures, but rather *requested* that it do so in deference to the CCRC's independence. On January 12, 2021, the CCRC voted unanimously to comply with that request, and to "deem people incarcerated in a state correctional facility on April 1, 2020, as residing at their last known place of residence, rather than at the institution of their incarceration," for the purposes of the adoption of district lines for Assembly, Senate, Congress, and BOE following the 2020 Census. On September 20, 2021, the Speaker of the Assembly, Senate President pro Tempore, and Republican Leaders in the Senate and Assembly sent a letter to the CCRC to inform the CCRC that the Statewide Database had completed the official redistricting database for use in the 2021 redistricting process, which included the incarcerated population adjustment.

Since its adoption of new legislative, congressional, and BOE districts in December 2021, the CCRC has been engaged in a "Lessons Learned" process that is intended to result in actionable recommendations from the CCRC to future commissions, and in the development of proposals for legislative and regulatory changes that the CCRC supports. At a meeting on March 30, 2022, the CCRC voted to move forward with five conceptual proposals for potential legislative changes. One of those proposals was to require in statute the reallocation of state incarcerated people to their last known place of residence. This bill effectively would implement that policy recommendation, though the CCRC has not voted on whether to take a position on the specific language included in this bill. The CCRC submitted a letter of support for AB 1848.

Local Redistricting and Use of Adjusted Census Data and Previous Legislation. While state law currently gives the CCRC the *discretion* to decide whether to use census data that includes the incarcerated population adjustment, recent state legislation *requires* that adjusted data be used for certain local redistricting if the official redistricting dataset includes the adjusted data.

Comments

1) According to the author, in 2011, Governor Brown signed AB 420. That bill requested the Citizens Redistricting Commission to deem an incarcerated person as residing at the person's last known place of residence for the purposes of state redistricting. AB 420 sought to end the practice of considering incarcerated individuals, for redistricting purposes, as residing at the prisons where they are incarcerated, a practice that distorts political representation.

   For the 2021 redistricting process, the Citizens Redistricting Commission unanimously decided to comply with that request, and used census data that had been adjusted accordingly when adopting district lines. Subsequently, the Commission voted to support changing state law to require that incarcerated individuals be deemed as residing at their last known places of residence for all future state redistricting processes. AB 1848 makes that change.

   Additionally, AB 1848 makes minor changes to the Elections Code to reflect the fact that the Legislature no longer has the responsibility for adopting congressional, Assembly, State Senate, and Board of Equalization districts following the decennial census.

Related/Prior Legislation

AB 849 (Bonta, Chapter 557, Statutes of 2019) required counties and cities to use the adjusted data when adopting or adjusting district boundaries, and AB 1276 (Bonta, Chapter 90, Statutes of 2020) required the Los Angeles County Citizens Redistricting Commission and the San Diego County Independent Redistricting Commission to use the adjusted data when adopting district boundaries for their respective jurisdictions.

AB 2172 (Weber, Chapter 232, Statutes of 2018) made various changes to provisions of AB 420 and AB 1986, including requiring CDCR to provide *all* information it maintains about inmates' prior residential addresses, instead of providing information only about inmates' *last* known places of residence, and establishing a rule for assigning an incarcerated individual to a census block for redistricting purposes in a situation where the residential address information from CDCR for that individual is not sufficiently specific to allow for the address to be assigned to a census block.

AB 420 (Davis, Chapter 548, Statutes of 2011) requested the CCRC, when adjusting district boundaries for state Legislature, Congress, and the BOE, to deem an incarcerated person as residing at the person's last known residence, rather than the institution of the person's incarceration. AB 1986 (Davis, Chapter 318, Statutes of 2012) made a number of changes to the provisions of AB 420 in an attempt to allow for that bill to be more effectively implemented.

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

SUPPORT: (Verified 8/1/22)

Asian Americans Advancing Justice – California
California Black Power Network
California Citizens Redistricting Commission
Indivisible CA StateStrong
Initiate Justice
League of Women Voters of California

OPPOSITION: (Verified 8/1/22)

None received

ASSEMBLY FLOOR: 57-19, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Scott Matsumoto / E. & C.A. / (916) 651-4106
8/3/22 14:29:10

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

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

CONSENT

Bill No: AB 1855
Author: Nazarian (D)
Amended: 8/1/22 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 5-0, 6/13/22
AYES: Hurtado, Jones, Cortese, Kamlager, Pan

SENATE HEALTH COMMITTEE: 10-0, 6/29/22
AYES: Pan, Melendez, Eggman, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Gonzalez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 65-0, 5/12/22 (Consent) - See last page for vote

SUBJECT: Long-Term Care Ombudsman Program: facility access

SOURCE: Author

DIGEST: This bill prohibits a skilled nursing facility (SNF) or residential care facility from denying entry to a representative of the State Long-Term Care Ombudsman (LTCO) acting in their official capacity, except under specified circumstances.

ANALYSIS: Existing federal law requires states to ensure that representatives of the LTCO have private and unimpeded access to long-term care facilities and residents. (42 U.S.C. 3058(g))

Existing state law:

1) Establishes the Office of the State LTCO under the California Department of Aging, for the purpose of protecting and advocating for the rights and health

and safety of long-term care facility residents, and in providing leadership, direction, and support to local LTCO programs. (WIC 9700 et seq.)

2) Requires the LTCO to identify, investigate, and resolve complaints made by, or on behalf of, residents of long-term care facilities that relate to actions, inactions, or decisions of providers of long-term care services, public agencies, or health and social services agencies that may adversely affect the health, safety, welfare, or rights of residents. (WIC 9712.5(a)(1))

3) Provides that representatives of the LTCO have the right to enter and move within long-term care facilities, including residential care facilities for the elderly (RCFEs), SNFs, and Adult Residential Facilities (ARFs), to: identify, hear, investigate, and resolve complaints; observe and monitor conditions of residents and facilities; speak confidentially with residents; and provide services to assist residents in protecting their health, safety, welfare, and rights. (WIC 9722)

This bill:

1) Makes findings and declarations relative to long-term care facilities denying entry to representatives of the LTCO during the COVID-19 pandemic, and the problems this created for residents of those facilities.

2) Expresses legislative intent to reaffirm the unabridged right of representatives of the LTCO to enter long-term care facilities in the performance of their official duties.

3) Prohibits an SNF or residential care facility, including an RCFE or an ARF, from denying entry to a representative of the LTCO acting in their official capacity, except as provided in certain circumstances.

4) Allows the State Public Health Officer or a local health officer to limit contact with patients or staff at an SNF or residential care facility in order to prevent or limit the spread of a contagious, infectious, or communicable disease.

5) Allows an SNF or a residential care facility, in the case of a state of emergency declared by the Governor, a health emergency declared by the State Public Health Officer, or a local health emergency declared by a local health officer, to require the LTCO representative entering the facility to adhere to infection control protocols for the duration of their visit that are no more stringent than those required for facility staff.

Background

Office of the State LTCO. The State LTCO and their local representatives assist residents in long-term care facilities with issues related to day-to-day care, health, safety, and personal preferences, including investigating abuse and violations of residents' rights or dignity, and other issues regarding quality of care. The State LTCO oversees 35 local Ombudsman programs, 205 paid staff, and 508 certified volunteers who advocate on behalf of the residents of long-term care facilities. As of March 2021, these facilities include 1,215 skilled nursing and intermediate care facilities and 7,503 RCFEs, with a combined count of approximately 308,833 beds. Both federal and state law establish the right of the LTCO to enter long-term care facilities in order to perform their official duties.

LTCO Access during the COVID-19 Pandemic. The Centers for Medicare & Medicaid Services (CMS) restricted all visitors, including LTCOs, to nursing homes on March 13, 2020, shortly before Governor Newsom issued a statewide stay-at-home order to slow the spread of COVID-19.

Throughout the course of the COVID-19 pandemic, federal, state, and local guidance on visitation to long-term care facilities evolved in response to changing conditions. In September 2020, CMS allowed limited compassionate care visits to nursing homes and permitted LTCO visits to resume. CMS lifted restrictions on visitors to nursing homes on March 10, 2021, allowing for responsible indoor visitation at all times and for all residents, with certain exceptions for facilities in counties with high positivity rates and low vaccination rates. As of February 2022, California Department of Public Health and California Department of Social Services guidance requires visitors to show proof of vaccination or a negative test for indoor visitation, but notes that LTCO representatives are not visitors and are not subject to vaccination or testing requirements when they are on site conducting state business.

According to the State LTCO 2020 annual report, LTCO representatives continued to provide advocacy and complaint resolution services for long-term care residents despite restrictions on entering facilities during the pandemic. The LTCO received over 29,000 complaints in 2020, and over 40,000 complaints in 2021, an increase of 37 percent. The most common complaints in 2020 related to violations of residents' rights, including abuse, gross neglect, and exploitation.

This bill prohibits an SNF or residential care facility from denying entry to a representative of the LTCO acting in their official capacity, except when contact is limited by the state or local public health officer.

Comments

According to the author, "Our ombudspeople are the defenders of our most vulnerable. There should be no circumstances when they would not be allowed to do their jobs. Lives literally depend on it."

Related/Prior Legislation

AB 895 (Holden, 2021) requires an SNF, intermediate care facility, or RCFE to provide a prospective resident with a written notice that includes specified contact information for the local LTCO and other related information. AB 895 is on the Senate Floor.

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

SUPPORT: (Verified 8/8/22)

California Assisted Living Association
California Association of Long Term Care Medicine
California Office of the State Long-term Care Ombudsman
California State Retirees

OPPOSITION: (Verified 8/8/22)

None received

ASSEMBLY FLOOR: 65-0, 5/12/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Salas, Santiago, Seyarto, Smith, Stone, Ting, Villapudua, Voepel, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Boerner Horvath, Cunningham, Davies, Gray, Grayson, Kiley, Lackey, Lee, Quirk-Silva, Rodriguez, Blanca Rubio, Valladares, Ward

Prepared by: Elizabeth Schmitt / HUMAN S. / (916) 651-1524
8/10/22 14:24:43

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

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

THIRD READING

Bill No: AB 1863
Author: Irwin (D)
Amended: 6/9/22 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/15/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 59-3, 5/26/22 - See last page for vote

SUBJECT: Income tax: CalFile: online tax filing: Volunteer Income Tax Assistance

SOURCE: Author

DIGEST: This bill requires the Franchise Tax Board to send notices to individuals that may qualify to use CalFile to education them about the service and about other services available.

ANALYSIS:

Existing law:

1) Allows individuals with income below a certain threshold to not file a tax return for state purposes, when the value of the standard deduction and personal exemption credit exceed the taxpayer's liability. For 2021, these thresholds are: $19,310 in California gross income for single taxpayers (under 65 years of age with no dependents) and $38,624 in California gross income for married individuals filing jointly (under 65 years of age with no dependents).

2) Increases the above thresholds based on the number of dependents claimed, or if the taxpayer(s) are over the age of 65, and increased annually for inflation.

3) Conforms, generally, to the federal tax return due dates and requires that individuals file their tax returns with the Franchise Tax Board (FTB) no later than April 15th of the following taxable year.

4) Allows FTB to prescribe tax returns for use by California taxpayers. The forms and materials provided to taxpayers must explain tax filing requirements in simplified terms and allow for easy filing.

This bill:

1) Requires FTB to notify all potential eligible individuals of available paperless filing options offered through the FTB including the CalFile program and free tax preparation services available through VITA.

2) Defines "potential eligible individuals" as a taxpayer who was an eligible individuals for the California Earned Income Tax Credit (CalEITC) in any of the three previous taxable years based on the information available to the FTB.

3) Specifies that the notification be in a form and manner, including electronic communication, determined by the FTB and may be coordinated with other notifications to improve efficacy and impact of the notifications.

4) Requires on or before January 1, 2026, FTB to submit a report for tax years 2023-2025, to the Legislature that contains all of the following organized by taxable year:

   a) The cost to administer and implement the notification requirement this bill creates;

   b) The total number of tax returns filed using paperless fling options offered through FTB, including the CalFile program;

   c) An analysis of the discernable efficacy and impact of the notification required under this section; and

   d) The number of tax returns filed using paperless fling options offered through the FTB that claimed the CalEITC.

Background

VITA. California provides a free program known as Volunteer Income Tax Assistance (VITA) to help individuals with their tax filing obligations. This program is provided by the FTB and the Internal Revenue Service (IRS) and is run by volunteers who complete training with the FTB and IRS to learn to prepare

basic returns for their community members. To qualify for VITA services, individuals must meet any of these qualifications:

- Make less than $58,000 (generally)[1];
- Have disabilities;
- Speak limited English; or
- Are active duty or retired military personnel, or a dependent.

Cal File. California offers a simplified tax fling portal known as CalFile for certain individuals through the FTB. To qualify individuals must:

- Be filing an original return;
- Be a California resident for the entire year;
- Claim 10 or fewer dependents;
- If claiming educator expenses on your federal return, that amount must not exceed $250 ($500 if filing jointly);
- Have adjusted gross income (AGI) of more than $0;
- Have AGI of no more than:
    - $212,288 for single or married/registered domestic partner (RDP) filing separately;
    - $318,437 for head of household;
    - $424,581 for married/RDP filing jointly or qualifying widow.

CalEITC. California law allows a CalEITC that is based on the federal Earned Income Tax Credit. California does not automatically conform to changes to federal tax law, except for specific retirement provisions. Instead, the Legislature must affirmatively conform to federal changes. Conformity legislation is introduced either as individual tax bills to conform to specific federal changes, like the Mortgage Debt Forgiveness Relief Act (AB 1393, Perea, Chapter 152, Statutes of 2014), or as one omnibus bill that provides that state law conforms to federal

[1] Each VITA program can set specific income limitations

law as of a specified date, currently January 1, 2015 (AB 154, Ting, Chapter 154, Statutes of 2015).

Beginning with the 2015 taxable year, the state began allowing a refundable California EITC (CalEITC) in an amount equal to a modified percentage, called an adjustment factor, of the federal EITC.

To be eligible for the EITC, the taxpayer must be an individual who has a qualifying child for the taxable year. If the individual does not have a qualifying child for the taxable year then he or she must be between the ages of 25 and 65, have a principal place of residence in the U.S for more than half of the taxable year, and not be a dependent of another taxpayer. Income limits apply depending on whether or not the individual has an eligible child and filing status.

The CalEITC is only operative for taxable years for which the Legislature authorizes resources in the annual Budget Act for the FTB to oversee and audit returns associated with the credit. The Legislature also must establish the CalEITC adjustment factor for each taxable year; otherwise the CalEITC adjustment factor defaults to zero.

In California, to qualify for the CalEITC a taxpayer must have Earned Income in the 2021 taxable year of at least $1 and below $30,000 regardless, of your filing status or number of qualifying children. The EITC is a percentage of the taxpayer's earned income and is phased out as income increases.

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

SUPPORT: (Verified 6/26/22)

California Society of Enrolled Agents

OPPOSITION: (Verified 6/26/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "Our state has a long history of supporting working Californians, with the Legislature annually putting forth proposals aimed to combat poverty. One example is the enactment and expansion of the California Earned Income Tax Credit (EITC) that seeks to put money back into the pockets of our working taxpayers. With its bi-partisan support and potential to help millions of Californians, California's EITC has been fairly successful, with over 4 million Californians claiming the state's EITC credits in 2021. Despite the growth in California's EITC claims, thousands of eligible

individuals are still not receiving the credit. In order to further encourage Californians to claim the state's EITC, AB 1863 will require the Franchise Tax Board to notify eligible EITC recipients and direct them to the state's free tax filing option, CalFile."

ASSEMBLY FLOOR: 59-3, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Mike Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Kalra, Kiley, Lee, Levine, Low, Maienschein, Mullin, Muratsuchi, Nazarian, Nguyen, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Stone, Ting, Valladares, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Davies, Smith
NO VOTE RECORDED: Berman, Chen, Choi, Flora, Fong, Jones-Sawyer, Lackey, Mathis, Mayes, McCarty, Medina, O'Donnell, Patterson, Villapudua, Voepel, Waldron

Prepared by: Jessica Deitchman / GOV. & F. / (916) 651-4119
6/28/22 14:28:12

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

SENATE RULES COMMITTEE AB 1871
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1871
Author: Calderon (D)
Amended: 6/20/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-1, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, McGuire, Stern, Wieckowski, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas

ASSEMBLY FLOOR: 55-1, 4/25/22 - See last page for vote

SUBJECT: Vehicle history reports

SOURCE: Author

DIGEST: This bill requires every vehicle history report to clearly disclose the report provider's contact information for consumers to inquire about and request an investigation into vehicle history reports and any potential discrepancies.

ANALYSIS:

Existing law:

1) Defines "vehicle" as a device by which a person or property may be propelled, moved, or drawn upon a highway. This excludes devices moved exclusively by human power and any used exclusively on stationary rails or tracks. (Veh. Code § 670.)

2) Defines "used vehicle" as a vehicle that has been sold, or has been registered with the Department of Motor Vehicles (DMV) (or its counterpart in other jurisdictions) as a demonstrator vehicle. (Veh. Code § 665.)

3) Requires dealers to first obtain a National Motor Vehicle Title Information System (NMVTIS) vehicle history report from a NMVTIS data provider for the vehicle identification number of a used vehicle before displaying or offering to sell the used vehicle at retail. (Veh. Code § 11713.26(a).)

4) Requires, if the NMVTIS vehicle history report for a used vehicle indicates that it is, or has been, a junk or salvage automobile, that the dealer post a statutorily-required warning on the vehicle while it is displayed for sale and provide a copy of the report to the purchaser upon request prior to sale. (Veh. Code § 11713.26 (b).)

This bill:

1) Defines "vehicle history report" as any written or electronic communication of vehicle history information made by a vehicle history report provider that is made available to consumers. "Vehicle history information" includes, but is not limited to, a vehicle's accident or damage information; number of previous owners; information regarding service or maintenance history; and odometer reading.

2) Defines a "vehicle history report provider" as an entity that generates vehicle history reports from a vehicle history database that are provided directly to consumers for the purpose of selling or purchasing a vehicle. This does not include a dealer that obtains a report from a third party that is not an affiliate of the dealer and who then communicates the report without altering the vehicle history information therein.

3) Requires every vehicle history report to clearly and conspicuously disclose the vehicle history report provider's contact information by which an owner can submit an inquiry regarding the vehicle history information contained in a vehicle history report, including a request for a vehicle history report provider to research and address any potential discrepancies found within the vehicle history report.

4) Requires a vehicle history report provider to confirm receipt of a California resident's inquiry promptly, within three days of receipt. The confirmation shall include a means to obtain regular updates until the request is completed.

5) Requires a vehicle history report provider to use reasonable efforts to complete the inquiry within 14 days from receipt. If there is a delay that is beyond its

reasonable control, the 14-day requirement is waived and the provider shall promptly notify the consumer of the delay no later than the 15th day from the date the inquiry was received and shall provide the requester weekly updates thereafter until the inquiry is completed.

6) Prohibits and makes void and unenforceable any attempted waiver of these provisions.

7) Clarifies that it does not relieve any party of its responsibilities under Section 11713.26 of the Vehicle Code, and any conflicts are resolved in favor of the latter.

Background

A vehicle history report is a collection of records that provide information about a used car to inform parties to a resale. Records or events in the vehicle's life get collected from thousands of sources and include information such as previous owners, accidents, mileage, and maintenance records. Major companies providing such reports to consumers include Carfax and Autocheck.

This bill is motivated by an incident where a consumer received an incorrect vehicle history report when looking to sell their vehicle. The report incorrectly stated the car had been involved in an out-of-state accident, despite the owner having purchased the vehicle brand new and it not being a part of any accident – or gone out-of-state for that matter. When the vehicle owner attempted to contact the vehicle history report provider, they could only do so electronically and received little follow up communication from the vehicle history report provider.

This bill requires every vehicle history report to disclose the vehicle history report provider's contact information for consumers to inquire about a report and to request the provider to research and address any potential discrepancies. The bill provides a loose timeline for compliance.

Comments

Vehicle history reports. Dealers are currently prohibited from displaying or offering to sell a used vehicle at retail without first obtaining a NMVTIS vehicle history report from a specified data provider for the vehicle identification number attached to that used vehicle. (Veh. Code § 11713.26(a).) There are specific requirements if the report indicates the car is or has been a junk or salvage

automobile, as defined, for the dealer to post a warning on the vehicle and to provide to a purchaser a copy of the NMVTIS report upon request.

Vehicle history reports are useful documents that provide some transparency about a vehicle that might not be immediately apparent to a consumer or even a dealer. Major companies that provide these reports are Carfax and Auto Check, a company owned by Experian. Ultimately, the reports compile information from various sources regarding prior ownership, accidents, total mileage, and their maintenance and inspection history.

Carfax explains their process:

> CARFAX receives information from more than 130,000 data sources including every U.S. and Canadian provincial motor vehicle agency plus many auto auctions, fire and police departments, collision repair facilities, fleet management and rental agencies, and more.
>
> CARFAX Vehicle History Reports™ are available on all used cars and light trucks from model year 1981 or later. Using the unique 17-character vehicle identification number (VIN), a CARFAX Report is instantly generated from our database of over 28 billion records.
>
> Every CARFAX Report contains information that can impact a consumer's decision about a used vehicle. Some types of information that a CARFAX Report may include are:
>
> - Accident and damage indicators, such as airbag deployments
> - Point of impact and a severity scale for damage events
> - Title information, including salvaged or junked titles
> - Flood damage history
> - Total loss accident history
> - Odometer readings
> - Lemon history
> - Number of owners
> - State emissions inspection results
> - Service records
> - Vehicle use (taxi, rental, lease, etc.)[1]

[1] *About CARFAX*, CARFAX, **https://www.carfax.com/company/about**. All internet citations are current as of August 3, 2022.

Ultimately, their utility is tied to their accuracy and thoroughness. However, there are no specific requirements about the transparency of vehicle history reports being used in the market. This lack of transparency can cause issues where information is disputed by the owner and where otherwise faulty information is included.

The author argues that incorrect information can "significantly reduce a vehicle's value, hindering the ability for that vehicle to be sold." The author argues there is a real problem here for consumers:

> [N]umerous stories detail the difficulty these vehicle owners have faced when trying to contact vehicle history report providers seeking to fix an incorrect vehicle history report and restore their vehicle's value.
>
> Given the important role vehicle history reports serve when seeking to sell a vehicle, it is imperative they are correct. It is also essential to be able to locate the source of the information contained within a vehicle history report, making it easier to correct any misinformation.

Bolstering the anecdote that motivated this bill, media reports of similar issues have also been found:

> After looking up the value of his 2019 Volkswagen Jetta, John Carr said he expected to get at least $16,000 for the car when he set out to trade it in. He said the first dealership couldn't come close. "He said I couldn't even give you $200 right now for the car," Carr recalled. The dealership pointed to a CARFAX report for Carr's vehicle showing it was a total loss. . . .
>
> Carr bought the vehicle brand new. It had one owner—him. He said it's never been in an accident. Carr went to CARFAX with his vehicle maintenance records and a letter from his insurance company. CARFAX removed the total loss report and made two other corrections: removing a service contract that Carr didn't have and correcting the mileage.
>
> However, CARFAX wouldn't budge on one of the reports—listing moderate to severe damage. . . . There was an August 3, 2020 date listed, but no other information. "Can you tell me who reported this to you so I can pursue it from another angle? They wouldn't give me any information at all," said Carr. CARFAX told NBC 5 Responds the damage report was verified and that it receives records from more

> than 113,000 data sources. Some do not authorize CARFAX to release their identities.[2]

Another story out of Los Angeles details a similar incident:

> One man said Carfax and Autocheck.com both reported his car was damaged, costing him thousands of dollars in value. But his car was never damaged or in a crash. . . . Regardless, there it was on the Carfax report: damage was reported in April of 2019 to the front passengers' side. Autocheck had reported the same. . . . Neither Carfax nor Autocheck, a company owned by Experian, would share who reported the car as having been damaged or who paid for the fix, but initially both asserted their information was correct.[3]

Creating more transparency in vehicle history reporting. This bill seeks to address these issues by requiring every vehicle history report to clearly and conspicuously disclose the vehicle history report provider's contact information by which an owner can submit an inquiry regarding the vehicle history information contained in a vehicle history report, including a request for a vehicle history report provider to research and address any potential discrepancies found within the vehicle history report.

This ensures that at least there is a clear process for consumers to submit challenges to potentially inaccurate information in their vehicle's history report.

Providers must confirm receipt of an inquiry from a California resident within three days of receipt. This must include a means for the consumer to obtain regular updates until the request is completed.

From there, the vehicle history report provider must use "reasonable efforts" to complete the inquiry within 14 days. However, this timeline is waived if there is a delay that is "beyond the reasonable control" of the provider. In such circumstances, the provider must promptly notify the consumer of the delay no later than the 15th day and provide the requester weekly updates thereafter until the inquiry is completed.

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[2] Diana Zoga, *How to Correct Your Vehicle History Report* (August 3, 2021) NBC 5 News, **https://www.nbcdfw.com/news/nbc-5-responds/nbc-5-responds-how-to-correct-your-vehicle-history-report/2706097/**.

[3] Randy Mac, *What to Do When Carfax Reports a Crash on Your Record That Never Happened* (November 20, 2019) NBC Los Angeles, **https://www.nbclosangeles.com/investigations/randy-responds/carfax-experian-accident-reported-wrong-incorrect-history-help/2225818/**.

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

SUPPORT: (Verified 8/3/22)

None received

OPPOSITION: (Verified 8/3/22)

Carfax Inc.
National Insurance Crime Bureau
S&P Global Mobility
The Lifetime Value Co.

ARGUMENTS IN SUPPORT: According to the author:

There are numerous stories of vehicle owners who, when looking to sell their vehicle, find their vehicle's history report contains incorrect information. This misinformation devalues their vehicle and serves as a significant impediment to selling their vehicle for fair market value. AB 1871 seeks to codify a resolution process for consumers by requiring vehicle history report providers detail clearly and conspicuously on their vehicle history reports how consumers' inquires can be made, and requires vehicle history report providers to respond to such inquiries within 14 days.

ARGUMENTS IN OPPOSITION: There is opposition from various industry groups, including Carfax. But the letters submitted all focus on a provision in a previous version of the bill that required the disclosure of the sources of the information in these vehicle history reports.

ASSEMBLY FLOOR: 55-1, 4/25/22
AYES: Aguiar-Curry, Arambula, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, Medina, Muratsuchi, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood
NOES: Mathis

NO VOTE RECORDED: Bauer-Kahan, Bigelow, Choi, Cooley, Cunningham, Flora, Fong, Gallagher, Kiley, Lackey, McCarty, Mullin, Nazarian, Nguyen, Patterson, Luz Rivas, Seyarto, Smith, Valladares, Voepel, Rendon

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
8/3/22 14:29:12

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

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THIRD READING

Bill No: AB 1879
Author: Mathis (R)
Amended: 6/30/22 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 4-1, 6/29/22
AYES: Allen, Bates, Dahle, Skinner
NOES: Stern
NO VOTE RECORDED: McGuire, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 69-3, 5/25/22 - See last page for vote

SUBJECT: California regional water quality control boards: unfounded or frivolous complaints

SOURCE: Author

DIGEST: This bill authorizes a Regional Water Quality Control Board (Regional Water Board) to develop a plan or policy to address unfounded or frivolous complaints.

ANALYSIS:

Existing law:

1) Establishes the federal Clean Water Act (CWA) to regulate discharges of pollutants into the waters of the United States and to regulate quality standards for surface waters. (33 United States Code §1251 et seq.)

2) Defines "frivolous" as totally and completely without merit or for the sole purpose of harassing an opposing party. (Code of Civil Procedure § 128.5)

3) Defines "unfounded" as that the investigation clearly established that the allegation is not true. (Penal Code § 832.5)

4) Establishes the Porter-Cologne Water Quality Control Act, which prohibits the discharge of pollutants to surface waters unless the discharger obtains a permit from the State Water Resources Control Board (State Water Board). (Water Code (WC) § 13000 et seq.)

5) Delegates to the Regional Water Boards the ability to adopt water quality standards within their region of jurisdiction. (WC § 13240)

6) Authorizes a Regional Water Board, in establishing or reviewing any water quality control plan or waste discharge requirements, or in connection with any action relating to any plan or requirement, to investigate the quality of any waters of the state within its region. (WC § 13267)

This bill authorizes a Regional Water Board to develop a plan or policy to address unfounded or frivolous complaints.

Background

1) *Federal Clean Water Act (CWA).* The federal CWA establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters. Under the CWA, the US EPA has implemented pollution control programs, including setting wastewater standards for industrial facilities, as well as setting water quality standards for all contaminants in surface waters. The CWA made it unlawful to discharge any pollutant from a point source into navigable waters without a permit. Industrial, municipal, and other facilities must obtain a permit under the National Pollutant Discharge Elimination System in order to discharge into surface water.

2) *Regional Water Boards*. There are nine regional water quality control boards statewide. Each Regional Water Board makes water quality decisions for its region, including setting standards, issuing waste discharge requirements, determining compliance with those requirements, and taking appropriate enforcement actions.

3) *State Water Board enforcement priorities*. The State Water Board's Water Quality Enforcement Policy recommends that the Office of Enforcement propose enforcement priorities and vet them with the Regional Water Board enforcement teams. Some of the enforcement priorities may become statewide enforcement initiatives. The Enforcement Policy also recommends that, on an annual basis, enforcement staff for each Regional Water Board seek input at a regularly noticed public meeting of the Regional Water Board and consider

identifying general enforcement priorities based on input from members of the public and Regional Water Board members. According to the policy, enforcement priorities for the State Water Board include:

a) Prioritize for enforcement water quality violations that impact or threaten drinking water sources, with the highest priority for enforcement and compliance assistance being given to disadvantaged communities or communities with financial hardship;

b) Enforce storm water discharge violations with the highest adverse water quality impacts, followed by violations that threaten the integrity of the regulatory program;

c) Support irrigated lands regulatory programs with formal enforcement actions aimed at obtaining substantial enrollment and compliance with current regulatory requirements; and,

d) Improve enrollment in and compliance with the Cannabis General Order and Small Irrigation Use Registration through formal enforcement (in coordination with other state and local public agencies) for violations associated with illegal cannabis cultivation sites.

4) *State Water Board enforcement*. The State Water Board and Regional Water Boards enforce the pollution control and cleanup requirements that are established for discharges and contaminated sites. Where violations of regulatory requirements are detected, enforcement actions of varying types and levels of stringency are taken. For the most serious violations, penalties are often imposed. The State Water Board also collaborates with federal, state, and local law enforcement, as well as other environmental agencies, to address violations. In all cases, the principal goal of enforcement is to encourage compliance with requirements so that water quality is protected. According to the State Water Board during Fiscal Year 2019-2020 there were approximately 3,820 enforcement actions, with approximately $12 million in penalties assessed.

5) *Potential water quality violations*. The author of the bill is concerned about a particular facility in his district that was the subject of an enforcement action by the Regional Water Board. Since that enforcement action was resolved there appears to be a resident who lives near the facility that continues to lodge complaints to the Regional Water Board.

Comments

1) *Purpose of Bill.* According to the author, "AB 1879 would grant California Regional Water Quality Control Boards the authority and discretion to choose not to investigate a complaint if the board determines it is unwarranted, or has been made fraudulently. In providing the regional water quality control boards with the necessary discretion and authority, this measure will save local businesses and the regional water board time, money and resources which could be better utilized on addressing legitimate problems and improve the state's already scare water supply and usage. AB 1879 balances the need to identify and correct genuine violations, whilst still addressing those individuals or groups which falsely and maliciously file multiple unwarranted, unnecessarily time consuming, and wasteful complaints."

2) *Need for the bill is unclear*. The Regional Water Boards receive hundreds of complaints and reports of spills each month from CalEPA's complaint system, Regional Water Board hotlines, the Office of Emergency Services, and direct contacts with staff. Complaints can vary widely from observations of water pollution to complaints that are outside the jurisdiction of the Regional Water Boards such as complaints about another agency's work and complaints involving disputes between property owners. Complaints submitted through CalEPA's complaint system is the most common way that the Regional Water Boards receive complaints.

   The Regional Water Boards have discretion to determine when to conduct an investigation based on a complaint and use a triage system to prioritize complaints for further action. Additionally, the Regional Water Boards are not obligated to investigate every complaint and do not have the resources to do so. Further, the Regional Water Boards already have the authority to update their enforcement policies as needed. As Regional Water Boards already have the authority and discretion to investigate or not investigate complaints and have the authority to develop a plan/policy envisioned by this bill, it is not clear why this bill is needed.

3) *Opposition*. According to the San Francisco Bay Keeper, "AB1879 is unnecessary because the Regional Boards already have the authority and discretion to investigate or not investigate complaints. The State Water Resources Control Board contributed to the appropriations committee's analysis, stating "regional water boards already have the authority to develop such a plan or policy; therefore, it is not clear why this bill is needed at this

time." Baykeeper concurs. Second, AB1879 is bad public policy as the intent is to silence members of the public who live near polluting facilities."

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

SUPPORT: (Verified 7/29/22)

None received

OPPOSITION: (Verified 7/29/22)

San Francisco Baykeeper

ASSEMBLY FLOOR: 69-3, 5/25/22
AYES: Aguiar-Curry, Arambula, Bennett, Bigelow, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bauer-Kahan, Levine, Ward
NO VOTE RECORDED: Berman, Boerner Horvath, Friedman, Gabriel, Lee, O'Donnell

Prepared by: Gabrielle Meindl / E.Q. / (916) 651-4108
8/3/22 14:29:11

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

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THIRD READING

Bill No: AB 1881
Author: Santiago (D)
Amended: 6/30/22 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 10-2, 6/20/22
AYES: Roth, Becker, Dodd, Eggman, Hurtado, Leyva, Min, Newman, Ochoa Bogh, Pan
NOES: Melendez, Jones
NO VOTE RECORDED: Archuleta, Bates

SENATE JUDICIARY COMMITTEE: 8-1, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, McGuire, Stern, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 53-13, 5/25/22 - See last page for vote

SUBJECT: Animal welfare: Dog and Cat Bill of Rights

SOURCE: Social Compassion in Legislation

DIGEST: This bill requires each public animal control agency, shelter, or specified rescue group to provide a notice related to essential needs and care for dogs and cats and makes finding and declarations.

ANALYSIS: Existing law requires a public animal control agency or shelter to microchip a cat or dog with current information before releasing a cat or dog to an owner seeking to reclaim the animal, adopt out, sell, or rehome to a new owner. Allows a shelter or rescue group that does not have microchipping capability on location to enter into an agreement with the owner or new owner to present proof, within 30 days, that the cat or dog is microchipped. (FAC §§ 31108.3; 31752.1)

This bill:

1) Requires each public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group to make a copy of the following notice:

   "Dogs and cats deserve to be free from exploitation, cruelty, neglect, and abuse.

   Dogs and cats deserve a life of comfort, free of fear and anxiety.

   Dogs and cats deserve daily mental stimulation and appropriate exercise considering the age and energy level of the dog or cat.

   Dogs and cats deserve nutritious food, sanitary water, and shelter in an appropriate and safe environment.

   Dogs and cats deserve regular and appropriate veterinary care.

   Dogs and cats deserve to be properly identified through tags, microchips, or other humane means.

   Dogs and cats deserve to be spayed and neutered to prevent unwanted litters."

2) Requires the notice to be posted on the facility's website in a clear and conspicuous manner; posted in the facility where it is accessible to public view and; posted on the application for adoption in a clear and conspicuous manner.

3) Requires a fine to not be assessed after the first time offense for failure to comply with the notice requirement and each additional violation occurring after 60 days from the first offense is punishable by a fine not to exceed $250, as specified.

4) Authorizes the Attorney General, district attorney, or city attorney in whose jurisdiction the violation is alleged to have occurred to bring a civil action to enforce a violation.

5) States that this bill does not create a private right of action for a violation of the posting requirement, as specified, and does not create a crime or penalty other than specified in 3) above.

Background

This bill requires public and private shelters to post a notice on their website, at the physical shelter site in a conspicuous location, or on the adoption application that enumerates certain expectations about pet care and pet ownership responsibility, especially as it pertains to dogs and cats only. The notice is to include statements

about the care dogs and cats deserve including, nutritious food, sanitary water, veterinary care, mental stimulation, and that they deserve to be free from exploitation. However, shelters, both private and public, care for and adopt out other animals including rabbits and guinea pigs. This would be the first such requirement for uniform notice requirements for rescue shelters related to animal well-being. The Author and Sponsor note this bill arose out of the COVID-19 pandemic where the acquisition of animals reportedly increased.

The American Society for the Prevention of Cruelty to Animals (ASPCA) noted in a May 2021 press release of a survey conducted by the ASPCA, that one in five households acquired an animal during the pandemic, or estimated to be close to 23 million Americans. However, the study did not delineate how those animals were acquired, (adoption, pet breeder sale, or other retail methods). At the time, the press release also noted, "Despite alarmist headlines tied to regional reports of a surge in owner surrenders, this trend is not currently evident on a national level with many organizations simply seeing a return to pre-pandemic operations and intake." However, the headlines are beginning to transition from empty shelters, to shelters that are once again full.

Animal Welfare Requirements. California has established a variety of animal welfare laws regarding the care and well-being of animals. Recent laws have been implemented to ensure the welfare of animals is maintained in pet stores, by pet dealers and at pet boarding facilities. In addition, California also established the Animal Control Officer Standards Act, which created a voluntary certification program for animal control officers (AB 1125 Cooley, Chapter 622, Statutes of 2019). Multiple bills under consideration by the Legislature this year address animal welfare. AB 1781 (Blanca Rubio) which establishes safe transportation standards for public shelters, AB 1901 (Nazarian) which requires disclosure for purchasers or dog training services, AB 2723 (Holden) specifies microchip registration requirements for shelters as part of the adoption process. The above-mentioned bills, including AB 1881, are applicable to animal shelters specifically, and not private or online animal purchase, with the exception in AB 1901, that would be applicable to both private providers that offer dog training services.

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

SUPPORT: (Verified 8/2/22)

Social Compassion in Legislation (source)
A Passion for Paws - Akita Rescue
Animal Alliance Network
Ashley & Hobie Animal Welfare, Inc.

Bella and Buddies Animal Rescue
Castillo Animal Veterinary Corp.
Compassionate Bay
Direct Action Everywhere
Grassroots Coalition
Los Angeles Alliance for Animals
Multiple Individual Support Letters
Our Honor
The Paw Project
Plant-Based Advocates - Los Gatos
Poison Free Malibu
Project Counterglow
Recycled Love Dog Rescue
Starfish Animal Rescue
Start Rescue
Take Me Home
Women United for Animal Welfare
Numerous individuals

OPPOSITION: (Verified 8/2/22)

California Animal Welfare Association
Humane Society of the United States

ARGUMENTS IN SUPPORT: Social Compassion in Legislation sponsors this bill and writes, "Animal shelters and adoption agencies are not currently required to inform the potential adopter of the standards of care dogs and cats deserve. To ensure dogs and cats are treated appropriately, potential owners must understand that dogs and cats deserve certain standards of treatment prior to making a commitment to adoption."

A Passion for Paws – Akita Rescue, Ashley & Hobie Animal Welfare, Inc., Animal Alliance Network, Bella and Buddies Animal Rescue, Castillo Animal Veterinary Corp., Compassionate Bay, Direct Action Everywhere, Los Angeles Alliance for Animals, Our Honor, Plant-Based Advocates – Los Gatos, Poison Free Malibu, Project Counterglow, Recycled Love Dog Rescue, Grassroots Coalition, Starfish Animal Rescue, Start Rescue, Take Me Home, and Women United for Animal Welfare write in support and note, "Nearly 1 in 5 Americans have adopted a pet during the pandemic. Pet owners have responsibilities of taking care for their pet that goes beyond just feeding and grooming. Dogs and cats also need to be respected as living beings that have physical, mental, and emotional

health needs. Studies cited in the Journal of Medical Ethics have shown that dogs can experience positive emotions as well as other similar empathic responses. Cats also experience their own emotions that need to be supported."

ARGUMENTS IN OPPOSITION: The California Animal Welfare Association and the Humane Society of the United States writes in opposition and notes, "Our shelters are staffed by trained professionals and dedicated volunteers that work each and every day to help animals in need. They work with adopters to help them select the right pet, provide counseling to help ensure a smooth transition to the new home, and provide ongoing support. When pets are returned to the shelter, it is usually either because the pet is not the right match, or the adopter experiencing some unexpected financial or housing hardship. People should not be shamed for having to make these difficult decisions."

ASSEMBLY FLOOR: 53-13, 5/25/22
AYES: Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Carrillo, Cervantes, Chen, Cooper, Cunningham, Daly, Mike Fong, Friedman, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Aguiar-Curry, Bigelow, Cooley, Megan Dahle, Davies, Flora, Gallagher, Kiley, Lackey, Mathis, Smith, Voepel, Ward
NO VOTE RECORDED: Berman, Calderon, Choi, Fong, Gabriel, Gray, Mayes, Nguyen, O'Donnell, Patterson, Seyarto, Villapudua

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
8/3/22 14:29:13

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

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THIRD READING

Bill No: AB 1882
Author: Robert Rivas (D), Nazarian (D) and Rodriguez (D)
Amended: 8/4/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 7-2, 6/8/22
AYES: Pan, Eggman, Gonzalez, Leyva, Limón, Rubio, Wiener
NOES: Melendez, Grove
NO VOTE RECORDED: Hurtado, Roth

SENATE APPROPRIATIONS COMMITTEE: 4-1, 6/27/22
AYES: Portantino, Bradford, Kamlager, Wieckowski
NOES: Jones
NO VOTE RECORDED: Bates, Laird

ASSEMBLY FLOOR: 50-17, 5/16/22 - See last page for vote

SUBJECT: Hospitals: seismic safety

SOURCE: California Labor Federation

DIGEST: This bill requires owners of general acute care hospital buildings that are not compliant with the January 1, 2030 seismic safety requirement to remain operational following a major earthquake, to submit annual status updates to various entities, including the county board of supervisors, any labor union that represents workers in a building that is not January 1, 2030 compliant, the local office of emergency services, and the medical health operational area coordinator; and, requires hospitals to post in any lobby or waiting area of a hospital building that is not compliant with the January 1, 2030 seismic requirement a notice that the hospital is not in compliance.

Senate Floor Amendments of 8/4/22 make minor, technical changes, including to the wording of the notices that hospitals are required to post in lobbies or waiting areas so that instead of stating that the "hospital owner is aware" that the building

is not compliant, it states that the "State of California has determined" that the building is not compliant.

ANALYSIS:

Existing law:

1) Licenses and regulates health facilities, including general acute care hospitals, by the California Department of Public Health. [HSC §1250, et seq.]

2) Establishes the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983 (Alquist Act), to ensure that hospital buildings are designed and constructed to resist the forces generated by earthquakes and requires the Department of Health Care Access and Information (HCAI) to propose building standards for earthquake resistance and to provide independent review of the design and construction of hospital buildings. [HSC §129675, et seq.]

3) Establishes timelines for hospital compliance with seismic safety standards, including a requirement that buildings posing a significant risk of collapse and a danger to the public (referred to as SPC-1 buildings) be rebuilt or retrofitted to be capable of withstanding an earthquake, or removed from acute care service, by January 1, 2008 (which has since been extended for various hospitals to various dates), and a requirement that hospital must also be capable of continued operation by January 1, 2030. [HSC §130060, §130065]

4) Permits HCAI to grant an extension of up to five years to the 2008 deadline, which would be January 1, 2013, for hospitals for which compliance will result in a loss of health care capacity, as defined. Allows HCAI to grant various further extensions beyond this, including up to seven years to January 1, 2020, in part based on the loss of essential hospital services to the community if the hospital closed, and financial hardship. [HSC §130060, §130061.5]

5) Permits HCAI, under legislation enacted in 2018, to provide for an extension of the January 1, 2020 deadline in 4) above, for up to 30 months (until July 1, 2022) for hospitals that plan to replace or retrofit a building to meet the 2020 standard, and up to five years (January 1, 2025) for hospitals that plan to rebuild to a standard that meets the 2030 requirement. [HSC §130062]

6) Requires the owner of an acute care inpatient hospital whose building does not substantially comply with the January 1, 2030 seismic safety requirement described in 3) above, to submit to HCAI, by January 1, 2020, an attestation

that the board of directors of that hospital is aware that the hospital building is required to meet this requirement. [HSC §130066]

This bill:

1) Requires owners of general acute care hospital buildings to do both of the following annually until each of the hospital buildings are compliant with the January 1, 2030 seismic safety requirement described in Existing Law 3) above.

    a) Include all pertinent information regarding the building's expected earthquake performance in emergency training, response, and recovery plans; and,
    b) Include all pertinent information regarding the building's expected earthquake performance in capital outlay plans.

2) Requires the owner of an acute care inpatient hospital that includes a building that does not substantially comply with the January 1, 2030 seismic safety requirement, to do both of the following by January 1, 2024:

    a) Post in any lobby or waiting area generally accessible to patients or the public a notice provided by HCAI that the hospital is not in compliance with the seismic safety requirements that the hospital is required to meet by January 1, 2030. Requires this notice to be posted until the owner receives notification from HCAI that it meets the seismic safety requirements; and,
    b) Provide an annual status update on the SPC ratings of the buildings and the services provided in each hospital building on the hospital campus to all of the following entities until each of the hospital buildings are compliant with the seismic requirements: the county board of supervisors for the location of the hospital; the city council where the hospital is located, if applicable; any labor union representing workers who work in the building; the board of directors of the special district or joint powers agency that provides fire and emergency medical services in the jurisdiction in which the hospital building is located, if applicable; HCAI; the board of directors of the hospital, the local office of emergency services or the equivalent agency; the Office of Emergency Services; and, the medical health operational area coordinator.

3) Requires HCAI, by July 1, 2023, to develop the notice required in 2)a) above, with the intent that the notice will clearly convey to patients and the public that the hospital building does not meet seismic safety standards intended to ensure that the hospital will be capable of continued operation following an

earthquake. For SPC-2 buildings, requires the notice to clearly state that "The State of California has determined that this building does not significantly jeopardize life, but may not be repairable or functional following an earthquake." For other noncompliant buildings, requires the notice to state that "The State of California has determined that the hospital building is at risk of not being functional to provide care to its patients after an earthquake." Permits HCAI to develop multiple notices in order to provide a more detailed description of different hospital buildings' failure to meet the January 1, 2030 requirements.

4) Requires a hospital building that is classified as SPC-2 to be identified as "These buildings do not significantly jeopardize life, but may not be repairable or functional following an earthquake" on HCAI's Internet website and n all documents and submissions to HCAI by the hospital owner regarding compliance with the January 1, 2030 seismic safety requirement.

5) Permits a hospital building that is classified as both SPC-5 and NPC-5 to be labeled earthquake resilient" on HCAI's Internet website and in all documents and submissions to HCAI by the hospital owner in compliance with the January 1, 2030 seismic safety requirement.

6) Specifies that the provisions of this bill are severable, and that if any provision is held invalid, that invalidity does not affect other provisions that can be given effect without the invalid provision.

7) Makes various legislative findings and declarations, including that as of 2022, most hospitals in California do not fully meet the seismic safety standards that will be required in order to remain operational past the 2030 deadline; that patients receiving care in a seismically deficient hospital when an earthquake occurs will be at risk of needing to be immediately evacuated, even if other hospitals in the area have also been impacted by the earthquake; that it is critical for cities, counties, and the state to fully understand hospitals' seismic safety compliance in order to prepare earthquake response and recovery plans; and, the Legislature reaffirms its commitment to Californians that hospitals will be fully functional and able to provide hospital care to Californians after an earthquake.

Background

1) *Hospital seismic safety requirements.* The original Seismic Safety Act was passed in 1973, following the 1971 San Fernando Valley (also known as Sylmar) earthquake, and required all new hospital construction to meet seismic safety standards. The Seismic Safety Act did not apply to existing buildings with the expectation that older buildings would be replaced with conforming buildings over time. By the time of the Northridge earthquake in 1994, however, 80% of hospital beds were still in pre-1973 non-conforming buildings. The Northridge earthquake caused significant structural damage to a number of hospitals, with at least two hospitals needing to be evacuated. What also became apparent in the Northridge earthquake was that nonstructural damage was also a threat to patient safety, with damage to heating and ventilation systems and sprinklers, forcing evacuations. Following the Northridge earthquake, the Legislature updated the Seismic Safety Act with SB 1953 (Alquist, Chapter 740, Statutes of 1994), which required HCAI to establish earthquake performance categories for hospitals. SB 1953 also established a January 1, 2008 deadline by which general acute care hospitals must be retrofitted or replaced so that they do not pose a risk of collapse in the event of an earthquake (which has been repeatedly extended by subsequent legislation for most hospitals), and a January 1, 2030, deadline by which they must be capable of remaining operational following an earthquake.

   Specifically, SB 1953 required HCAI to create structural performance categories (SPCs), as well as nonstructural performance categories (NPCs) for "nonstructural systems that are critical to providing basic services to hospital inpatients and the public after a disaster." Each hospital building receives both an SPC and an NPC rating. According to HCAI, the SPC requirements can be thought of as protecting the skeleton, while NPC requirements ensure the organs and other tissues that are necessary for a human body to function will remain safely attached to the skeleton. It is important to note that a licensed facility, or hospital, is often made up of several buildings on its campus. Many hospitals may have one or more buildings that are 2030 compliant, while other buildings still need to be retrofitted or replaced.

   NOTE: For a description of SPC and NPC ratings, please see the Senate Health Committee analysis of this bill.

2) *Status of hospital seismic safety compliance.* According to HCAI, there are a total of 3,152 buildings at 415 licensed hospital facilities that are subject to the

seismic safety standards. All have achieved at least the SPC-2 standard that allows them to remain in service until 2030 except for 86 buildings spread across 38 hospital facilities. In some cases, there are no plans to retrofit or rebuild, and the hospital has either already taken them out of service but it is not reflected in the data yet, or there are plans to take them out of service prior to the July 1, 2022 deadline. It is unclear at this time how many of the remaining out of compliance buildings are expected to remain in service but are in jeopardy of missing the July 1, 2022 deadline for retrofit or replacement projects, or the January 1, 2025, for rebuild projects.

Regarding the 2030 deadline for buildings to achieve SPC-3, 4, 4D or 5, there are still 658 buildings, spread across 251 licensed hospitals, that have an SPC-2 rating and will need to either be retrofitted to SPC-4D, replaced with an SPC-5 building, or removed from acute care service. There may be more, depending on how many of the 75 remaining SPC-1 buildings are only being brought up to SPC-2. There are currently only six hospital buildings that have opted to use the SPC-4D option to retrofit older buildings, but since it has only been available since 2017, it is unclear whether that will be utilized more frequently for the remaining 658-plus buildings, or whether it will still be a rarely used option and most hospitals choose to construct new replacement buildings.

Regarding NPC compliance, the vast majority of buildings have not yet met 2030 standards. More than half of all hospital buildings are still NPC 2. Only about 1.5% of all hospital buildings have achieved NPC 5 and are fully 2030 compliant. Another 32% have met NPC 4 requirements. Because NPC requirements generally do not involve decisions on whether to rebuild or replace, hospitals are more able to delay compliance with NPC requirements until closer to the deadline.

Comments

1) *Author's statement.* According to the author, first responders and the community as a whole have a right to know if their hospitals are prepared for the next major earthquake. Unfortunately, many California hospitals are still structurally deficient and may not be able to provide medical care after a major earthquake as of today. Increasing transparency in this area will help communities prepare for emergencies and save lives. This bill will increase transparency in hospital seismic safety to ensure that local response agencies and governments are prepared for a major seismic event and can continue providing patient care after a devastating earthquake."

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

According to the Senate Appropriations Committee, the HCAI estimates the costs for state resources to be $125,000 ongoing (Hospital Building Fund).

SUPPORT: (Verified 8/8/22)

California Labor Federation (source)
AFSCME
California Alliance for Retired Americans
California Federation of Teachers
California Labor Federation
California Professional Firefighters
California School Employees Association
California State Building and Construction Trades Council
California Teamsters Public Affairs Council
Northern California District Council of the International Longshore and Warehouse Union
Professional Engineers in California Government
SEIU California
Structural Engineers Association of California
United Nurses Associations of California/Union of Health Care Professionals

OPPOSITION: (Verified 8/8/22)

Department of Finance

ARGUMENTS IN SUPPORT: This bill is sponsored by the California Labor Federation, which states that as of 2022, most hospitals in California do not fully meet the seismic safety standards that are required for a building to remain operational as a general acute care space beyond the 2030 deadline. Patients receiving care in seismically deficient hospitals during an earthquake will be at risk of immediate evacuation, potentially creating a crisis of care if other hospitals in the area have also been affected by the earthquake and are unable to receive patients. The California Labor Federation states that it is critical for cities, counties, and the state to fully understand hospitals' seismic safety compliance in order to prepare earthquake response and recovery plans. The California Labor Federation states that this bill requires hospitals who have not met the 2030 requirement to do the following: post notices of their seismic compliance status in public areas of the hospital; send notices to their city council, board of supervisors, local emergency management authority, and any labor union representing its workers; send HCAI a list of what services are provided in each building of the

hospital; and, share their evacuation plans with the Emergency Medical Services Authority. The California Labor Federation argues that this bill is sound policy that provides the community with the information they need to better prepare for a catastrophic seismic event.

A number of labor unions, including SEIU California, AFSCME, the California Professional Firefighters, California School Employees Association, Professional Engineers in California Government, United Nurses Association of California/Union of Health Care Professionals, and others also write in support, making similar arguments.

ARGUMENTS IN OPPOSITION: The Department of Finance opposes this bill, stating that this bill will result in additional costs to the Hospital Building Fund that are not accounted for in the Administration's spending plan.

ASSEMBLY FLOOR: 50-17, 5/16/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Maienschein, McCarty, Medina, Mullin, O'Donnell, Petrie-Norris, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Choi, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Mathis, Mayes, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Chen, Cunningham, Gray, Lackey, Low, Muratsuchi, Nazarian, Quirk, Quirk-Silva, Blanca Rubio, Ting

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
8/10/22 14:57:17

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

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

THIRD READING

Bill No: AB 1886
Author: Cooper (D)
Introduced: 2/8/22
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-0, 6/8/22
AYES: Cortese, Durazo, Laird, Newman
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 67-9, 5/25/22 - See last page for vote

SUBJECT: Public works: definition

SOURCE: International Union of Operating Engineers, CAL-NEVADA Conference

DIGEST: This bill expands the definition of "public works," for the purpose of the payment of prevailing wages, to also include street sweeping maintenance performed for the preservation, protection, and keeping of any publicly owned or publicly operated street, road, or highway done under contract and paid for in whole or in part out of public funds.

ANALYSIS:

Existing law:

1) Requires that not less than the general prevailing rate of per diem wages be paid to all workers employed on a "public works" project costing over $1,000 and imposes misdemeanor penalties for violation of this requirement. (Labor Code §1771)

2) Defines "public work" to include, among other things, construction, alteration, demolition, installation or repair work done under contract and paid for in

whole or in part out of public funds, including contracts for maintenance work, as specified in state regulations. (Labor Code §1720(a) & §1771)

3) Defines "paid for in whole or in part out of public funds" as, among other things, "Fees, costs, rents, insurance or bond premiums, loans, interest rates, or other obligations normally required in the execution of a contract that are paid, reduced, charged at less than fair market value, waived or forgiven." (Labor Code §1720(b))

4) Requires that the applicable general prevailing rate of per diem wages be determined by the Director of the Department of Industrial Relations (DIR) for each locality in which the public work is to be performed and for each craft, classification, or type of worker needed to execute the public works project. (Labor Code §1773)

5) Provides that private residential projects built on private property are not subject to the requirements of public works provisions, unless the projects are built pursuant to an agreement with a state agency, redevelopment agency, or local public housing authority. (Labor Code §1720(c)(1))

6) Authorizes the Labor Commissioner, or their designee, to issue civil wage and penalty assessments on a contractor or subcontractor, or both, that fails to pay prevailing wages in connection with a public work. (Labor Code §1741)

This bill expands the definition of "public works," for the purpose of the payment of prevailing wages, to also include street sweeping maintenance performed for the preservation, protection, and keeping of any publicly owned or publicly operated street, road, or highway done under contract and paid for in whole or in part out of public funds.

Background

"Public Works" and Prevailing Wage

Existing law requires that not less than the general prevailing wage rate of per diem wages, as determined by the director of the DIR, be paid to all workers employed on a "public works" projects. The prevailing wage rate is the basic hourly rate paid on public works projects to a majority of workers engaged in a particular craft, classification or type of work within the locality and in the nearest labor market area. The determination of whether a project is deemed a "public work" is important because the Labor Code requires (except for projects of $1,000

or less) that the prevailing wage be paid to all workers employed on public works projects. Prevailing wage creates a level playing field by requiring an across-the-board rate for all bidders on publically subsidized projects.

In general, "public works" is defined to include construction, alteration, demolition, installation or repair work done under contract and "paid for in whole or in part out of public funds." Almost twenty years ago, there was much administrative and legislative action over what constituted the term "paid for in whole or in part out of public funds." These debates culminated in the enactment of SB 975 (Alarcón, Chapter 938, Statutes of 2001), which codified a definition of "paid for in whole or in part out of public funds" as well as exempted certain affordable housing, residential and private development projects, as specified. Currently, “paid for in whole or in part out of public funds” is defined as, among other things, “fees, costs, rents, insurance or bond premiums, loans, interest rates, or other obligations normally required in the execution of a contract that are paid, reduced, charged at less than fair market value, waived or forgiven.”

Recent DIR Determinations Regarding Street Sweeping

Existing Labor Code Section 1773.5 authorizes the Director of DIR to establish rules and regulations for carrying out the requirements of the labor code, including the issuance of determinations on whether a specific project or type of work awarded or undertaken by a political subdivision is considered a public work, important for purposes of prevailing wage requirements.

As noted above, “public works” is defined as including construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds. Further, Labor Code Section 1771 specifies that the payment of prevailing wage on public works “is applicable to contracts let for maintenance work.” State regulations expand upon the definition of public works maintenance to provide that maintenance is “routine, recurring, and usual work for the preservation, protection and keeping of any publicly owned or publicly operated facility” (Cal. Code of Regulations, Title 8, §16000).

Recently there has been confusion among awarding bodies, contractors, and labor entities regarding whether public street sweeping constitutes “maintenance” under the state’s prevailing wage laws. Various prior DIR determinations have found that street sweeping is in fact considered a public works maintenance project, and thus requires the payment of prevailing wage. In an October 2021 determination, the Director of DIR (DIR Public Works Case No. 2020-005) found that street sweeping is a routine and recurring work that keeps public streets and facilities in a

safe and continually usable condition for public use, and therefore is subject to prevailing wage requirements.[1] This bill codifies this determination.

Comments

Need for this bill? According to the author, "Street sweeping is a critical public safety and road maintenance task that involves the clearing of debris from public streets and roadways. Street sweeping maintenance ensures that our roads and drains are clear of a variety of materials that accumulate in our public streets, including but not limited to: Sand, gravel, glass, bottles, cans, leaves, silt, mud, litter, trash, small tree limbs, palm fronds and other debris. In an effort to bring clarity to awarding bodies, contractors, and labor organizations, AB 1886 codifies the DIR recent prevailing wage determination to ensure that street sweeping maintenance services are included in the definition of "public works" and thus require the payment of prevailing wage."

Related/Prior Legislation

AB 1851 (R. Rivas, 2022) expands the definition of public works for the purpose of the payment of prevailing wages to include the on-hauling of materials used for paving, grading, and fill onto a public works site. The bill is pending a hearing in this Committee.

AB 2231 (Kalra, Chapter 346, Statutes of 2020) defined a public subsidy as de minimis for the purpose of paying the prevailing wage in private projects if it is both less than $600,000 and less than 2% of the total project cost for bids advertised or contracts awarded after July 1, 2021. If the subsidy is for a residential project consisting entirely of single family dwellings, the subsidy is de minimis so long as it is less than 2 % of the total project cost.

AB 1066 (Aguiar-Curry, Chapter 616, Statutes of 2017) expanded the meaning of the term "public works" to include specific types of tree removal work.

AB 26 (Bonilla, Chapter 864, Statutes of 2014) expanded the definition of "public works" to include work performed during the design and preconstruction phases of construction, including, but not limited to, inspection and land surveying work, and work performed during the post-construction phases of construction, including, but not limited to, all cleanup work at the jobsite.

[1] Department of Industrial Relations. *Public Works Case No. 2020-005 Street Sweeping Maintenance Services City of Elk Grove.* October 4, 2021.

AB 514 (Roger Hernández, Chapter 676, Statutes of 2011) expanded the definition of "public works" to include the hauling of refuse, as defined, from a public works site to an outside disposal location.

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

SUPPORT: (Verified 6/28/22)

International Union of Operating Engineers, CAL-NEVADA Conference (source)
California Conference of Carpenters
California Labor Federation, AFL-CIO
California State Association of Electrical Workers
California State Pipe Trades Council
California Teamsters Public Affairs Council
Engineering & Utility Contractors Association Dba United Contractors
International Union of Operating Engineers, Local 12
Southern California Contractors Association
State Building & Construction Trades Council of California
United Contractors
Western States Council Sheet Metal, Air, Rail and Transportation

OPPOSITION: (Verified 6/28/22)

None received

ARGUMENTS IN SUPPORT: According to the sponsor, the California-Nevada Conference of Operating Engineers, and proponents, "Recently there has been confusion among awarding bodies, contractors, and labor entities regarding whether public street sweeping constitutes "maintenance" under the states prevailing wage laws. Various prior coverage determinations have found that street sweeping is in fact considered a public works maintenance project, and thus requires the payment of prevailing wage. Most recently, DIR Public Works Case No. 2020-005 found that street sweeping is a routine and recurring work that keeps public streets and facilities in a safe and continually usable condition for public use, and therefore is subject to prevailing wage requirements. Various other cases over the years have found that street sweeping falls under the definition of maintenance."

Proponents conclude by stating that, "AB 1886 is needed to ensure that street sweeping maintenance is clearly designated as a public work and thus entitled to the payment of prevailing wage. This change will provide clarity for awarding

entities, contractors and labor compliance groups who regularly ask for clarification on this issue from the Department of Industrial Relations."

ASSEMBLY FLOOR: 67-9, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Choi, Fong, Kiley, Nguyen, Patterson, Seyarto, Smith, Voepel
NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
6/28/22 14:28:12

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

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THIRD READING

Bill No: AB 1894
Author: Luz Rivas (D) and Petrie-Norris (D), et al.
Amended: 6/29/22 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 14-0, 6/27/22
AYES: Roth, Melendez, Archuleta, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan

ASSEMBLY FLOOR: 76-0, 5/25/22 - See last page for vote

SUBJECT: Integrated cannabis vaporizer: packaging, labeling, advertisement, and marketing

SOURCE: California NORML
National Stewardship Action Council

DIGEST: This bill prohibits, commencing July 1, 2024, cannabis cartridges and integrated cannabis vaporizers packages from implying the product is disposable and adds advertisement and marketing requirements.

ANALYSIS:

Existing law:

1) Establishes the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) to regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of both medicinal cannabis and adult-use cannabis. (Business and Professions Code (BPC) § 26000)

2) Prohibits a cannabis licensee from including on the label of any cannabis or cannabis product or publishing or disseminating advertising or marketing containing any health-related statement that is untrue in any particular manner or tends to create a misleading impression as to the effects on health of cannabis consumption. (BPC § 26154)

3) Requires the State Controller, after tax collected for purposes of administrative functions, must disburse the sum of ten million dollars to a public university or universities in California annually until the 2028–29 fiscal year to research and evaluate the implementation and effect of the Control, Regulate and Tax Adult Use of Marijuana Act, and shall, if appropriate, make recommendations to the Legislature and Governor regarding possible amendments to the Control, Regulate and Tax Adult Use of Marijuana Act. Requires the recipients of these funds shall publish reports on their findings at a minimum of every two years and shall make the reports available to the public. States the Department of Cannabis Control (DCC) shall select the universities to be funded. (Revenue and Taxation Code (RTC) § 34019(b))

4) Requires that all advertisements and marketing accurately and legibly identify the licensee responsible for its content, by adding, at a minimum, the licensee's license number, and prohibits an outdoor advertising company from displaying an advertisement by a licensee unless the advertisement displays the license number. (BPC § 26151)

5) Prohibits a cannabis licensee from doing any of the following:

   a) Advertising or marketing in a manner that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific, or technical matter, tends to create a misleading impression.

   b) Publishing or disseminating advertising or marketing containing any statement concerning a brand or product that is inconsistent with any statement on its labeling.

   c) Publishing or disseminating advertising or marketing containing any statement, design, device, or representation which tends to create the impression that the cannabis originated in a particular place or region, unless the label of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement.

   d) Advertising or marketing on a billboard or similar advertising device located on an Interstate Highway or on a State Highway which crosses the California border.

   e) Advertising or marketing cannabis or cannabis products in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products.

f) Publishing or disseminating advertising or marketing that is attractive to children.

g) Advertising or marketing cannabis or cannabis products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 to 12, inclusive, playground, or youth center.

h) Publishing or disseminating advertising or marketing while the licensee's license is suspended. (BPC § 26152)

6) Provides the following restrictions on advertising and marketing placed in broadcast, cable, radio, print, and digital communications:

a) Must be displayed after a licensee has obtained reliable up-to-date audience composition data demonstrating that at least 71.6 percent of the audience viewing the advertising or marketing is reasonably expected to be 21 years of age or older;

b) Must not use any depictions or images of minors or anyone under 21 years of age;

c) Must not contain the use of objects, such as toys, inflatables, movie characters, cartoon characters, or include any other display, depiction, or image designed in any manner likely to be appealing to minors or anyone under 21 years of age; and

d) Must not advertise free cannabis goods giveaways of any type of products, including non-cannabis products. (California Code of Regulations (CCR) § 15040)

7) Establishes the Rechargeable Battery Recycling Act, which requires every retailer to have a system in place, on or before July 1, 2006, for the acceptance and collection of used rechargeable batteries for reuse, recycling, or proper disposal. (Public Resources Code (PRC) §§42451-42456)

This bill:

1) Prohibits cannabis cartridge and integrated cannabis vaporizer packaging and labels from indicating these products are disposable or implying the product may be thrown in the trash or recycling streams.

2) Adds the following advertising and marketing requirements:

a) Integrated cannabis vaporizer advertisements must clearly and legibly state: "A*n integrated cannabis vaporizer shall be properly disposed of as hazardous waste at a state permitted household hazardous waste collection facility."*

b) Cannabis cartridge advertisements must clearly and legibly state: "*A cannabis cartridge shall be properly disposed of as hazardous waste at a state permitted household hazardous waste collection facility."*

c) Cannabis cartridge and an integrated cannabis vaporize cannot indicate that a cannabis cartridge or an integrated cannabis vaporizer is disposable nor imply that it may be thrown in the trash or recycling streams.

3) Provides a July 1, 2024 implementation date.

Background

State Regulation of Cannabis. In 1996, California first legalized cannabis for medical consumption via Proposition 215, also known as the Compassionate Use Act (the Act). Proposition 215 protected qualified patients and primary caregivers SB 1097 Page 5 from prosecution related to the possession and cultivation of cannabis for medicinal purposes. In 2003, the Legislature authorized the formation of medical marijuana cooperatives—nonprofit organizations that cultivate and distribute marijuana for medical uses to their members through dispensaries. In 2015, the Legislature passed the Medical Cannabis Regulation and Safety Act (MCRSA). For the first time, MCRSA established a comprehensive, statewide licensing and regulatory framework for the cultivation, manufacture, transportation, testing, distribution, and sale of medicinal cannabis.

Shortly following the passage of MCRSA in November 2016, California voters passed Proposition 64, the "Control, Regulate and Tax Adult Use of Marijuana Act" (Proposition 64), which legalized adult-use cannabis. Less than a year later in June 2017, the California State Legislature passed a budget trailer bill, SB 94 (Committee on Budget and Fiscal Review, Chapter 27, Statutes of 2017), that integrated MCRSA with Proposition 64 to create MAUCRSA, the current regulatory structure for both medicinal and adult-use cannabis. Beginning in 2018, Proposition 64 permitted adults 21 years of age or older can legally grow, possess, and use cannabis for nonmedical purposes, with certain restrictions. Proposition 64 also established the current labeling guidelines.

The department categorizes cannabis product as follows: food and beverages; vape cartridges; lotions and balms; lozenges and sublingual sprays; pills and tablets; and dab, shatter and wax.

Current labeling and cannabis education efforts. The DCC issued emergency regulations to implement consolidation efforts. As a part of the regulatory process, the DCC must propose permanent regulations. The DCC released proposed regulations to make the emergency consolidated regulations permanent on March 4, 2022 and anticipate them to be effective by fall 2022 to further define labeling requirements. The regulations are substantially similar, but contain some amendments.

In addition to cannabis specific requirements, the California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) is currently working with cannabis licensees to ensure packaging is consistent with Proposition 65 which requires the listing of any potential cancer causing substance.

The DCC currently oversees two public awareness campaigns ("This is California Cannabis" and "#weedwise") aimed to educate on the legal market and specifically, "educate consumers about buying from licensed retailers, encourage unlicensed businesses to get licensed, and promote California's legal cultivation market." DCC is not currently doing any outreach or campaigns on recycling of cannabis vape products. The California Department of Resources Recycling and Recovery (CalRecycle) has limited information on its website educating consumers about lithium battery recycling and does not have a public campaign about battery recycling, including cannabis vape products.

Cannabis advertising requirements. Cannabis licensees have strict advertising and marketing rules they must follow, particularly when it comes to situations involving children. Licensees may not advertise or market cannabis or cannabis products in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products; publish or disseminate advertising or marketing that is attractive to children; advertise or market cannabis or cannabis products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 to 12, inclusive, playground, or youth center.

The proposed regulations referenced above also seek to make advertisement regulations permanent with additional changes. Once finalized, proposed regulations will require advertisements placed in broadcast, cable, radio, print, and digital communications may be displayed only after a licensee has obtained

reliable up-to-date audience composition data demonstrating that at least 71.6 percent of the audience viewing the advertising or marketing is reasonably expected to be 21 years of age or older. These advertisements also cannot show images of minors, images that are attractive to children such as cartoons, phrases that are popularly used to advertise to children, imitation of candy packaging or reference candy and/or any variants of the word candy. This bill adds environmental safety to existing requirements.

Recycling hazardous batteries. Integrated Cannabis Vaporizers are also known as single-use vapes and are increasing in popularity. The majority of cannabis vaping products are cartridges that are inserted into reusable vaporizers or vape pens. However, approximately 10 percent of vaping products are vaporizers that combine both the cannabis product and a built-in electronic device that creates the aerosol or vapor, essentially constituting a single-use, all-in-one product. The batteries used in the cartridges and the single-use vapes are considered hazardous waste because they highly flammable. Under current law, it is illegal to dispose of hazardous waste in the garbage, down storm drains, or onto the ground. Most portable electronic devices use rechargeable batteries, and millions of rechargeable batteries are sold in California each year.

Current law requires retailers to have a mechanism to accept all rechargeable batteries for recycling and only applies to large chain supermarkets, which does not encompass cannabis retailers. Additionally, sales of rechargeable batteries that are contained in, or packaged with, a battery-operated device are not subject to this law. There is no laws specially addressing cannabis products. In fact, most laws pertaining to battery recycling specifically exempt equivalent tobacco products such as e-cigarettes. This bill only speaks to single-use vapes and does not speak to cartridges which also use similar hazardous waste batteries and are more widely used.

Current state programs do not collect single-use batteries and lithium-ion battery embedded products that are not cell phones. Call2Recycle's program, which collects rechargeable batteries, cell phones, and single-use batteries, allows consumers to drop off their used batteries at collection sites at no cost. However, the program is voluntary, making the availability of collection sites dependent on the willingness of an entity to operate a collection site. For instance, according to Call2Recycle's website, the closest collection site for single-use batteries to the California State Capitol is in Roseville, and the second closest location is in Stockton. In Los Angeles and Chico, there are not any collection sites for single-use batteries within 50 miles of those cities; in comparison to San Francisco which has an abundance of collection sites for single-use batteries. It is unclear how

labeling single-use vapes to dispose properly will educate consumers how or where to properly dispose.

Currently, there are two measures moving through the legislature establishing a battery recycling program, SB 1215 (Newman, 2022) and AB 2440 (Irwin, 2022). The Senate Environmental Quality Committee analysis for AB 2440 notes that there are laws requiring rechargeable batteries to be collected; however, recent information suggests that collection efforts are not succeeding. The hazardous waste batteries are ending up in the solid waste stream where they can be damaged or crushed, which can result in fires in solid waste trucks and solid waste facilities.

According to the author's office and the sponsor, this bill is intended to be complimentary to these two bills which is the rationale provided for the vagueness of language in this bill.

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

SUPPORT: (Verified 8/2/22)

California NORML (co-source)
National Stewardship Action Council (co-source)
California Cannabis Industry Association
California Society of Addiction Medicine
Republic Services - Western Region
Stiiizy
The Parent Company

OPPOSITION: (Verified 8/2/22)

None received

ARGUMENTS IN SUPPORT: California NORML writes, "Vaporizers are a valuable harm-reduction tool for users wishing to avoid hazardous respiratory toxins in cannabis smoke. However, integrated vaporizers as defined in BPC 26122 have electronic components such as batteries that can be hazardous if not properly disposed of. For the sake of public safety and the environment, it's important for cannabis consumers to understand that this is the case."

According to the National Stewardship Action Council, "Vaping devices have become an increasingly popular method of consuming cannabis. Powered by a battery, these electronics are considered hazardous waste in California and banned from disposal in the trash or recycling. However, many brands instruct consumers to simply throw them away, which results in vapes being improperly disposed of in

our materials management system where they have the potential to cause explosions and fires that can endanger people, expensive infrastructure, and the environment. These fires have become more commonplace in the industry, and operators are at risk of losing their insurance coverage.

“California has become a leader in advocating for “truth in labeling” by requiring brands to truthfully label their products and packaging for proper disposal or recycling. Manufacturers of products with lithium-ion batteries, such as cannabis vaping devices, can help by ensuring that they are not promoting or implying their products belong in the trash, which could result in fires. Consumers deserve the ability to make informed purchasing decisions and have accurate information for end-of-life disposal.”

ASSEMBLY FLOOR: 76-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Alexandria Smith Davis / B., P. & E.D. /
8/3/22 14:29:13

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

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THIRD READING

Bill No: AB 1901
Author: Nazarian (D)
Amended: 6/30/22 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-3, 6/20/22
AYES: Roth, Becker, Eggman, Hurtado, Leyva, Min, Newman, Ochoa Bogh, Pan
NOES: Melendez, Bates, Jones
NO VOTE RECORDED: Archuleta, Dodd

SENATE JUDICIARY COMMITTEE: 9-1, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, McGuire, Stern, Wieckowski, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas

ASSEMBLY FLOOR: 50-11, 5/5/22 - See last page for vote

SUBJECT: Dog training services: disclosure requirement

SOURCE: Author

DIGEST: This bill establishes the Dog Trainer Sufficiency Act and requires a written disclosure be provided to the purchaser of dog training services, as specified.

ANALYSIS: Existing law establishes procedures for the care and maintenance of pets boarded at a pet boarding facility, including, but not limited to, sanitation, provision of enrichment, health and safety, as specified. (Health and Safety Code §§ 122380-122388)

This bill:

1) Establishes the Dog Trainer Sufficiency Act (Act) and requires a dog trainer to deliver to a purchaser of dog training services, at the time of purchase of dog

training services, a written disclosure containing all of the following:

a) The trainer's name and address;

b) Whether the trainer is licensed or certified by any animal training organization;

c) The trainer's training techniques and philosophy, and a training plan describing the nature and goals of the training; and,

d) Any civil judgements or criminal animal cruelty convictions related to the dog trainer's services.

2) Defines the following:

a) "Dog trainer" or "trainer" to mean "a person, firm, partnership, corporation, or other association that sells, offers, or provides dog training services on the premises of the person, firm, partnership, corporation, or other association, but does not include a guide dog instructor, as specified.

b) "Dog training" to mean the training or behavior modification of dogs or serving as a dog behavior consultant, when performed for a fee, salary or other form of compensation.

c) "Person" to mean an individual, partnership, firm, limited liability company, joint stock company, corporation, association, trust, estate, or other legal entity.

d) "Purchaser" to mean any person who purchases dog-training services.

3) Requires the written disclosure be signed by the trainer certifying the accuracy of the statement, and by the purchaser of the training acknowledging the receipt.

Background

Dog Training and Dog Training Services. There are a variety of dog training services and service providers in California. There are trainings that can last hours, for a day, or even programs that offer board and train services where the dog stays with the trainer/border for days or possibly weeks until the training is complete. In

addition to the various types of training services offered, there are multiple training providers including individual trainers, shelter and rescue groups, small businesses, and large retail businesses. Some trainings may include owner participation and other trainings may be wholly with a trainer. Currently, there are no statewide licensure or certification requirements for an individual to provide dog-training services. Nor are there facility requirements for individuals that provide dog-training services unless they are also a boarding facility, to which they must comply with the requirements in existing law for boarding facilities. Pet boarding facilities must comply with BPC § 12238, which requires facility operators to ensure that boarding equipment is structurally sound and in good repair, there is not a harmful quantity of pests, facilities are easily able to be cleaned, there is sufficient natural or artificial light, and facilities are maintained separate if the boarding facility offers pet grooming, among other requirements.

Currently, there are no specified restrictions on who is eligible to provide dog-training services. However, BPC §§ 7200 and 7201 defines guide dog instructors, and prohibits a person from representing oneself as a guide dog instructor without meeting certain conditions.

This bill would require a dog trainer to provide a written disclosure, at the time the services are purchased, containing information including the trainer's license or certification if certified, training techniques and philosophy, a training plan, and any civil judgements related to the trainer's dog training services, along with any criminal animal cruelty convictions.

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

SUPPORT: (Verified 7/14/22)

California Animal Welfare Association
San Diego Humane Society and SPCA
Social Compassion in Legislation

OPPOSITION: (Verified 7/14/22)

Animal Policy Group
Black Brant Group
California Federation of Dog Clubs
California Hawking Club
California Houndsmen for Conservation
California Rifle and Pistol Association, Inc.

California Waterfowl Association
Cal-Ore Wetlands and Waterfowl Council
Congressional Sportsmen's Foundation
Nor-Cal Guides and Sportsmen's Association
San Diego County Wildlife Federation
San Francisco Bay Area Chapter - Safari Club International
Tulare Basin Wetlands Association

ARGUMENTS IN SUPPORT: Supporters note this bill will help people in making informed decisions about appropriate dog training services.

ARGUMENTS IN OPPOSITION: Opponents state that dog trainers are not required to be licensed in California, and while there are certifications for some types of training, there are not for others.

ASSEMBLY FLOOR: 50-11, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Eduardo Garcia, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Low, Maienschein, Mayes, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Choi, Megan Dahle, Davies, Gray, Kiley, Lackey, Mathis, Patterson, Seyarto, Smith, Valladares
NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Gallagher, Cristina Garcia, Gipson, Levine, McCarty, Medina, Nguyen, Villapudua, Voepel, Waldron

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
7/28/22 10:33:04

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

SENATE RULES COMMITTEE AB 1902
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1902
Author: Aguiar-Curry (D)
Amended: 8/8/22 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/15/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE NATURAL RES. & WATER COMMITTEE: 9-0, 6/28/22
AYES: Stern, Jones, Allen, Eggman, Grove, Hertzberg, Hueso, Limón, Skinner

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 73-0, 5/25/22 (Consent) - See last page for vote

SUBJECT: Resource conservation: resource conservation districts

SOURCE: California Association of Resource Conservation Districts

DIGEST: This bill makes numerous changes to laws related to resource conservation districts, including expanding the scope of resource conservation activities these districts can perform.

Senate Floor Amendments of 8/8/22 allow the Department of Conservation to waive local match requirement for grants it awards to resource conservation districts if the district serves an under-resourced or vulnerable community or receives no more than $150,000 annually from taxes or assessments.

ANALYSIS:

Existing law:

1) Creates the Department of Conservation (DOC), and requires DOC to, among other things, provide specified soil conservation advisory services to local

governments, land owners, farmers and ranchers, Resource Conservation Districts (RCDs), and the general public.

2) Authorizes the creation of RCDs for the control of runoff, the prevention or control of soil erosion, the development and distribution of water, and the improvement of land capabilities.

3) Authorizes RCDs, in addition to any other authority provided by law, to do all of the following:

   a) Ensure consistency with the authorities and policies of the United States, this state, counties, cities, public districts, other RCDs, persons, associations, and corporations.

   b) With the consent of the owner, construct on privately or publicly owned lands any necessary works for the prevention and control of soil erosion and erosion stabilization.

   c) Facilitate coordinated resource management efforts for watershed restoration and enhancement.

4) Requires that lands included in an RCD are required to be those generally of value for agricultural purposes, including farm and range land useful for the production of agricultural crops or for the pasturing of livestock, but other lands may be included in an RCD if necessary for the control of runoff, the prevention or control of soil erosion, the development and distribution of water, or land improvement, and for fully accomplishing the purposes for which the RCD is formed.

5) Provides that the lands included in an RCD need not be contiguous but they must be susceptible of the same general plan or system for the control of runoff, the prevention or control of soil erosion, and the development and distribution of water, or land improvement. No lands may be included in more than one RCD.

6) Authorizes, but does not require, RCDs to develop districtwide comprehensive annual and long-range work plans. These plans must address the full range of soil and related resource problems that are found to occur in the RCD.

7) Provides that the long-range plans shall serve specified functions, including identification of resource issues, establishment of long-range district goals, evaluating annual work plan achievements, and addressing collaboration with other local, state, and federal agencies.

8) Provides that the annual work plans may be adopted on or before March 1 of each year in a format which shall be consistent with the RCD's long-range work plan. The annual work plans shall serve specified functions, including identification of high priority actions, provide information on projects and tasks the RCD will perform, and demonstrate how annual tasks relate to long-range district goals.

9) Authorizes an RCD to prepare an annual report. The annual report is required be completed on or before September 1 of each year in a format consistent with the long-range and annual plans, so that progress made during the reporting period towards RCD goals can be readily determined. The annual report must serve specified functions, including reporting on annual RCD achievements, increase public awareness of district activities, compare accomplishments to annual work plan objectives, and identify future objectives.

10) Imposes a number of conditions on RCDs for receiving grants. To qualify for a grant, among other things, an RCD must:

    a) Prepare an annual and a long-range work plan. The long-range work plan must reflect input received from local agencies and organizations regarding land use and resource conservation goals.

    b) Secure sources of local support funding, which may include funding from in-kind contributions and services.

    c) Provide at least a 25 percent local match of funding, of which 40 percent of that amount shall be provided in cash. DOC is required to give preference in the awarding of grants to those RCDs that provide a greater percentage of local match funding than the minimum required amount.

This bill:

1) Replaces the existing DOC responsibilities with the following requirements to:

    a) Advise local agencies, including a resource conservation district, state and federal agencies, tribal agencies, and the public on issues of conservation importance, including planning activities and comments;

    b) Review and provide comments to documents prepared in accordance with the California Environmental Quality Act;

    c) Administer local assistance programs, including grants and contracts;

d) Provide various types of assistance to resource conservation districts;

e) Cooperate with and promote coordination of public agency and Native American tribes on issues of conservation importance.

2) Changes the purpose for the creation RCDs from the control of runoff, the prevention or control of soil erosion, the development and distribution of water, and the improvement of land capabilities, to providing resource conservation services for the protection, conservation, restoration, or enhancement of natural resources.

3) Adds that resource conservation services may include the development and implementation of programs, projects, practices, and activities on public and private lands for all, but not limited to, the following purposes:

a) The control of runoff, the prevention or control of soil erosion, the development and distribution of water, the implementation of erosion stabilization projects, and the improvement of land capabilities.

b) Protecting people, communities, ecosystems, and public and private resources from devastating wildfire, flood, drought, and other human-made and natural disasters.

c) Protecting, conserving, restoring, promoting, and improving the health, resilience, and adaptability to climate change of natural, working, and urban lands.

d) Protecting and improving water quality, conserving water resources, and developing and distributing water.

e) Planning, preparing for, and addressing sea level rise, storm surge, and other threats to the conservation and preservation of natural resources in coastal areas.

f) Protecting, conserving, and restoring California's biodiversity and soil biology, including, but not limited to, plants and wildlife.

g) Controlling and eradicating invasive species, disease, and pests on natural, working, and urban lands.

h) Restoring, enhancing, and providing stewardship of forest resources.

i) Restoring and enhancing agricultural lands to sustain California's agricultural economy.

j) Providing technical assistance to landowners and land managers in pursuit of all of the above.

4) Changes the provision requiring the lands included in a district from those generally of value for agricultural purposes to any that further the purposes described above.

5) Deletes the requirement that non-contiguous lands be susceptible of the same general plan or system for the control of runoff, the prevention or control of soil erosion, and the development and distribution of water, or land improvement.

6) Changes the provisions for the annual and long-term reports and annual work plan from addressing the full range of soil and related resource problems to requiring them to address the full range of projects and programs described above.

7) Makes other specified changes to the reporting requirements, including reporting timelines, and requiring RCDs to provide reports to the county board of supervisors, as well as any other public agency with jurisdiction over resource conservation and management, with land in the RCD's jurisdiction for informational purposes.

8) Authorizes DOC, upon an appropriation by the Legislature, or as other funds become available and are appropriated for these purposes to provide grants and other forms of local assistance to RCDs.

9) Allows DOC to waive local match requirement for grants it awards to RCDs if the district serves an under-resourced or vulnerable community or receives no more than $150,000 annually from taxes or assessments as specified.

10) Removes the requirement for DOC to give preference in the awarding of grants to RCDs that provide a greater percentage of local match funding than the minimum required amount.

11) Makes other technical and conforming changes.

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

SUPPORT: (Verified 8/9/22)

California Association of Resource Conservation Districts (source)
Ricardo Lara, California Department of Insurance

California Climate & Agriculture Network
California Special Districts Association
Dixon Resource Conservation District
East Merced Resource Conservation District
Glenn County Resource Conservation District
Gold Ridge Resource Conservation District
Honey Lake Valley Resource Conservation District
Humboldt County Resource Conservation District
Inland Empire Resource Conservation District
Mariposa County Resource Conservation District
Mendocino County Resource Conservation District
Mission Resource Conservation District
Napa County Resource Conservation District
Placer Resource Conservation District
Resource Conservation District of Greater San Diego County
Resource Conservation District of Monterey County
Resource Conservation District of Santa Cruz County
Resource Conservation District of the Santa Monica Mountains
San Mateo Resource Conservation District
Sierra Resource Conservation District
Solano Resource Conservation District
Sonoma Resource Conservation District
Sustainable Conservation
Tahoe Resource Conservation District
Temecula-Elsinore-Anza-Murrieta Resource Conservation District
Upper Salinas - Las Tablas Resource Conservation District

OPPOSITION: (Verified 8/9/22)

Loma Prieta Resource Conservation District
Riverside-Corona Resource Conservation District
San Joaquin County Resource Conservation District

ARGUMENTS IN SUPPORT: According to the author, "Resource Conservation Districts are increasing California's resilience to climate change by implementing programs and projects that improve forest health and manage fuels, provide homeowners with home hardening and defensible space services, work with farmers and ranchers to increase water efficiency and become more drought resilient, implement natural infrastructure to reduce flooding, and protect and restore endangered species habitat. However, the last meaningful update to Division 9 occurred in the 1970s, and RCD Law needs to be updated to reflect the

critical operations and management of RCDs today. AB 1902 ensures RCDs can more effectively perform their work, which ranges from protecting people, communities, and ecosystems from wildfire, drought and other disasters wrought by climate change to controlling and eradicating invasive species to providing technical assistance to landowners to enhance the landowners' knowledge of resilience practices."

ARGUMENTS IN OPPOSITION: According to a group of RCDs opposed to the measure, "We share the author's and sponsor's purpose in introducing AB 1902. Our mutual goal is to reaffirm the essential role of RCDs in contributing to the achievement of the State's conservation and natural resource objectives. However, we are concerned that the current version of AB 1902 proposes language and specific revisions to Division 9 that could lead to unintended and significant consequences for RCDs and potentially harm, rather than advance, RCDs' ability to continue to assist the State of California in achieving its natural resource conservation goals. We are particularly concerned with revisions that would potentially curtail RCDs' long-standing ability to provide services to agricultural and watershed constituents who rely on us for flexible, state-of-the-art assistance to remain viable in today's economic and environmental climate."

ASSEMBLY FLOOR: 73-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Bloom, Irwin, O'Donnell, Blanca Rubio

Prepared by: Jonathan Peterson / GOV. & F. / (916) 651-4119
8/10/22 16:02:30

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

SENATE RULES COMMITTEE AB 1907
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1907
Author: Bauer-Kahan (D)
Introduced: 2/9/22
Vote: 21

SENATE HEALTH COMMITTEE: 9-0, 6/1/22
AYES: Pan, Melendez, Gonzalez, Grove, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Eggman, Hurtado

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 68-0, 4/21/22 (Consent) - See last page for vote

SUBJECT: Long-term health care facilities: inspections

SOURCE: California Senior Legislature

DIGEST: This bill changes the requirement that every long-term health facility be inspected at least once every two years, to instead require an inspection at least once every 30 months.

ANALYSIS:

Existing law:

1) Licenses and regulates long-term care (LTC) facilities by the California Department of Public Health (CDPH). LTC facilities include skilled nursing facilities (SNFs), intermediate care facilities (ICFs), ICF/developmentally disabled (ICF/DD), ICF/DD-habilitative, ICF/DD-nursing, and congregate living health facilities. [HSC §1250, et seq., and §1418]

2) Requires every health facility for which a license or special permit has been issued by CPDH, to be periodically inspected by CDPH. Requires inspections to be conducted no less than once every two years and as often as necessary to

ensure the quality of care being provided, except for hospitals, which are required to be inspected every three years. [HSC §1279]

3) Requires LTC facilities, notwithstanding 2) above, to be inspected annually, unless there are no class "AA," class "A," or class "B" violations in the prior 12 months. Requires every facility to be inspected at least once every two years, and to vary the cycle in which inspections of LTC facilities are conducted to reduce the predictability of the inspections. [HSC §1422(b)]

4) Requires inspections and investigations of LTC facilities that are certified by the Centers for Medicare or Medicaid Services (CMS) to determine compliance with federal standards and California statutes and regulations to the extent that California statutes and regulations provider greater protection to residents, or are more precise than federal standards. [HSC §1422(b)(1)(B)]

This bill changes the requirement that every LTC facility be inspected at least once every two years, to instead require an inspection at least once every 30 months.

Comments

1) *Author's statement.* According to the author, seniors, and their families, rely on the State to keep LTC facilities in check and certified. When inspections are not happening, the state has failed these individuals as violations and abuse go unaddressed. State inspectors are required to inspect for State and Federal inspections, which are never done at the same time. Because of this, inspections of these facilities are being missed due to long-term staffing shortages. This bill addresses the growing problem of neglect and abuse in nursing homes by making the inspection timelines the same, so one inspector can do both the state and federal inspection at the same time. By doing this, we will allow for more inspections to happen, which will make our facilities safer places for all who reside there.

2) *LTC facilities and state and federal inspection requirements.* LTC facilities include SNFs, ICFs and congregate living facilities. ICFs include several different licensing categories, including those specifically serving the developmentally disabled at different levels of health care need. According to CDPH, there are currently 1,205 licensed SNFs, 1,054 licensed ICFs across the various license types, and 259 licensed congregate living facilities. SNFs are defined as health facilities that provide skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis, and ICFs are defined as health facilities that provide inpatient

care to ambulatory or non-ambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require the availability of continuous skilled nursing care.

CDPH, in addition to being responsible for ensuring health facilities meet state licensure requirements, also is the contracted surveyor for CMS to ensure that facilities that accept Medicare and Medi-Cal payments comply with federal requirements. SB 1312 (Alquist, Chapter 895, Statutes of 2006) revised the law to permit CDPH to conduct the state investigation at the same time as the federal CMS survey. However, the time frames for these required surveys are not in alignment. Under state law, LTC facilities are required to be inspected at least once every two years, or every year if the facility had penalties assessed in the prior 12 months. Federal CMS survey requirements state that they state survey agency is required to conduct a survey *no later than 15.9 months* after the last day of the previous standard health survey. Additionally, the statewide average time interval between surveys is required to be 12.9 months or less.

3) *State Auditor Report.* The State Auditor published a report in May 2018, "Absent Effective State Oversight, Substandard Quality of Care Has Continued." According to the audit, the state has not adequately addressed ongoing deficiencies related to the quality of care that LTC facilities provide. One of the issues the audit raised is that CDPH has prioritized conducting federal CMS recertification inspections over performing required state relicensing inspections, which ensure that nursing facilities comply with state laws. CDPH has consistently conducted federal recertification inspections, which are necessary for nursing facilities to continue their participation in Medicare and Medi-Cal. However, according to the CDPH has not consistently performed state relicensing inspections that are required no less than once every two years: the audit found that CDPH had not performed in a timely manner the state relicensing inspections for three of the six facilities reviewed.
The audit notes that state relicensing inspections are important because they ensure that nursing facilities are providing quality care in accordance with state law and regulatory requirements. Federal recertification inspections do not address some state requirements, and, in some cases, federal requirements are less stringent than state requirements. For example, state law establishes patient admission requirements for nursing facilities and prohibits nursing facilities from retaliating against patients or employees if they file complaints related to services, or conditions at the facilities. Furthermore, state law sets forth additional nursing training requirements. Because federal inspections do not ensure that facilities are meeting these requirements, nursing facilities' noncompliance with state requirements likely remains unchecked when CDPH

fails to perform relicensing inspections.

The audit states that part of the challenge CDPH faces is that state and federal timelines for certification and licensure inspections are not aligned. A federal recertification inspection of a nursing facility must occur no later than 15.9 months since the last federal inspection**,** while state law requires CDPH to conduct its state relicensing inspection no less than once every 24 months. As noted above, the Legislature authorized CDPH starting in 2007 to conduct dual-purpose inspections that assess both federal and state requirements. According to the chief of field operations for long-term care, CDPH strives to conduct all certification and licensure inspections concurrently, but the misalignment of federal and state timelines prevents DPH from achieving this goal. The audit found that CDPH performed only 464 of the approximately 1,100 relicensing inspections that should have taken place during 2015 to 2016. The audit concludes that if the Legislature required state relicensing inspections every 30 months, thus aligning state timelines with federal timelines, CDPH would be able to schedule its relicensing inspections more efficiently.

In response to the audit, CDPH agreed that it would be helpful to align state relicensing and federal recertification survey timelines, but stated that even with aligned timelines, there will be situations in which it is not feasible to conduct the state and federal surveys concurrently, such as when a state survey is happening in response to a complaint, or when there are other competing priorities (COVID-19, for example). However, CDPH does conduct some federal and state inspections concurrently. Both state and federal inspections are done without prior notice to the facility. This bill does not require state and federal surveys to happen concurrently; rather it extends the maximum time allowed between state surveys to align more closely with the federal survey timeline.

Related/Prior Legislation

AB 348 (Brown, 2015) would have required CDPH to apply the same time periods that are required for complaint investigations, inspections, and issuance of citations, to reports from licensed LTC facilities, and required CDPH to analyze its compliance on a quarterly basis with the time periods for investigations that were established by budget trailer bill language for complaints and expanded by AB 348 to facility reports. *AB 348 was held in the Senate Appropriations Committee.*

SB 75 (Committee on Budget, Chapter 18, Statutes of 2015) was the omnibus health trailer bill, and contained changes to implement the 2015-16 Budget.

Among the provisions of SB 75 were requirements that investigations of LTC facilities be completed within 90 days, as specified, until July 1, 2018, at which point investigations would have to be completed within 60 days.

SB 1312 (Alquist, Chapter 895, Statutes of 2006) required inspections and investigations of LTC facilities certified by CMS to determine compliance with federal standards and California statutes and regulations.

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

SUPPORT: (Verified 6/21/22)

California Senior Legislature (source)
California Association of Health Facilities
LeadingAge California

OPPOSITION: (Verified 6/21/22)

None received

ARGUMENTS IN SUPPORT: This bill is sponsored by the California Senior Legislature (CSL), which states that it implements recommendations by the State Auditor to align state and federal LTC facility inspection timelines. This alignment will increase efficiency and increase the number of inspections of LTC facilities by CDPH. According to CSL, by allowing an inspector to perform one inspection that fulfills the requirements for both the state and federal government, it will increase the availability of resources and permit more inspections that will protect vulnerable residents of nursing homes.

The California Association of Health Facilities (CAHF) supports this bill and states that much like the facilities themselves, the state has been impacted by COVID-19, especially with regard to staffing. CAHF states that aligning the state and federal timelines for nursing home inspections will free up state resources and allow more inspections to take place.

LeadingAge California states this is a common-sense bill to streamline the process for inspections by allowing a state inspector to do one inspection that fulfills the requirement for the state and federal government.

ASSEMBLY FLOOR: 68-0, 4/21/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Carrillo, Cervantes, Chen, Choi, Cunningham,

Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Gipson, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wilson, Wood, Rendon

NO VOTE RECORDED: Bennett, Bigelow, Calderon, Cooley, Cooper, Eduardo Garcia, Gray, Blanca Rubio, Wicks

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
6/23/22 11:10:56

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

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

THIRD READING

Bill No: AB 1909
Author: Friedman (D), et al.
Amended: 6/30/22 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 12-1, 6/14/22
AYES: Gonzalez, Allen, Becker, Cortese, Dodd, Limón, McGuire, Min, Newman, Skinner, Wieckowski, Wilk
NOES: Melendez
NO VOTE RECORDED: Bates, Archuleta, Dahle, Rubio

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 53-12, 5/2/22 - See last page for vote

SUBJECT: Vehicles: bicycle omnibus bill

SOURCE: Author

DIGEST: This bill changes, comprehensively, rules of the road and restrictions on bicycle operations.

Senate Floor Amendments of 6/30/22 delay implementation of the leading pedestrian interval (LPI) provision until January 1, 2024.

ANALYSIS:

Existing law:

1) Defines an "electric bicycle" as a bicycle equipped with fully operable pedals and an electric motor of less than 750 watts.

2) Prohibits class 3 electric bicycles from operating on a bicycle path or trail, bikeway, bicycle lane established pursuant to Section 21207 of the Vehicle Code, equestrian trail, or hiking or recreation trail.

3) Allows local authorities to restrict class 1 and 2 electric bicycles on a bicycle path or trail, equestrian trail, or hiking or recreational trail.

4) Requires that a driver of a motor vehicle shall not overtake or pass a bicycle proceeding in the same direction on a highway at a distance of less than three feet between any part of the motor vehicle and any part of the bicycle or its operator.

5) Allows local jurisdictions to require bicycle registration.

This bill:

1) Eliminates the statewide ban of class 3 electric bicycles on a bicycle path or trail, bikeway, bicycle lane, equestrian trail, or hiking or recreational trail.

2) Allows bicyclists, after January 1, 2024, to follow leading pedestrian intervals at intersections.

3) Specifies that a peace officer cannot stop a pedestrian for a violation of provisions of this bill unless a reasonably careful person would realize there is a danger of collision with a moving vehicle or other device moving exclusively by human power.

4) Requires motor vehicle operators, when overtaking or passing a bicycle in the same direction, to move over a lane of traffic when possible.

5) Eliminates local authority to require bicycle registration.

Comments

1) *Purpose*. According to the author, "As a cyclist, I brought forward AB 1909 to help provide all Californians with the safe opportunity to enjoy a healthy, clean alternative mode of transportation. Decreasing barriers to bicycle ridership is imperative to achieving California's climate goals. AB 1909 offers more route options to e-bike users and implements important safety measures for bicycles. This approach will significantly decrease the number of fatalities and injuries to cyclists, while simultaneously increasing public health and fighting climate change."

2) *Classes of electric bicycles.* Existing law defines an electric bicycle as a bicycle equipped with fully operable pedals and an electric motor of less than 750 watts. Class 1 e electric bicycles are pedal-assist only, with no throttle, and have a maximum assisted speed of 20 mph. Class 2 electric bicycles also have

a maximum speed of 20 mph, but are throttle-assisted. Class 3 electric bicycles are pedal-assist and may include a throttle, and can reach a maximum assisted speed of 28 mph.

3) *Classes of bike paths*. The California Department of Transportation provides the following guidance regarding Class I Bikeway (Bike Path) as defined in Chapter 100 of the Highway Design Handbook. Class I Bikeways are also defined in Section 890.4 of the Streets and Highways Code. Generally, Class I bike paths should serve corridors not served by streets and highways or where wide right of way exists, permitting such facilities to be constructed away from the influence of parallel streets. Bike paths should offer opportunities not provided by the road system. They can either provide a recreational opportunity, or in some instances, can serve as direct high-speed commute routes if cross flow by motor vehicles and pedestrian conflicts can be minimized. The most common applications are along rivers, ocean fronts, canals, utility right of way, and abandoned railroad right of way, within school campuses, or within and between parks. There may also be situations where such facilities can be provided as part of planned developments.

   Class II bike lanes are established along streets in corridors where there is significant bicycle demand, and where there are distinct needs that can be served. The purpose should be to improve conditions for bicyclists in the corridors. Bike lanes are intended to delineate the right of way assigned to bicyclists and motorists and to provide for more predictable movements by each. However, a more important reason for constructing bike lanes is to better accommodate bicyclists through corridors where insufficient room exists for side-by-side sharing of existing streets by motorists and bicyclists.

   AB 1909 amends current law that restricts the use of class 3 electric bicycles on Class I Bikeways. Additionally, it removes local control from regulating class 1 and 2 electric bicycle operation on a Class I Bikeways. Cyclists riding conventional bicycles can operate them at speeds similar to, or faster than class 1 or 2 electric bicycles (20 miles per hour). Class I Bikeways often have speed limit signs, indicating the speed for the bike path.

4) *Leading pedestrian intervals*. A leading pedestrian interval (LPI) is an official traffic control signal that advances the "WALK" signal for three to seven seconds while the red signal halting traffic continues to be displayed on parallel and through or turning traffic. This tool has gained in popularity to protect the safety of pedestrians. It allows for increased visibility of pedestrians as well as the opportunity to cross the street without being confronted by a vehicle. New

York City conducted a pilot project where cyclists were able to take advantage of the LPI, increasing their visibility, allowing them to get out ahead of traffic and allowing them to avoid confrontation with vehicles making right-hand turns. The results of the study indicated that when cyclists used the LPI, injuries to cyclists decreased by over 26%.

AB 1909 permits bicyclists to follow leading pedestrian intervals at intersections, which has the potential to increase bicyclist safety.

5) *Three Feet for Safety Act*. The California Legislature passed the Three Feet for Safety Act as part of AB 1371 (Bradford, Chapter 331, Statutes of 2013). This act specifies that a driver of a motor vehicle shall not overtake or pass a bicycle proceeding in the same direction on a highway at a distance of less than three feet between any part of the motor vehicle and any part of the bicycle or its operator. If the vehicle operator is not able to provide three feet of clearance when passing a cyclist, they must slow to a reasonable and prudent speed. Law enforcement officials find this rule difficult to implement as officers must make a judgement call of the distance between the vehicle and the bicycle.

   As written, AB 1909 amends the Three Feet for Safety Act by requiring motor vehicle operators to make a lane change into another available lane before overtaking or passing the bicycle. Thus, if a bicyclist was riding in a bike lane, all vehicles in the right lane would need to move to the left lane in order to comply with this bill. This change has the potential to increase last minute lane changes, which can be unsafe. Similarly, changing lanes has the potential to slow the flow of traffic in the lane closest to the bike lane which, in turn, could increase congestion.

6) *Bicycle Registration*. California created a statewide bicycle registration program pursuant to AB 3329 (Bedham, 1974), where cities and local jurisdictions may collect a registration fee from cyclists to officially license bicycles. Many locals found that the revenue from registration fees was insufficient to cover the cost of the program and chose not to require bicycle registration in their jurisdictions or to abandon the bicycle licensing program altogether.

   AB 1909 removes local authorities from requiring bicycle registration, however, they may continue to operate bicycle registration programs on a volunteer basis.

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

SUPPORT: (Verified 8/2/22)

Active San Gabriel Valley
Alameda County Transportation Commission
California Association of Bicycling Organizations
California Bicycle Coalition
City of Alameda
City of Thousand Oaks
Los Angeles County Bicycle Coalition
Motional
Move LA
Move LA, a Project of Community Partners
National Resources Defense Council
Natural Resources Defense Council
Sierra Club
Streets for All

OPPOSITION: (Verified 8/2/22)

Backcountry Horseman of California

ASSEMBLY FLOOR: 53-12, 5/2/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Carrillo, Cervantes, Cooper, Cunningham, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Choi, Davies, Fong, Kiley, Lackey, Mathis, Patterson, Seyarto, Smith, Valladares, Voepel
NO VOTE RECORDED: Mia Bonta, Calderon, Chen, Cooley, Megan Dahle, Flora, Gallagher, Gipson, Medina, Nguyen, O'Donnell, Waldron

Prepared by: Katie Bonin / TRANS. / (916) 651-4121
8/10/22 15:04:13

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

SENATE RULES COMMITTEE AB 1912
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1912
Author: Mia Bonta (D), et al.
Amended: 8/8/22 in Senate
Vote: 27 - Urgency

SENATE EDUCATION COMMITTEE: 6-0, 6/22/22
AYES: Leyva, Cortese, Dahle, Glazer, McGuire, Pan
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 5/26/22 - See last page for vote

SUBJECT: Emergency apportionments: closure and consolidation requirements

SOURCE: Author

DIGEST: This bill requires a school district that is the recipient of an emergency apportionment to follow specified procedures when deciding to close or consolidate schools.

Senate Floor Amendments of 8/8/22 clarify that the requirements of this bill shall be implemented prospectively and not impact school closures that have already commenced via school district governing board action.

ANALYSIS:

Existing law:

1) Requires Oakland Unified School District (OUSD), by March 1, 2019, in collaboration with the concurrence of the Alameda County Superintendent of Schools and the County Office Fiscal Crisis and Management Assistance Team (COFCMAT) to:

   a) Update or develop short- and long-term financial plans based on reasonable and accurate assumptions and current and past year expenditure data; and

b) Review and update school district facilities construction plans to ensure that costs are reasonable, accurate, and align with long-term financial plans for fiscal solvency.

2) Appropriates to the OUSD, beginning with the 2019-20 fiscal year, if the school district complies with terms:

   a) For the 2019–20 fiscal year, up to 75% of the school district's projected operating deficit, as determined by the COFCMAT, with concurrence with the Department of Finance (DOF);

   b) For the 2020–21 fiscal year, up to 50% of the school district's projected operating deficit, as determined by the COFCMAT, with concurrence with the DOF; and

   c) For the 2021–22 fiscal year, up to 25% of the school district's projected operating deficit, as determined by the COFCMAT, with concurrence with the DOF.

3) Requires the disbursement of funds to be contingent on the OUSD's completion of activities specified in the prior year's Budget Act to improve the school district's fiscal solvency. These activities may include, but are not limited to, all of the following:

   a) Completion of comprehensive operational reviews that compare the needs of the school district with similar school districts and provide data and recommendations regarding changes the school district can make to achieve fiscal sustainability;

   b) Adoption and implementation of necessary budgetary solutions, including the consolidation of school sites;

   c) Completion and implementation of multiyear, fiscally solvent budgets and budget plans;

   d) Qualification for positive budget certification, as specified;

   e) Sale or lease of surplus property;

   f) Growth and maintenance of budgetary reserves; and

   g) Approval of school district budgets by the Alameda County Superintendent of Schools. (Education Code (EC) 42160)

4) Establishes the Fiscal Crisis and Management Assistance Team (FCMAT). Authorizes that FCMAT may be invited into a county office of education, school district, charter school, or community college to provide management assistance related to the fiscal health of the local educational agency (LEA). Authorizes FCMAT to also be assigned by the Superintendent of Public Instruction (SPI), a county superintendent of schools, the California Community Colleges Board of Governors, or the state Legislature to provide assistance with a fiscal crisis or management challenges.

5) Requires LEAs to file two reports during a fiscal year (interim reports) on the status of the LEA's financial health. Requires county superintendents to report to the SPI and the State Controller the positive, qualified, or negative budget certification for all districts in their county within 75 days after the close of the reporting period.

6) Authorizes the county superintendent to disapprove a school district's budget, or to declare a school district in jeopardy of being unable to meet its financial obligations through a qualified or negative certification at interim financial reporting periods or at any time during the year.

This bill:

1) Requires a school district with an emergency apportionment to do the following when deciding to close or consolidate schools:

   a) Conduct an equity impact analysis;

   b) Develop a set of metrics for the equity impact analysis and make those metrics public at a regularly scheduled meeting of the governing board; and

   c) Provide its recommendations regarding school closures and consolidations to the public at a regularly scheduled meeting and share how the list was prepared.

2) States that the requirements do not apply in the case of a school closure solely due to unsafe conditions or due to decisions made prior to its effective date.

Comments

1) *Need for the bill.* According to the author, "I recognize that deciding to close a school is not easy. It is an emotional decision impacting community members, teachers, students and their families. School closures affect more than its students' education. It changes the landscape of a community. If not done

transparently with community engagement, there is mistrust in the process. If the decisions are made without an equity lens, the results can be catastrophic for communities of color and student populations struggling to achieve academic success. While these decisions should be made about a year before the planned school closure, the status of a district's financial situation may lead to it making precipitous decisions. Such was the experience in my district with decisions made by the Oakland Unified School District earlier this year. Feeling the pressure to take action on school closure and consolidation in order to access money promised to the district in the 2021-22 budget, OUSD voted to close schools with very little notification to, or engagement from, the community. This was despite the schools identified for closure were concentrated in one portion of Oakland and would have a disproportionate impact on Oakland's African American community . In an effort to avoid another district in extreme financial distress from taking precipitous action in closing schools, AB 1912 directs school districts to do an equity impact analysis. This equity impact analysis will require a school district to develop a set of metrics that include accounting for special programs available at schools, the balance of pupil demographics and opportunity for blight. Further, AB 1912 creates opportunity for community engagement and participation."

2) *Oakland Unified School District overview.* The OUSD is located in the Bay Area of Northern California and includes 34,566 students (45% Latino, 21.5% African American, 11.2% Asian, 11.2% white, 6.5% two or more races, 2.7% not reported, 1% Pacific Islander, 0.6% Filipino, 0.2% African American) and 80 district-run schools/programs (46 elementary schools, five grade K-8 schools, ten middle schools, three grade 6-12 schools, one grade 6-12 alternative school, seven high schools, one high school alternative, one independent study program). Eligibility for free and reduced-price meals is 71.9%.

3) *Emergency apportionment, loan status, and payment terms.* In 2003, OUSD was unable to meet its financial obligations without the assistance of the state of California. SB 39 (Perata, Chapter 14, Statutes of 2003) authorized a $100 million cash flow loan for the district. Consistent with practice, SB 39 directed the SPI to assume all of the rights, duties, and powers of the district's governing board. Full rights, duties, and powers of the governing board were reinstated on June 28, 2009, and at that time, a state trustee was appointed to provide specific oversight of OUSD's continued recovery. The state trustee has stay and rescind authority over actions by the governing board. The California Department of Education (CDE) reports that as of July 1, 2021, the district owes $17.5 million.

In 2017, OUSD petitioned the DOF to defer its remaining current and budget year payments on the outstanding state loan originally authorized in 2003. As a result, the Alameda County Office of Education and the FCMAT entered into a study agreement for FCMAT to provide on-site technical assistance to OUSD, including a review of the district's 2017-18 budget and development of a general fund multiyear financial projection. Despite these reports and recommendations from FCMAT, and the adoption of a OUSD 2018-19 Budget, the 2018-19 first interim budget multiyear projections showed deficit spending.

The budget trailer bill to the 2018-19 California budget, AB 1840 (Committee on Budget, Chapter 426, Statutes of 2018) sets forth specific requirements for the OUSD in exchange for providing financial resources under certain circumstances. AB 89 (Committee on Budget, Chapter 7, Statutes of 2020) provided that the disbursement of funds must be contingent on OUSD's completion of the following: (a) the required annual audit from the preceding year, and (b) affirmative board action to update or develop short- and long-term financial plans based on best practices and reasonable and accurate assumptions. The Budget Act of 2021 (AB 128, Committee on Budget, Chapter 21, Statutes of 2021) required the disbursement of funds originally authorized in 2018 to be contingent on OUSD's completion of (a) affirmative board action to continue planning for, and timely implementation of, a school and facility closure and consolidation plan that supports the sale or lease of surplus property; (b) affirmative board action to continue to update or develop short- and long-term financial plans based on best practices and reasonable and accurate assumptions; and (c) completion of on-time audits.

4) *Alameda County Grand Jury Final Report.* In 2017, after a nine-month investigation, the Alameda County Grand Jury issued the report which stated that the OUSD has been in 'financial peril' for more than 15 years, often operating with a budget deficit. Among the underlying issues responsible for the district's continuing financial crisis, the report highlights the repeated calls from outside experts to consolidate schools in order to save money and improve performance. The Grand Jury reported three system-wide failures of the school district: hiring and program spending that is made outside of budgetary control; operating nearly double the number of schools that can be justified by enrollment numbers; and no accountability, lack of trust, and high teacher and administration turnover.

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

SUPPORT: (Verified 8/10/22)

California Teachers Association

OPPOSITION: (Verified 8/10/22)

None received

ARGUMENTS IN SUPPORT: The California Teachers Association writes, "Schools are the backbone of our communities. CTA believes school closures are disruptive and detrimental to the education of students, their families and to the communities in which they are located. Decisions around school closures should not be taken lightly and should not be made unilaterally by school districts. Whenever school closures are considered by school districts, all the impacts on the community should be considered, including the disproportional impact on vulnerable student groups and their families. Additionally, the process for approving school closures must be transparent and include input from all community members. This bill would require school districts in financial distress to consider the impact on the community in an equitable way and would ensure community input is considered. CTA believes school districts should already be doing this 'best practice' before considering school closures or consolidations, as this is essential in mitigating the negative impacts on communities of color and our most vulnerable students. All students deserve access to a quality education in their community. This bill simply requires school districts to consider all the devastating impacts on students and families before approving the closures or consolidation of a school."

ASSEMBLY FLOOR: 76-0, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Ian Johnson / ED. / (916) 651-4105
8/10/22 14:19:12

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

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

THIRD READING

Bill No: AB 1914
Author: Davies (R)
Amended: 6/6/22 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 5-0, 6/13/22
AYES: Hurtado, Jones, Cortese, Kamlager, Pan

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 68-0, 3/31/22 (Consent) - See last page for vote

SUBJECT: Resource family approval: training

SOURCE: Author

DIGEST: This bill exempts resource family parents who meet certain requirements, such as having active and unrestricted licensure as a health care professional, as provided, from resource family approval (RFA) first aid training requirements. This bill also exempts resource family parents who have a certificate of completion for Basic Life Support for health care professionals, or Pediatric Advanced Life Support, or a higher standard of training that certifies CPR, from RFA CPR training requirements, as provided.

ANALYSIS:

Existing law:

1) Establishes a state and local system of child welfare services, including foster care, for children who have been adjudged by the court to be at risk of abuse and neglect or to have been abused or neglected, as specified. *(WIC 202)*

2) States that the purpose of foster care law is to provide maximum safety and protection for children who are currently being physically, sexually, or emotionally abused, neglected, or exploited, and to ensure the safety,

protection, and physical and emotional well-being of children who are at risk of harm. *(WIC 300.2)*

3) States the intent of the Legislature to reaffirm its commitment to children who are in out-of-home placement to live in the least restrictive family setting and as close to the child's family as possible, as specified. Further states the intent of the Legislature that all children live with a committed, permanent, nurturing family and states that services and supports should be tailored to meet the specific needs of the individual child and family being served, as specified. *(WIC 16000)*

4) Defines a "resource family" as an individual or family that has successfully met both the home environment assessment standards and permanency assessment criteria, necessary for providing care for a child placed by a public or private child placement agency by court order, or voluntarily placed by a parent or legal guardian. *(WIC 16519.5(c)(1))*

5) Requires the California Department of Social Services (CDSS), in consultation with county child welfare agencies, foster parent associations, and other interested community parties, to implement a unified, family friendly, and child-centered RFA process to replace the existing multiple processes for licensing foster family homes, certifying foster families by licensed foster family agencies, approving relatives and nonrelative extended family members (NREFMs), and approving guardians and adoptive families. *(WIC 16519.5)*

6) Requires counties ensure that a resource family applicant completes a minimum of 12 hours of preapproval caregiver training on certain topics, including, the effects of trauma, grief and loss, child abuse and neglect, child development and behavior, health issues in foster care, permanence, well-being and education needs of children, among others. *(WIC 16519.5(g)(13))*

7) Requires counties to ensure resource families complete a minimum of eight hours of caregiver training annually, to be composed of various topics, as specified. *(WIC 16519.5(g)(14))*

8) Requires counties to ensure that each resource parent submits copies of their certificates verifying completion of CPR and first aid training no later than 90 days following RFA, as specified, and to verify that each resource parent maintains current certificates of CPR and first aid training. *(California*

Department of Social Services Resource Family Approval Written Directives (CDSS, RFA Writ. Dir.) Section 8-01(a)).

9) Requires CPR and first aid training to be obtained from an agency offering such training, including, but not limited to, the American Red Cross, the American Heart Association, a training program approved by the State Emergency Medical Services Authority (EMSA), or a course offered by an accredited college or university. *(CDSS, RFA Writ. Dir. 11-19)*

This bill modifies existing CPR and first aid training requirements for resource families who meet other requirements as follows:

1) Ensuring resource families complete CPR training and first aid training, or demonstrate equivalent certification, no later than 90 days following RFA.

    a) A resource family parent who has a certificate of completion for Basic Life Support for health care professionals, or Pediatric Advances Life Support, or a higher standard of training that certifies CPR, and for whom the certification is currently active, is exempt from completing the RFA CPR training requirement upon demonstrating proof of certification of completion and until the date the certification expires.

    b) A resource family parent who has active and unrestricted licensure as a health care professional, issued by the Department of Consumer Affairs or the Emergency Medical Services Authority, is exempt from completing the RFA first aid training requirement upon demonstrating proof of active and unrestricted licensure and until the date the licensure expires.

2) Ensuring resource families, prior to expiration of CPR and first aid certificates, obtain training to remain certified in CPR and first aid, or demonstrate equivalent certification, and submit copies of the certificates verifying completion of the training. Exempts resource family parents who are exempt from the first aid training requirement, as provided above, from this requirement.

Background

According to the author, “California is home to approximately 60,000 individuals in our foster care system. Many of these are children who have experienced horrific trauma or adverse childhoods. California regulations equip resource

families with tools and knowledge on how to help acclimate these individuals into their homes and communities. However, our state also creates burdensome regulations for certain people who want to volunteer as a family. AB 1914 is a common-sense approach to clear red-tape for medical professionals who want to be considered a resource family by taking away the requirement for CPR certification. Many medical professionals have this training as a part of basic education requirements. The elimination of this requirement will speed up the process and allow children to be placed in homes sooner."

Child Welfare Services (CWS). The CWS system is an essential component of the state's safety net. Social workers in each county who receive reports of abuse or neglect, investigate and resolve those reports. When a case is substantiated, a family is either provided with services to ensure a child's well-being and avoid court involvement, or a child is removed from the family and placed into foster care. In 2021, the state's child welfare agencies received 400,313 reports of abuse or neglect. Of these, 61,438 reports contained allegations that were substantiated and 22,004 children were removed from their homes and placed into foster care via the CWS system. As of October 1, 2021, there were 58,072 children in California's CWS system.

Continuum of Care Reform (CCR) Effort. The CCR is a system-wide effort to institute a series of reforms to California's CWS system. It is designed out of an understanding that children who must live apart from their biological parents do best when they are cared for in committed nurturing family homes. For more than a decade, researchers have documented poor outcomes for foster children. These outcomes have been especially pronounced for those placed in group or congregate care settings. CCR was designed to reduce the number of foster children placed in congregate care settings by improving the assessments of children and families and establishing a child and family team for each child in foster care. AB 403 (Stone, Chapter 773, Statutes of 2015) was the first of six CDSS-sponsored CCR bills and provided the statutory and policy framework to ensure services and supports provided to the child or youth and their family are tailored toward the ultimate goal of maintaining a stable permanent family.

Resource Family Approval Program. Under CCR, all foster children are referred to a resource family for placement. If a child's needs cannot be met by a resource family, alternative placements are considered. The RFA program was designed to be a unified, family friendly, child centered, single process for the approval of foster family homes and relative homes for foster care, and to approve families for legal guardianship or adoption. It combined elements of the former foster parent

licensing, relative approval processes, and approvals for adoption and guardianship, replacing each of those individual processes with RFA. It was intended to do the following: streamline and eliminate the duplication of the prior approval processes; unify approval standards for all caregivers, regardless of the child's case plan; include a comprehensive psychosocial assessment, home environment check, and training for all families; prepare families to better meet the needs of vulnerable children in the foster care system; and allow for a seamless transition to permanency.

In California, a resource family is a caregiver who provides out-of-home care for children in foster care. A resource family may be related to the child, have a familiar or mentoring relationship or have no previous relationship to the child. These caregivers were previously known as approved relatives, approved NREFM, and foster parents, respectively. A resource family may also be approved to provide temporary care (foster care) and/or act as a permanent placement for the child or youth through adoption or legal guardianship.

Resource Family Training Requirements. The RFA program includes comprehensive training requirements for resource family applicants and for those approved as resource families to ensure caregivers possess the necessary knowledge, skills, and abilities to serve children placed in their care. The state gives counties and foster family agencies the flexibility to decide how caregiver trainings are provided, as long as other requirements are met. This means counties and foster family agencies may decide if trainings are offered in-person, online, through attending a local community college course, or in other ways.

Applicants are required to complete 12 hours of preapproval caregiver training on a variety of topics, including, but not limited to, an overview of the child protective and probation systems; the effects of trauma on child development; positive discipline; the importance of self-esteem; health issues in foster care; the cultural needs of children; and information on providing care and supervision to children who have been commercially sexually exploited, which may be limited to the provision of an informational pamphlet addressing the needs of victims of commercial sexual exploitation. Additionally, prior to approval, applicants must have an understanding of a youth's needs and development, effective parenting skills or knowledge about parenting, and an ability to act as a reasonable and prudent parent in day-to-day decision making.

The RFA program also requires approved resource families complete a minimum of eight hours of caregiver training annually. This ongoing training requirement

may be on a variety of topics, but a portion of the eight hours must cover a resource family's responsibility to act as a reasonable and prudent parent, as defined, and their responsibility to provide a family setting that promotes normal childhood experiences and serves the needs of the child.

The RFA program also provides for specialized training to a particular resource family to prepare that family for meeting the needs of a particular child in care. Existing law provides that this training may include, but is not limited to, training on topics such as understanding how to use the best practices for providing care and supervision to children who are commercially sexually exploited; understanding the federal Indian Child Welfare Act and the best interests of Indian children; understanding how to use best practices for providing care and supervision to lesbian, gay, bisexual, and transgender children; and understanding the requirements and best practices regarding psychotropic medications.

In addition to those training requirements provided for in statute, the CDSS has issued, pursuant to Welfare and Institutions Code Section 16519.5(f)(1)(A), written directives for the administration of the RFA program. These written directives have the same force and effect as regulations and provide for uniform standards for the RFA program across counties. Included within these written directives is the requirement that counties ensure each resource parent submit copies of certificates verifying their completion of CPR and first aid training within 90 days of their RFA. A certification for CPR and first aid is current for two years before recertification is required and recertification classes are shorter than the traditional certificate course, but must be taken before the original certification expires. The written directive specifies that CPR and first aid training is required to be obtained from an agency offering such training including, but not limited to, the American Red Cross, the American Heart Association, a training program approved by EMSA, or a course offered by an accredited college or university.

A resource family maintains their approval status unless approval is rescinded by the county, the resource family chooses to surrender the approval, or the approval is forfeited. Counties are authorized to deny an application for approval, or may rescind the approval of a resource family, and CDSS may exclude an individual from presence in any resource family home, for failure to complete CPR and first aid training.

This bill exempts resource family members who have a certificate of completion for Basic Life Support for health care professionals or Pediatric Advance Life Support, or a higher standard of training that certifies CPR, and for whom the

certification is currently active, from having to complete resource family CPR training. Additionally, a resource family parent who has an active and unrestricted medical licensure as a health care professional, issued by the Department of Consumer Affairs or the Emergency Medical Services Authority, is exempt, under this bill, from completing the RFA first aid training requirements, upon demonstrating proof of active and unrestricted licensure. This allows resource family parents who are medical professionals and already have the necessary CPR and first aid training from having to participate in RFA CPR and first aid training, as long as the included certification or licensure is active. This streamlines the training and information these resource family applicants must supply.

Related/Prior Legislation

SB 584 (Jones, Chapter 548, Statutes of 2021) expanded existing mandatory training for resource families and resource family applicants to include information on providing care and supervision to children who have been victims of child labor trafficking, as specified.

AB 865 (Reyes, Chapter 810, Statutes of 2019) required information related to commercial sexual exploitation of children be provided to resource family applicants during the preapproval caregiver training process, required counties to ensure that resource families that care for children who are 10 years of age or older attend, within 12 months of approval as a resource family, training on best practices for providing care to children who have been trafficked, and prohibited a resource family from being required to complete the training again, except in certain circumstances, as specified.

AB 507 (Rubio, Chapter 705, Statutes of 2017) permitted counties to require resource families to receive additional relevant specialized training, among other things.

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

SUPPORT: (Verified 6/27/22)

Association of Regional Center Agencies

OPPOSITION: (Verified 6/27/22)

None received

ASSEMBLY FLOOR: 68-0, 3/31/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Gray, Irwin, Medina, Nazarian, Quirk-Silva, Robert Rivas, Rodriguez, Villapudua

Prepared by: Marisa Shea / HUMAN S. / (916) 651-1524
6/28/22 14:28:13

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

SENATE RULES COMMITTEE AB 1925
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1925
Author: Santiago (D)
Amended: 8/1/22 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 4-1, 6/29/22
AYES: Caballero, Durazo, Hertzberg, Wiener
NOES: Nielsen

ASSEMBLY FLOOR: 50-20, 5/25/22 - See last page for vote

SUBJECT: County and district offices: qualifications

SOURCE: Author

DIGEST: This bill removes the requirement for an individual to be a registered voter of a county or district to serve in an appointed office.

ANALYSIS:

Existing law:

1) Requires all counties to elect a sheriff, district attorney, assessor, and board of supervisors.

2) Lists the officers that counties must have and grants counties the authority to authority to consolidate the duties of certain county offices by ordinance.

3) Provides that an individual is not eligible for an appointed or elective county or district offices unless they are a registered voter of the county or district where they will serve at the time the nomination or appointment occurs, except as specified.

4) Allows the board of supervisors, or any other appointing authority in a county or district, if it finds that the best interests of the county or district, to waive the registered-voter requirement for appointed county or district offices.

This bill removes the requirement that an individual must be a registered voter of the county or district to serve in an appointed office without requiring the county or district to waive the requirement, but keeps the requirement in place for elective offices.

Background

Counties fall into two types: "general law" and "charter." General law counties are organized according to the generally applicable laws for county governance established by the Legislature that set the number, appointment, and election procedures for county officials, including the board of supervisors. Charter counties have greater leeway to determine their own governance structure, including to elect additional supervisors and appoint or elect additional officers. A new charter, or the amendment of an existing charter, may be proposed by the Board of Supervisors, a charter commission, or an initiative petition. There are 14 charter counties: Alameda, Butte, El Dorado, Fresno, Los Angeles, Orange, Placer, Sacramento, San Bernardino, San Diego, San Francisco, San Mateo, Santa Clara, and Tehama. Most large counties are charter counties: eight of the ten largest counties by population have adopted charters.

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

SUPPORT: (Verified 8/3/22)

California Immigrant Policy Center
Coalition for Humane Immigrant Rights

OPPOSITION: (Verified 8/3/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "California is home to 11 million immigrants, the most of any state in the country. We are a diverse state full of intelligent, capable people, some of whom may not have been born in this country. Someone's place of birth should not exclude them from holding public office where they can do meaningful work for their communities. AB 1925 will allow documented noncitizens to hold appointed county positions by waiving an outdated voter registration requirement, which functionally acts as a citizenship requirement, in turn opening opportunities for millions of our immigrant community members to hold public office."

ASSEMBLY FLOOR: 50-20, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooper, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Cooley, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Low, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Choi, Daly, Gray, Mayes, O'Donnell, Petrie-Norris, Salas

Prepared by: Jonathan Peterson / GOV. & F. / (916) 651-4119
8/3/22 14:29:17

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

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THIRD READING

Bill No: AB 1932
Author: Daly (D)
Amended: 6/2/22 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/1/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

ASSEMBLY FLOOR: 57-0, 3/28/22 - See last page for vote

SUBJECT: Public contracts: construction manager at-risk construction contracts

SOURCE: California State Association of Counties
Urban Counties of California

DIGEST: This bill extends the current sunset date for counties to enter into construction manager at-risk (CMAR) contracts to January 1, 2029.

ANALYSIS:

Existing law:

1) Requires, pursuant to the Local Agency Public Construction Act (LAPC Act), local officials to invite bids for construction projects and then award contracts to the lowest responsible bidder under the traditional design-bid-build project delivery system.

2) Authorizes, until January 1, 2025, cities, counties, and specified special districts and transit agencies to use design-build for specified public works contracts in excess of $1 million using either a low bid or best value process.

3) Provides the following parameters for cities and counties that use design-build:

   a) Allows design-build for the construction of a building or buildings and improvements directly related to the construction of a building or buildings,

county sanitation wastewater treatment facilities, and park and recreational facilities;

b) Allows cities and counties that operate wastewater facilities, solid waste management facilities, or water recycling facilities to use design-build for the construction of such facilities, both local and regional; and,

c) Prohibits cities and counties from using design-build for the construction of other infrastructure, including, but not limited to, streets and highways, public rail transit, or water resources facilities and infrastructure.

4) Authorizes, until January 1, 2023, counties and public entities to use the CMAR method for the construction of on any infrastructure owned or leased by the county, excluding roads, but including buildings, utility improvements associated with buildings, flood control and underground utility improvements, and bridges, costing in excess of $1 million.

5) Allows a county or public entity to award the CMAR contract to the lowest responsible bidder or by the best value method.

6) Defines "public entity" as any public entity in which the county board of supervisors is the governing body.

7) Prohibits a CMAR bidder from being prequalified or shortlisted or awarded a contract unless the entity provides an enforceable commitment to the county or public entity that the bidder and its subcontractors at every tier will use a skilled and trained workforce (STWF).

8) Exempts a project from the STWF mandate if the project or contact is being performed under the extension or renewal of a project labor agreement that was entered into by the county or public entity before January 1, 2018.

This bill extends the current sunset date for counties and public entities to enter into CMAR contracts to January 1, 2029.

Background

The Local Agency Public Construction Act generally requires local agencies to invite bids for construction projects and award contracts to the lowest responsible bidder. Local agencies typically use the traditional design-bid-build method for constructing public works. This approach splits construction projects into two distinct phases: design and construction. During the design phase, the local agency prepares detailed project plans and specifications using its own employees or by

hiring outside architects and engineers. Once project designs are complete, local agencies invite bids from the construction community and award the contract to the lowest responsible bidder. Over the last couple of decades, legislators have gradually expanded local agencies' authority to procure construction projects using various alternatives to the design-bid-build project delivery method.

A method known as CMAR is another approach to public works construction and delivery that combines elements of the design-bid-build and design-build methods, and uses construction project management services. The CMAR method allows the owner of a project to retain a "construction manager," who provides pre-construction services during the design period and later becomes the general contractor during the construction process. The owner has separate contracts for design and construction services (with the construction manager), similar to the design-bid-build method. The owner may establish the separate contracts at the same time, however, thereby allowing the design party and the construction manager to work together, similar to the design-build method. Before construction can begin on a project, the owner and construction manager must agree on either a fixed price or "guaranteed maximum price" for the project. The construction manager is responsible for delivering the project within the agreed-upon price, thereby assuming the risk for cost-overruns. Besides counties, the California Administrative Office of the Courts, University of California, California State University System, school districts, and some cities have used the CMAR method for building construction projects.

Under the CMAR method, project delivery can occur in sequential or concurrent phases. Projects that have multiple components lend themselves to this method because the design and construction of different aspects of the project can be broken into multiple components, which the construction manager then bids to subcontractors as the overall project moves forward.

Comments

Purpose of bill. According to the author, "This bill gives counties the flexibility to build projects they need in the most efficient manner possible. Extending this authorization will preserve a tool for counties to deliver-fiscally responsible public infrastructure projects, ensure high-quality construction at a guaranteed maximum price, reduce public sector liability and ensure more timely completion of public works projects."

Related/Prior Legislation

The Legislature is currently considering other changes to local agency contracting. SB 991 (Newman, 2022) allows, until January 1, 2029, local agencies that provide water service to use progressive design-build for projects over $5 million. The bill is currently pending in the Assembly Local Government Committee.

SB 1354 (Jones, 2022) allows cities and counties to use design-build for contracts that are necessary to comply with Americans with Disabilities Act requirements. The bill is currently pending in the Assembly Local Government Committee.

AB 1845 (Calderon, 2022) authorizes specified water projects undertaken by the Metropolitan Water District of Southern California to use the design-build, progressive design-build, and construction manager/general contractor methods of project delivery. The bill is currently pending in the Senate Governance and Finance Committee.

AB 2789 (Mullin, 2022) alters the authority to use design-build contracting for the Midpeninsula Regional Open Space District, the Santa Clara Valley Open-Space Authority, and the East Bay Regional Park District. The bill is currently pending in the Senate Governance and Finance Committee.

SB 914 (Dodd, Chapter 108, Statutes of 2018) expanded the use of counties' CMAR project delivery method to any infrastructure owned or leased by the county, excluding roads, but including, and not limited to, buildings, utility improvements associated with buildings, flood control and underground utility improvements, and bridges.

AB 851 (Caballero, Chapter 821, Statutes of 2017) extended the sunset date to January 1, 2023 and granted this authority to the City of San Diego on projects over $25 million.

SB 328 (Knight, Chapter 517, Statutes of 2013) first authorized counties to use CMAR for building projects costing in excess of $1 million, and allowed the county to award the contract to the lowest responsible bidder or by the best value method until January 1, 2018.

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

SUPPORT: (Verified 6/2/22)

California State Association of Counties (co-source)
Urban Counties of California (co-source)

County of Orange
County of San Diego
County of Santa Clara
Rural County Representatives of California

OPPOSITION: (Verified 6/2/22)

None received

ASSEMBLY FLOOR: 57-0, 3/28/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Kalra, Lackey, Levine, Low, Maienschein, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Blanca Rubio, Salas, Santiago, Smith, Stone, Ting, Villapudua, Waldron, Ward, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Boerner Horvath, Choi, Cooley, Fong, Irwin, Jones-Sawyer, Kiley, Lee, McCarty, Medina, Nguyen, Patterson, Robert Rivas, Rodriguez, Seyarto, Valladares, Voepel, Akilah Weber

Prepared by: Jonathan Peterson / GOV. & F. / (916) 651-4119
6/3/22 9:49:10

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

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THIRD READING

Bill No: AB 1938
Author: Friedman (D), Quirk (D) and Ting (D), et al.
Amended: 8/1/22 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 15-1, 6/28/22
AYES: Newman, Bates, Allen, Archuleta, Becker, Cortese, Dodd, Hertzberg, Limón, McGuire, Min, Rubio, Skinner, Wieckowski, Wilk
NOES: Melendez
NO VOTE RECORDED: Dahle

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 5/25/22 - See last page for vote

SUBJECT: Traffic safety: speed limits

SOURCE: Author

DIGEST: This bill authorizes, if the speed limit needs to be rounded down to the nearest five miles per hour (mph) increment of the 85th-percentile speed, the California Department of Transportation (Caltrans) or a local authority to lower the speed limit by five mph from the nearest fivemiles per hour of the 85th percentile, as specified.

ANALYSIS:

Existing law:

1) Prohibits driving at a speed greater than is reasonable or prudent having due regard for weather, visibility, traffic, and the surface and width of the highway, and in no event at a speed which endangers the safety of persons or property. This is known as California's Basic Speed Law.

2) Establishes a maximum speed of 65 mph under most circumstances and allows for lower speed limits under numerous specified conditions.

3) Defines "engineering and traffic survey" (ETS) as a survey of highway and traffic conditions in accordance with methods determined by Caltrans for use by state and local authorities. An ETS must consider prevailing speeds, accident records, and conditions not readily apparent to the driver. An ETS may consider residential density and bicycle and pedestrian safety.

4) Authorizes Caltrans and local authorities to establish a speed limit on most streets of between 25 mph to 60 mph in five mph increments on the basis of an ETS.

5) Authorizes a local authority to lower the speed limit from the level established by an ETS under specified conditions.

6) Prohibits the use of speed traps, as defined, in arresting or prosecuting any violation of the Vehicle Code including speeding.

This bill clarifies the circumstances where and how much a local authority may lower the speed limit below that indicated by an ETS.

Comments

1) *Author's Statement.* "Last year the Governor signed my bill AB 43 to give cities more flexibility to lower speed limits. Unfortunately, some have interpreted AB 43 in a manner that removed pre-existing authority to deviate from the 85th percentile speed, an interpretation that would give cities less, not more flexibility on setting speed limits. AB 1938 simply codifies the pre-existing authority on setting speed limits and clarifies that the additional authority granted by AB 43 was meant to supplement, not supplant, that authority."

2) *Speed Limit Setting*. Last year the Legislature enacted major reforms, in the form of AB 43, to the process for setting speed limits with the intent of giving local governments specified authority to lower speed limits to reduce crashes and accidents. The implementation of those reforms has hit a speed bump with the Administration requesting a clarification in the law to implement the bill as intended. Without this change local government supporters of AB 43 are concerned that they will be required to increase speed limits rather than decrease them.

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

SUPPORT: (Verified 8/8/22)

Bike East Bay
California Bicycle Coalition
California City Transportation Initiative
California Walks
City of Alameda
City of Long Beach
City of Oakland
City of Sacramento
League of California Cities
Los Angeles County Bicycle Coalition
Mayor of City & County of San Francisco, London Breed
Mayor of City of Los Angeles, Eric Garcetti
Mayor of City of San Jose, Sam Liccardo
Move LA
Safe Routes to School National Partnership
San Francisco Municipal Transportation Agency
SPUR
Streets for All
Walk Oakland Bike Oakland
Walk San Francisco

OPPOSITION: (Verified 8/8/22)

None received

ASSEMBLY FLOOR: 76-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Randy Chinn / TRANS. / (916) 651-4121
8/10/22 14:24:56

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

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THIRD READING

Bill No: AB 1954
Author: Quirk (D)
Amended: 5/19/22 in Assembly
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 13-0, 6/13/22
AYES: Roth, Melendez, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Archuleta

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 5/25/22 - See last page for vote

SUBJECT: Physicians and surgeons: treatment and medication of patients using cannabis

SOURCE: California NORML

DIGEST: This bill prohibits a physician and surgeon from automatically denying treatment or medication to a qualified patient based solely on a positive drug screen for tetrahydrocannabinol (THC) or report of medical cannabis use without first completing a case-by-case evaluation of the patient that includes, but is not limited to, a determination that the qualified patient's use of medical cannabis is "medically significant" to the treatment or medication.

ANALYSIS:

Existing law:

1) Establishes the Medical Practice Act, which provides for the licensing and regulation of physicians and surgeons by the Medical Board of California (MBC). (Business and Professions Code (BPC) § 2000 *et seq*.)

2) Prohibits any person other than a physician, dentist, podiatrist, veterinarian, naturopathic doctor (according to certain supervision and protocol requirements), pharmacist (according to certain authorization and according to certain policies and procedures), certified nurse midwife (if furnished or ordered incidentally to the provision of family planning services, routine health care or perinatal care, or care rendered consistent with their practice), nurse practitioner (if it is consistent with their educational preparation or for which clinical competency has been established and maintained); a pharmacist or registered nurse or physician assistant acting within the scope of an experimental health workforce project authorized by the Office of Statewide Health Planning and Development (Health and Safety Code (HSC) §§ 128125 *et seq*.); an optometrist licensed under the Optometry Practice Act, or an out-of-state prescriber acting in an emergency situation from writing or issuing a prescription for a controlled substance. (HSC § 11150)

3) Establishes schedules of drugs, from I – V, under the Uniform Controlled Substances Act, in descending order of the potential for abuse. (HSC §§ 11053 *et seq*)

4) Specifies that a prescription for a controlled substance shall only be issued for a legitimate medical purpose and establishes responsibility for proper prescribing on the prescribing practitioner. States that a violation shall result in imprisonment for up to one year or a fine of up to $20,000, or both. (HSC § 11153)

5) Authorizes a physician to recommend cannabis for medical purposes under the Compassionate Use Act of 1996, which protects patients and their primary caregivers from criminal prosecution or sanction for obtaining and using marijuana for medical purposes upon the recommendation of a physician. (HSC § 11362.5)

6) Enacts various provisions of law by statute to further regulate the Compassionate Use Act, including establishing a voluntary means of getting a medical marijuana identification card, and defining terms such as "attending physician," "primary caregiver," and "qualified patient" for purposes of the CUA. (HSC §11362.7)

7) Enacts the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) to establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale

of both medicinal cannabis and cannabis products, and adult-use cannabis and cannabis products for adults 21 years of age and over. (BPC §26000 *et seq*.)

8) Outlines various requirements related to recommending medical cannabis, including making it unprofessional conduct to recommend medical cannabis without an appropriate prior examination. (BPC §§ 2525-2529.6)

9) Requires the MBC to consult with the California Marijuana Research Program, known as the Center for Medicinal Cannabis Research on developing and adopting medical guidelines for the appropriate administration and use of medical cannabis. (BPC § 2525.1)

10) Defines "qualified patient" as a person who is qualified for protection under the Compassionate Use Act of 1996 to use and cultivate cannabis for medical purposes. (HSC §§ 11362.5(d); 11362.7(f))

11) Establishes the "Ryan's Law" which requires a health care facility to permit a terminally ill patient, defined as a prognosis of one year or less to live, to use medical cannabis within the health care facility. (HSC § 1649 *et seq*)

12) Prohibits a hospital, physician and surgeon, procurement organization, or person from denying a potential recipient of an anatomical gift based solely upon the potential recipient's status as a qualified patient, or based solely upon a positive test for the use of medical cannabis by the potential recipient, except to the extent that the qualified patient's use of medical cannabis has been found by a physician and surgeon, following a case-by-case evaluation of the potential recipient, to be medically significant to the provision of the anatomical gift. (HSC § 7151.36(a))

This bill:

1) Prohibits a physician and surgeon from automatically denying treatment or medication to a qualified patient based solely on a positive drug screen for THC or report of medical cannabis use without first completing a case-by-case evaluation of the patient that includes, but is not limited to, a determination that the qualified patient's use of medical cannabis is "medically significant" to the treatment or medication.

2) Defines "medically significant" as the physician and surgeon made a clinical determination that treatment is contraindicated or likely to cause an adverse reaction or physical or mental harm if administered or used in conjunction with

THC; that treatment is expected to be ineffective based on clinical characteristics and patient history; that treatment, used in conjunction with THC, is not appropriate for the qualified patient because it could worsen a comorbid condition or decrease capacity to perform daily activities or pose a barrier to adherence to a plan of care or drug regimen.

3) Clarifies that the use of medical cannabis recommended by a licensed physician and surgeon does not constitute the use of an illicit substance in the evaluation.

4) Prohibits a physician and surgeon from being punished or denied any right or privilege for having administered treatment or medication to a qualified patient according to the requirements of this bill and consistent with the standard of care.

Background

History of Medicinal Cannabis. California was the first state in the nation to allow for the medical use of marijuana with the passage of Proposition 215 in 1996 (Compassionate Use Act of 1996). Proposition 215 protected qualified patients and primary caregivers from prosecution related to the possession and cultivation of cannabis for medicinal purposes. Since then, according to the National Conference of State Legislatures, 37 more states, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands have enacted similar laws.

In 2003, the Legislature authorized the formation of medical marijuana cooperatives—nonprofit organizations that cultivate and distribute marijuana for medical uses to their members through dispensaries.

In 2015, the Legislature passed the Medical Cannabis Regulation and Safety Act (MCRSA). For the first time, MCRSA established a comprehensive, statewide licensing and regulatory framework for the cultivation, manufacture, transportation, testing, distribution, and sale of medicinal cannabis.

Shortly following the passage of MCRSA in November 2016, California voters passed Proposition 64, the "Control, Regulate and Tax Adult Use of Marijuana Act" (Proposition 64), which legalized adult-use cannabis. Less than a year later in June 2017, the California State Legislature passed a budget trailer bill, SB 94 (Committee on Budget and Fiscal Review, Chapter 27, Statutes of 2017), that integrated MCRSA with Prop 64 to create MAUCRSA, the current regulatory structure for both medicinal and adult-use cannabis. Beginning in 2018,

Proposition 64 permitted adults 21 years of age or older to legally grow, possess, and use cannabis for nonmedical purposes, with certain restrictions.

Medicinal Cannabis Benefits. Following enactment of Proposition 215, the Institute of Medicine issued a report in 1999 stating that scientific data indicate the "potential therapeutic value of cannabinoid drugs, primarily THC, for pain relief, control of nausea and vomiting, and appetite stimulation." The report went on to state that the psychological effects of cannabinoids, such as anxiety reduction, sedation, and euphoria can influence their potential therapeutic value. In 2017, the National Academies of Science, Engineering, and Medicine released a comprehensive report dedicated to the current understanding of the demonstrated health effects of cannabis and cannabinoids, including cannabidiol (CBD) and the psychoactive molecule, THC. This review found evidence to support that patients who were treated with cannabis or cannabinoids were more likely to experience significant reductions in pain symptoms. It also found benefits for multiple sclerosis-related muscle spasms, and preventing and treating chemotherapy-induced nausea and vomiting.

The report found conclusive evidence of modest therapeutic efficacy for cannabis, cannabis-based products, or synthetic cannabinoids for three conditions: cancer patients experiencing chemotherapy-induced nausea and vomiting, chronic pain, and multiple sclerosis-related spasticity. Although there is only conclusive evidence for these three conditions, California's Compassionate Use Act of 1996 established the right for patients to obtain and use cannabis when prescribed for "cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which [cannabis] may provide relief."

Medicinal versus Adult-Use Cannabis. Currently, doctors write their patient or client a "recommendation" for cannabis. After a doctor provides a "recommendation", the county health department approves (or denies) it with an application fee, and then a medical identification card (ID) is given. With this ID, a person can buy cannabis in a retail store, but benefit from a reduced taxes. Medicinal Cannabis is fully exempt from state and local sales taxes if purchased for medical use with a valid state medical ID card. Some cities and counties also levy lower excise tax rates on purchases.

Guidelines for Prescribing Controlled Substances and Cannabis. For certain types of medication, and certain types of medication prescribed to certain types of patients, guidelines on appropriate and safe prescribing practices can serve as a helpful tool for providers, patients and regulatory boards alike.

In 1994, MBC unanimously adopted a policy statement entitled "Prescribing Controlled Substances for Pain." The guidelines outlined appropriate steps related to a patient's examination, treatment plan, informed consent, periodic review, consultation, records, and compliance with controlled substances laws. The passage of AB 2198 in 2006 (Houston, Chapter 350, Statutes of 2006) updated California law governing the use of drugs to treat pain by clarifying that health care professionals with a medical basis, including the treatment of pain, for prescribing, furnishing, dispensing, or administering dangerous drugs or prescription controlled substances, may do so without being subject to disciplinary action or prosecution. MBC currently encourages all licensees to consult the policy statement and *Guidelines for Prescribing Controlled Substances for Pain* which were updated in 2014 based on input from a MBC Prescribing Task Force that held multiple meetings to identify best practices. MBC intends for the guidelines to educate physicians on effective pain management in California by avoiding under treatment, overtreatment, or other inappropriate treatment of a patient's pain. Reduction of prescription overdose deaths is also an objective of the updated guidelines.

In 2015, the Osteopathic Medical Board of California, which licenses and oversees osteopathic physicians and surgeons, adopted the 2014 MBC guidelines.

In 2017, MBC adopted *Guidelines for the Recommendation of Cannabis for Medical Purposes*. Guidelines revisions were adopted in 2018. MBC states that "The Medical Board of California (Board) developed these guidelines since cannabis is a permissible treatment modality in California under qualifying circumstances. The Board wants to assure physicians who choose to recommend cannabis for medical purposes to their patients, as part of their regular practice of medicine, that they will not be subject to investigation or disciplinary action by the Board if they arrive at the decision to make this recommendation in accordance with accepted standards of medical responsibility. The mere receipt of a complaint that the physician is recommending cannabis for medical purposes will not generate an investigation absent additional information indicating that the physician is not adhering to accepted medical standards. These guidelines are not intended to mandate the standard of care. The Board recognizes that deviations from these guidelines may occur and may be appropriate depending upon the unique needs of individual patients. Medicine is practiced one patient at a time and each patient has individual needs and vulnerabilities. Physicians should document their rationale for each recommendation decision."

OMBC adopted *Guidelines for the Recommendation of Cannabis for Medical Purposes* in 2021 which are very similar to MBC's, and include a similar statement as noted above.

Comments

Californians interact with a multitude of health care professionals, including licensed health care providers other than physicians and surgeons who also provide primary care services and may recommend treatment or medication to patients who utilize cannabis. If the goal is to ensure that patients receive the quality care and treatment they deserve and are not prevented from doing so based on cannabis use, it is unclear why only one named health care licensee would be prohibited from "automatically denying treatment or medication to a qualified patient".

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

SUPPORT: (Verified 6/28/22)

California NORML (source)
Americans for Safe Access
California Cannabis Industry Association
Origins Council
The Parent Company

OPPOSITION: (Verified 6/28/22)

None received

ARGUMENTS IN SUPPORT: Supporters state that despite substantial evidence of the effectiveness of using medicinal cannabis to treat chronic pain, many health plans, health systems, and hospitals still require patients to sign agreements not to use illicit or controlled substances for the duration of their prescribed opioid treatment and agree to drug testing. Many physicians also lack clarity as to whether they can prescribe opioid medications to patients who test positive for cannabis, resulting in hundreds of chronic pain patients who are unfairly denied access to quality-of-life or life-saving medications. Supporters believe that California needs end discrimination against seniors, veterans, and other seriously ill Californians who require prescription drugs and choose to use cannabis with a doctor's recommendation

ASSEMBLY FLOOR: 76-0, 5/25/22

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

Prepared by: Sarah Mason / B., P. & E.D. /
6/28/22 14:28:15

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

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CONSENT

Bill No: AB 1959
Author: Committee on Agriculture
Amended: 8/1/22 in Senate
Vote: 21

SENATE AGRICULTURE COMMITTEE: 5-0, 6/21/22
AYES: Borgeas, Hurtado, Caballero, Eggman, Glazer

SENATE JUDICIARY COMMITTEE: 10-0, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, Jones, McGuire, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 75-0, 5/26/22 - See last page for vote

SUBJECT: Food and agriculture: omnibus bill

SOURCE: Author

DIGEST: This bill extends, to January 1, 2026, the sunset date on existing law authorizing use of carbon monoxide (CO) for the control of burrowing rodent pests (BRP). Additionally, this bill requires proprietary information and other information, including noncompliance observations, obtained in connection with the California Department of Food and Agriculture's (CDFA) produce safety program or inspections of fruit, nut and vegetable standards is confidential, unless required by a court order in a judicial proceeding. Finally, this bill requires the director of the California Department of Pesticide Regulation (CDPR) to approve continuing education minimum course requirements that include integrated pest management.

ANALYSIS:

Existing law:

1) Authorizes the use of CO for the control of burrowing rodent pests, provided the following conditions are met:

   a) The CO delivery device has a permanent label in plain view of the operator that includes, at a minimum, the following:

      DANGER: Carbon monoxide is a poisonous gas that is odorless and colorless. Exposure to carbon monoxide can kill within minutes. Never use in structures inhabited by humans or livestock. The device must be used in accordance with all existing laws and regulations including Chapter 1.5 (commencing with Section 2050) of Division 3, known as the California Endangered Species Act, and Sections 4002 and 4003 of the Fish and Game Code.

2) Repeals the provisions authorizing the use of CO for the control of burrowing rodent pests on January 1, 2023.

3) Establishes fruit, nut, and vegetable standards and requires the Secretary of CDFA and the county agricultural commissioners to enforce those provisions.

4) Provides that the Secretary of CDFA and other agents of CDFA are authorized to enforce and make inspections of grade, standards of quality, and other provisions of any raw unprocessed fruit, nut, or vegetable marketing, food safety, or enforcement program adopted under state or federal authority.

5) Requires the Director of CDPR to adopt regulations that establish the minimum standards of education, continuing education, training, experience, and examination for applicants and renewals of licenses and certificates issued by the director of the department.

6) Requires regulations pertaining to continuing education courses establish minimum course requirements related to pesticides and pest management.

7) Requires the Director to approve courses that include plant health, organic and sustainable practices, water, and air monitoring and residue mitigation, maximum residue levels, quarantine practices, and the on-farm storage of fumigants, all in the context of pesticides and pest management.

8) Defines "integrated pest management" to mean a pest management strategy that focuses on long-term prevention or suppression of pest problems through a combination of techniques such as monitoring for pest presence and establishing treatment threshold levels, using nonchemical practices to make the habitat less conducive to pest development, improving sanitation, and employing mechanical and physical controls *[Food and Agricultural Code Section 13181(a)]*.

   a) This definition applies to integrated pest management at school facilities and child day care facilities.

This bill:

1) Extends, until January 1, 2026, the use of CO for the control of BRPs, provided existing conditions are met.

2) Specifies all proprietary information obtained for the purposes of CDFA's produce safety program is confidential unless pursuant to a court order in a judicial proceeding.

3) Defines the following:

   a) "Produce safety program" to mean the unit operating in the department's inspection services division responsible for implementing the produce safety rule.

   b) "Produce safety rule" to mean Part 112 (commencing with Section 112.1) of Subchapter B of Chapter I of Title 21 of the Code of Federal Regulations. Details of this federal code can be found here: https://www.ecfr.gov/current/title-21/chapter-I/subchapter-B/part-112

4) Requires the Director of CDPR to approve continuing education minimum course requirements that include integrated pest management in its curriculum.

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

SUPPORT: (Verified 8/9/22)

None received

OPPOSITION: (Verified 8/9/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "This bill deletes the sunset clause on the law that allows the use of carbon monoxide (CO) for the control of burrowing rodent pests (BRP) and add conforming privacy protection to recent updates to Food and Agriculture code related to the federal Food Safety Modernization Act (FSMA)."

ASSEMBLY FLOOR: 75-0, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Gray, O'Donnell

Prepared by: Reichel Everhart / AGRI. / (916) 651-1508
8/10/22 14:57:30

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

SENATE RULES COMMITTEE AB 1974
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1974
Author: Chen (R)
Amended: 8/1/22 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/14/22
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 65-0, 5/12/22 (Consent) - See last page for vote

SUBJECT: Correctional facilities: service of process

SOURCE: California Association of Legal Support Professionals

DIGEST: This bill clarifies that the current process for serving a judicial paper to an incarcerated person applies to both county jails and state prisons.

ANALYSIS:

Existing law:

1) Provides that courts in California may exercise jurisdiction on any basis consistent with the state or federal Constitution. (Code Civ. Proc., § 410.10.)

2) Provides that a court in which an action is pending gains jurisdiction over a party from the time summons is served on the party. (Code Civ. Proc., § 410.50.)

3) Outlines the various methods of serving a party with a summons which, in part, include: personal service; substitute service; service by mail; service by publication; and service by any means reasonably calculated to give actual notice. (Code Civ. Proc., §§ 415.10 et. seq.)

4) Provides that a summons may be served by personal delivery of a copy of the summons and of the complaint on the person to be served, and that service is completed at time of such delivery. (Code Civ. Proc., § 415.10.)

5) Provides that, after reasonable attempts of personal service, substitute service may be made in lieu of personal service, by leaving a copy with a person over 18 years old at the dwelling, usual abode, usual place of business, or usual mailing address of the person to be served. (Code Civ. Proc., § 415.20.)

6) Defines the various persons upon whom summons may be served. (Code Civ. Proc., §§ 416.10 et. seq.)

7) Provides that a summons may be served on a person not otherwise specified in statute by delivering a copy of the summons to the person or a person authorized to receive service of process. (Code Civ. Proc., § 416.90.)

8) Requires service of a subpoena in a civil trial to be delivered to the witness personally, except as specified. (Code Civ. Proc., § 1987.)

9) Requires service of a subpoena in a criminal trial to be delivered to the witness personally, except as specified. (Pen. Code § 1328.)

10) Requires a sheriff or jailer upon whom a paper in a judicial proceeding directed to an incarcerated person in the sheriff or jailer's custody, is served, to deliver it to the incarcerated person, with a note thereon of the time of its service. Provides that the sheriff or jailer is liable to the incarcerated person for all damages for neglecting to do so. (Pen. Code, § 4013.)

This bill clarifies that the current process for serving a judicial paper to an incarcerated person applies to both county jails and state prisons.

Background

Penal Code Section 4013 requires a sheriff or jailer upon whom a paper in a judicial proceeding directed to an incarcerated person in the sheriff or jailer's custody, is served, to deliver it to the incarcerated person, with a note thereon of the time of its service. In *Sakaguchi v. Sakaguchi* (2009) 173 Cal.App.4th 852, the Second District Court of Appeal interpreted Section 4013 to apply to individuals incarcerated in the state's prisons as well as those in county jails. The appellant, an incarcerated person housed at Avenal State Prison, argued that service of process in a civil action filed against him by his wife was defective, rendering the judgment imposed against him void. The court found that service may be effectuated on an incarcerated person by serving process on the sheriff or jailer who has custody of

the incarcerated person and noted that the rule was derived from Section 416.90 of the Code of Civil Procedure and Section 4013 of the Penal Code. (*Id*. at p. 858.) In this case, the appellant's wife had served process on the litigation unit coordinator at the prison where the appellant was housed in accordance with the procedures for service by mail. (*Id*. at p. 859.) The litigation unit coordinator acknowledged receipt of a copy of the summons and complaint via the appropriate court forms and declared that she had personally delivered the summons and complaint to the appellant. (*Ibid*.) The court found the statutory requirements of service of process had been met. (*Ibid*.) Subsequent cases have also interpreted Penal Code Section 4013 to apply to incarcerated persons in state prison. (*Crane v. Dolihite* (2021) 70 Cal.App.5th 772.)

The California Department of Corrections and Rehabilitation additionally lays out the legal process for serving incarcerated individuals in its Department Operations Manual. Section 14010.7.4 provides:

No charge shall be made for the serving of legal papers on inmates by departmental staff. This shall preclude process servers from direct access to security areas of the institutions. This shall not preclude the proper service of papers by a sworn peace officer escorted into a security area.

Service may be completed as follows:

- Staff may accept the papers from the process server and then complete the service on the inmate.
- A sworn peace officer may be escorted into the security area to complete the service of papers.
- A non-sworn process server may be permitted to complete personal service if:
    - The server desires to make personal service and has made prior arrangements.
    - The inmate can reasonably be brought to the visiting area.
    - Permitting the personal service does not compromise the institution security.
- If a request for service is received by mail, institution staff shall serve the papers and complete the verification of service.

This bill clarifies that Section 4013 applies to the state's prisons by adding the word "warden" to the statute.

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

SUPPORT: (Verified 8/8/22)

California Association of Legal Support Professionals (source)

OPPOSITION: (Verified 8/8/22)

None received

ASSEMBLY FLOOR: 65-0, 5/12/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Salas, Santiago, Seyarto, Smith, Stone, Ting, Villapudua, Voepel, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Boerner Horvath, Cunningham, Davies, Gray, Grayson, Kiley, Lackey, Lee, Quirk-Silva, Rodriguez, Blanca Rubio, Valladares, Ward

Prepared by: Stephanie Jordan / PUB. S. /
8/10/22 14:24:54

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

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

THIRD READING

Bill No: AB 1991
Author: Gabriel (D)
Amended: 6/30/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 10-0, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, Jones, McGuire, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 75-0, 5/25/22 - See last page for vote

SUBJECT: Motels and hotels: publicly funded shelter programs

SOURCE: LA Family Housing
Los Angeles Homeless Services Authority

DIGEST: This bill provides that hotels, motels, and homeless shelter programs can evict a guest who is a participant in a shelter program without the need to go through the unlawful detainer process in the courts even if the guest has stayed longer than 30 days, provided that the shelter program operates with specified characteristics.

ANALYSIS:

Existing law:

1) Provides that general landlord-tenant law does not apply to transient occupancy in a hotel or motel lasting 30 days or less. (Civ. Code § 1940; Rev. & Tax Code § 7280(a).)

2) Exempts the removal of a hotel or motel guest staying 30 days or less from the unlawful detainer statutes requiring court proceedings and a judicial order to evict a tenant. (Code Civ. Proc. § 1161(6).)

3) States that every person is guilty of a misdemeanor who willfully commits a trespass by refusing or failing to leave land, real property, or structures belonging to or lawfully occupied by another and not open to the general public, upon being requested to leave by (a) a peace officer at the request of the owner, the owner's agent, or the person in lawful possession, and upon being informed by the peace officer that the peace officer is acting at the request of the owner, the owner's agent, or the person in lawful possession, or (b) the owner, the owner's agent, or the person in lawful possession. (Pen. Code § 602(o).)

This bill:

1) Defines "motel or hotel" to mean a dwelling unit that an innkeeper retains a right of access to and control of, and that provides or offers all of the following services to all of the residents:

   a) Facilities for the safeguarding of personal property, as specified;
   b) Central telephone service, as specified; and
   c) Maid, mail, and room services.

2) Defines "shelter program" to mean a city-, county-, continuum of care-, state-, or federally funded shelter, interim housing, motel voucher, or emergency shelter program.

3) Defines "shelter program participant" to mean an occupant of a motel, a hotel, or other shelter site whose occupancy is due to their participation in a shelter program.

4) Defines "shelter program administrator" to mean a city, county, or continuum of care entity that retains an oversight role in ensuring compliance with program regulations and proper program administration.

5) Provides that shelter program participants shall not have their continued occupancy in a motel, hotel, or a shelter site constitute a new tenancy and shall not be considered a tenant if the shelter program meets specified requirements.

6) Provides that the specified requirements referenced in (5) do not apply to properties which are being converted from use as a motel or hotel, or from use as a shelter, interim housing, emergency shelter, or other interim facility to a

permanent housing site from the date that the site receives a certificate of occupancy as a permanent housing site.

7) Provides that specified building code regulations shall not be interpreted to limit the length of occupancy for shelter program participants.

8) Emphasizes that the bill must not be interpreted to confer or deny tenants' rights, but provides that a shelter program participant is entitled to:

   a) Continued occupancy without creating a tenancy.
   b) Not to be considered a person who hires for legal purposes.
   c) Receipt of a written termination policy.
   d) Disclosure of the termination procedure.
   e) 30 days' notice prior to termination, except as specified.
   f) The right to appeal termination, as specified.

9) Clarifies that a motel or hotel shall not be designated as a nontransient motel or a nontransient hotel for legal purposes solely as a result of a shelter program participant's occupancy in the motel or hotel beyond a 30-day period.

10) Prohibits a hotel or motel from doing either of the following:

   a) Adopting termination policies specifically for motel or hotel occupants who are shelter program participants that do not apply to other motel or hotel occupants who are not participating in a shelter program, impose restrictions on the ability of program participants to freely enter or exit the property or access certain areas or amenities of the property that do not apply to other motel or hotel occupants, or levy charges and fees, including fees for room card replacements, that do not apply to other motel or hotel occupants. Specifies that this is a minimum standard for shelter terminations and that shelter programs may provide greater rights to participants; and
   b) Require shelter program participants to check out and reregister, move out of rooms or between rooms, or from the hotel or motel while actively enrolled in the shelter program unless their continued occupancy of the unit of the motel or hotel constitutes a clear and imminent threat to health and safety of the occupant.

Comments

California's epidemic of homelessness

California's well-documented housing affordability crisis has caused a significant increase in the state's homeless population in recent years.[1] A majority of California tenant households qualify as "rent-burdened," meaning that 30 percent or more of their income goes to the rent. Over a quarter of California tenant households are "severely rent-burdened" meaning that they spend over half their income on rent alone. Prior to the imposition of COVID-19 pandemic-related protections against eviction, approximately 165,000 tenants faced eviction in California courts each year.[2] A 2020 point-in-time count found that around 161,500 Californians were homeless on any given night.[3] Of those, about 113,000 fell under the definition of "unsheltered" meaning that they were living outdoors as opposed to in temporary shelters; 26,000 were part of families with children; and another 13,000 are young adults living on their own.[4]

Hotels and motels as part of the solution

One promising way to get at least some people off of the streets and into shelter is to put them up in hotels and motels. This policy approach made particular sense during the early part of the COVID-19 pandemic when many hotels and motels stood mostly vacant and there was a concern that homeless people in congregate settings might be particularly susceptible to infection and illness. Two signature Newsom Administration programs designed to reduce homelessness – Project RoomKey and Project HomeKey –both relied heavily on the use of hotel and motel rooms as a source of either interim or long-term housing for people who would otherwise be homeless.

Existing law regarding removal of guests from hotels and motels

While hotels and motels offer a potential path to shelter for at least some of California's homeless population, existing landlord-tenant law presents a complication. Under current law, most landlord-tenant law does not apply to

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[1] Cuellar Mejia and Hsieh, *A Snapshot of Homelessness in California* (Feb. 19, 2019) Public Policy Institute of California https://www.ppic.org/blog/a-snapshot-of-homelessness-in-california/ (as of Jun. 10, 2022).
[2] Inglis and Preston. *California Evictions are Fast and Frequent* (May 2018) Tenants Together http://www.tenantstogether.org/sites/tenantstogether.org/files/CA_Evictions_are_Fast_and_Frequent.pdf (as of Jun. 10, 2022) at p. 2.
[3] Nichols, *California's Homeless Population Rose 7% to 161,000 Ahead of the Pandemic* (Mar. 19, 2021) Capitol Public Radio https://www.capradio.org/articles/2021/03/19/californias-homeless-population-rose-7-to-161000-ahead-of-the-pandemic-new-report-finds/ (as of Jun. 28, 2021).
[4] *The 2022-23 Budget: The Governor's Homelessness Plan* (Feb. 9, 2022) Legislative Analyst's Office **h**ttps://lao.ca.gov/Publications/Report/4521 (as of Jun. 10, 2022).

transient hotel and motel guests. (Civ. Code § 1940.) Specifically, the law treats people staying at hotels and motels for 30 days or less as guests, not tenants. (Civ. Code § 1940; Rev. & Tax Code § 7280(a).) As a result, hotels and motels are free to demand that people staying for short periods of time leave at any time. If the guests will not leave voluntarily, the hotel or motel can summon law enforcement to enforce the demand. (Pen. Code §602(o).)

Once a guest has stayed at a hotel or motel for more than 30 days, however, the guest becomes a tenant in the eyes of the law. As a tenant, someone staying at a hotel or motel for more than 30 days gains certain additional rights. Of greatest relevance to this bill, a tenant can no longer be forced to leave at the whim of the hotel or motel management. Instead, in order to evict a tenant from a hotel or motel room, the hotel or motel would have to obtain a judicial order for eviction through the unlawful detainer process in the courts.

Benefits and drawbacks of the unlawful detainer process in this context

The unlawful detainer process protects people's housing rights. It prevents them from being kicked out suddenly, arbitrarily, or unlawfully by making the person trying to evict persuade a judge that such a drastic step is legally justified. In theory, at least, the unlawful detainer process also ensures that the person getting kicked out of their home has the opportunity to tell the judge their side of the story. It is, in essence, a fast-moving civil legal proceeding.

While unlawful detainer actions typically proceed quickly by comparison with most other legal matters, they obviously take much longer than simply telling someone to get out and, if necessary, enlisting the assistance of law enforcement to accomplish that. Additionally, the unlawful detainer process costs a lot more and is far more complex. For these reasons, many landlords chafe at having to go through the unlawful detainer process in order to retake possession of their property.

The shuffle

For hotel and motel owners, there is a relatively easy way to avoid the unlawful detainer process: never let a guest stay longer than 30 days. Technically, this strategy for trying to avoid the unlawful detainer process can violate the law. (*See* Civ. Code § 1940.1.) Nonetheless, according to the proponents of this bill, it is commonplace and a significant problem for efforts to keep homeless people housed in hotels and motels for longer periods of time. Some hotels and motels simply refuse to participate in shelter programs which include long-term stays. This limits the amount of shelter that a program can provide. Other hotels and motels apparently participate, but they require the shelter participates to shuffle

between rooms or locations every 30 days. This is highly disruptive to the lives of the program participants.

Compromise solution proposed by this bill

To incentivize hotels and motels to allow people who would otherwise be homeless to stay longer than 30 days while still ensuring that they have some protection against the arbitrary loss of their shelter, this bill strikes something of a compromise. Under this bill, hotel and motel guests who are participants in government shelter programs will not become tenants after staying for more than 30 days and their removal will not be subject to the unlawful detainer process, but only if the rules of the shelter program itself provide for certain alternative protections. Key components of those alternative protections include that the shelter program agrees to:

- Adhere to Housing First principles;
- Have and follow written protocols, given to participants in advance, explaining the grounds on which they may be terminated from the program and what procedures will be used;
- Terminate participants from the program only for serious and specified offenses;
- Have a grievance procedure; and
- Provide an exit plan to participants who are terminated from the program.

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

SUPPORT: (Verified 8/3/22)

LA Family Housing (co-source)
Los Angeles Homeless Services Authority (co-source)
California Catholic Conference
City of Los Angeles
Corporation for Supportive Housing
Downtown Women's Center
East Bay Housing Organizations
Housing California
National Health Foundation
People Assisting the Homeless
People's Self-Help Housing Corporation
Safe Place for Youth
San Diego Regional Task Force on Homelessness
Sycamores

United Way of Greater Los Angeles

OPPOSITION: (Verified 8/3/22)

California Hotel and Lodging Association

ARGUMENTS IN SUPPORT: According to the author:

> Currently, thousands of people experiencing homelessness in California are participating in shelter programs and residing temporarily in hotels, motels, and other sites. Unfortunately, many hotels and motels shuffle people from rooms or other motel locations out of concern of creating an unwanted landlord-tenant relationship. AB 1991 provides those experiencing homelessness who participate in shelter programs from needlessly moving from motel to motel every 30 days by granting them the ability to stay longer without triggering tenancy. This bill also creates protections for individuals participating in these programs by ensuring they are not withdrawn from service shelter programs without fair due process by service providers.

As sponsor of this bill, Los Angeles Homeless Services Authority writes:

> At the moment, thousands of people experiencing homelessness in the State of California are taking part in shelter programs and living temporarily in hotels, motels, and other sites. More specifically, LAHSA is currently housing over 400 unhoused families in these spaces. However, a lack of clarity in state law regarding their occupancy creates several challenges for these programs and their participants. Ambiguity in state law, hotels, and motels resort to 'shuffling' people between motel rooms or exiting people from their rooms every four weeks to avoid potentially creating a landlord-tenant relationship. This 'shuffling' practice disrupts families participating in these programs and consumes resources of case managers and service providers who must work to quickly find accommodations for these families. In other cases, motels and hotels do not take part in shelter programs out of concern that they will establish unwanted landlord-tenant relationships, thus limiting the availability of these properties for local homeless services systems. AB 1991 would deliver much needed clarity and guidance to motels, hotels, and shelter providers who offer shelter for homelessness programs regarding tenancy and termination of occupants.

ARGUMENTS IN OPPOSITION: The California Hotel and Lodging Association writes:

> […] [T]he hotel and lodging industry has been an ardent supporter and active participant in homeless housing programs. We believe in the potential for shelter programs to have a positive impact on communities and the people participating in the programs. Unfortunately, as currently written, Assembly Bill 1991 would likely deter hotel and lodging properties from participating in shelter programs, which we feel is contrary to the overall intent of the bill.

ASSEMBLY FLOOR: 75-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, O'Donnell, Voepel

Prepared by: Timothy Griffiths / JUD. / (916) 651-4113
8/8/22 9:16:33

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

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

THIRD READING

Bill No: AB 1997
Author: Gipson (D)
Amended: 6/28/22 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 5-1, 6/22/22
AYES: Leyva, Cortese, Glazer, McGuire, Pan
NOES: Dahle
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 50-15, 5/23/22 - See last page for vote

SUBJECT: California State University: emergency response programs: report

SOURCE: California Faculty Association

DIGEST: This bill requires the Chancellor of the California State University (CSU) to convene a stakeholder workgroup for the purpose of making recommendations to alleviate concerns of current emergency response programs on CSU campuses.

ANALYSIS:

Existing law:

1) Establishes the CSU system, comprised of 23 campuses, and bestows upon the CSU Board of Trustees the power, duties, and functions with respect to the management, administration, and control of the CSU system. (EC § 66606 and 89030 et. seq.)

2) Establishes the CCC under the administration of the Board of Governors of the CCC, as one of the segments of public postsecondary education in this state. (EC § 70900)

3) Authorizes the CSU Trustees to appoint one or more persons to constitute a police department for the headquarters and for each campus of the CSU (EC § 89560).

This bill:

1) Requires the Chancellor of the CSU, by July 1, 2023, to convene a stakeholder workgroup that includes, but is not limited to, a representative from all of the following stakeholders:

   a) Faculty.

   b) Staff.

   c) Students.

   d) Campus health and safety personnel.

   e) Bargaining unit representatives.

2) Requires the workgroup, nine months after the first meeting of the workgroup, to submit a report to the Legislature and CSU Chancellor that includes recommendations to alleviate concerns of current emergency response programs on CSU campuses.

3) Requires the workgroup, in preparing the report, to at a minimum, evaluate and report on both of the following:

   a) Alternatives to current procedures and processes for responding to non-violent and non-criminal situations on CSU campuses.

   b) Alternative dispute resolution options to resolve employee conflicts.

Comments

Need for the bill. According to the author, "AB 1997 seeks to create a diverse stakeholder workgroup within the CSU community to develop alternatives to campus policing, including but not limited to, trauma-informed crisis response teams especially as it relates to on-campus mental health crises. The workgroup will include faculty, staff, students, campus health and safety personnel. Starting with a workgroup will allow all stakeholders, including campus police, to find the best approach to address and alleviate concerns regarding current emergency response programs at CSU campuses.

"In California, more often than not, if a student is dealing with a severe mental health issue, campus police are called on to respond. Although law enforcement serves an important role in keeping our schools and students safe and secure, it is important to have trained specialists that focus on dispute resolution and transformative justice to best respond to nonviolent and noncriminal situations on campuses."

What is happening on CSU campuses? Each of the CSU's 23 campuses operates police or public safety department, whose peace officers are sworn and certified by the California Commission on Peace Officer Standards and Training (POST). Each CSU police or public safety department is charged with maintaining a safe campus environment by enforcing federal and state laws, CSU regulations, and the establishment of crime deterrence and prevention-related programs.

This bill requires the workgroup to make recommendations to alleviate concerns of current emergency response programs on CSU campuses and specifically requires the workgroup to evaluate alternatives to current procedures and processes for responding to non-violent and non-criminal situations on CSU campuses and alternative dispute resolution options to resolve employee conflicts.

Two examples of incidents on CSU campuses that the workgroup is to address include:

1) CFA Members Demand CSU Address Its Systemic Anti-Black Racism and Implement Alternatives to Campus Police - California Faculty Association (calfac.org) (https://www.calfac.org/cfa-members-demand-csu-address-its-systemic-anti-black-racism-and-implement-alternatives-to-campus-police/)

2) CFA Settles Case Over Racist, Hostile Work Environment - California Faculty Association (calfac.org) (https://www.calfac.org/other-news-130/)

Former Chancellor called for this workgroup. Former Chancellor Castro called for the creation of a workgroup with the same membership and charge to evaluate specific topics as the workgroups established by this bill. Former Chancellor Castro asked that the workgroup convene in February 2022, and submit a report by July 29, 2022. However, the workgroup called for by the former chancellor has not yet been created. According to the current Chancellor's office, the hope is to convene this workgroup by the end of August 2022.

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

SUPPORT: (Verified 8/2/22)

California Faculty Association (source)

OPPOSITION: (Verified 8/2/22)

None received

ASSEMBLY FLOOR: 50-15, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Medina, Mullin, Muratsuchi, Nazarian, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Choi, Megan Dahle, Davies, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel
NO VOTE RECORDED: Berman, Mia Bonta, Bryan, Chen, Cunningham, Flora, Gray, Irwin, Mayes, McCarty, O'Donnell, Petrie-Norris, Blanca Rubio

Prepared by: Lynn Lorber / ED. / (916) 651-4105
8/3/22 14:29:20

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

SENATE RULES COMMITTEE AB 2031
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2031
Author: Lee (D), et al.
Amended: 6/16/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 6/14/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

ASSEMBLY FLOOR: 66-3, 5/16/22 - See last page for vote

SUBJECT: Mobilehome Residency Law: management meetings with homeowners

SOURCE: Golden State Manufactured-Home Owners League

DIGEST: This bill modifies the rules surrounding participants, format, and topics of discussion when mobilehome park residents demand to meet with park management.

ANALYSIS:

1) Establishes the Mobilehome Residency Law (MRL) which regulates the rights, responsibilities, obligations, and relationships between mobilehome park management and park residents. (Civ. Code § 798 *et seq*.)

2) Requires park management to meet and consult with homeowners on any of the following matters within 30 days of a written request:

   a) Resident concerns regarding existing park rules that are not already the subject of another meeting because of a proposed amendment to the park rules;

   b) Standards for maintenance of physical improvements in the park;

c) Addition, alteration, or deletion of service, equipment, or physical improvements; or

d) Long-term rental agreements.

3) Specifies that park management shall conduct a meeting pursuant to 2), above, either individually, collectively, or with representatives of a group of homeowners who have signed a request to be so represented.

4) Specifies that park managements shall only conduct a collective meeting after notice has been given to all the requesting homeowners 10 days or more before the meeting.

This bill:

1) Expands the list of topics about which mobilehome residents are entitled to request a meeting with park management to include:

a) Resident concerns regarding enforcement of park rules or lack thereof;

b) Standards for maintenance of trees or driveways in the park;

c) Specified rental agreements offered to existing residents;

d) Resident concerns regarding utility billing or utility charges; and

e) Common area facility hours and availability.

2) Specifies that park management may conduct the meeting either in person or virtually using telephone, audio-video, or other audio-only conferencing.

3) Requires park management to offer in-person and telephone attendance options and to provide a list of audio-video conferencing options upon homeowner request.

4) Provides that management must comply with the method of meeting requested by the homeowner(s) requesting the meeting provided that the method was offered by park management pursuant to 3), above.

5) States that if an individual homeowner or group of homeowners consents to be represented at a meeting, management must meet with either the homeowner(s), their representative(s), or both as the homeowners may choose in the written request.

6) Specifies that the homeowner representative may participate in the meeting virtually or in person.

7) Clarifies that management must permit a language interpreter to participate in the meeting.

Comments

1) *Mobilehomes and the MRL*

More than 700,000 people are estimated to occupy the roughly 393,000 mobilehome spaces in California's more than 4,700 mobilehome parks. In most of those parks, residents own their home but lease the land upon which their home sits. Although they have historically been called "mobilehomes," it is in fact very difficult and quite expensive to actually move a mobilehome once it has been installed in a park. The cost to move a mobilehome ranges from $2,000 to upwards of $20,000 depending on the size of the home and the distance traveled.

Given the unique nature of mobilehomes, California has enacted a series of laws customized to the mobilehome context. In 1978, the Legislature brought the main body of these rules together in one central statutory location: the MRL. The MRL governs many aspects of the relationship between mobilehome owners and the parks in which the mobilehomes are situated. For example the MRL covers: the required content of mobilehome leases; permissible park rules and regulations; access to common areas of the park; and the legal grounds upon which a mobilehome and its owner can be evicted from a park. Of particular relevance to this bill, the MRL also specifies the circumstances in which, when requested, the management of a mobilehome park is obligated to meet with residents or their designated representative.

2) *The problem the bill is intended to address*

Civil Code Section 798.53 requires the management of a mobilehome park to meet and consult with residents about certain specified topics upon written request. As it currently reads, the statute provides that park management may choose to meet with the homeowners who have requested the meeting "either individually, collectively, or with representatives of a group of homeowners who have signed a request to be so represented." This is not plain language. It is a statutory interpretation nightmare. The use of the word "either," the placement of the commas, and the use of the word "or" all suggest different possible results, none of which makes perfect sense out of the actual text.

According to the sponsors of this bill, the Golden State Manufactured-Home Owners League (GSMOL), many park managers have seized upon this ambiguity to refuse to meet with homeowners and their representatives simultaneously. GSMOL states that:

> This interpretation subverts the intent of Section 798.53 to create a vehicle for resolving grievances. It also excludes individuals from the meeting, whether it be a translator or an advocate with specialized knowledge, who can help a resident navigate and explain their issue.

3) *The solution proposed by this bill*

To address the problem set forth in Comment 2), above, and to increase the accessibility and efficiency of meetings between mobilehome parks and their residents generally, this bill proposes three revisions to the existing statute.

First, this bill makes clear that park management must respect the homeowners' choice whether to attend the meeting with or without their designated representative.

Second, this bill sets forth procedures for determining the format of the meeting. Specifically, this bill states that park management must offer homeowners the options of conducting the meeting in-person or by telephone. If the park management also offers the homeowners the option of conducting the meeting on an audio-video conference platform (such as Zoom, for example), then park management must provide the homeowners with a list of the audio-video platforms options if the homeowners request it. The homeowners must select from these options. Park management must conduct the meeting in accordance with that selection.

Finally, this bill expands the list of topics about which homeowners have a right to call a meeting. The new subjects are: resident concerns regarding enforcement of park rules or lack thereof; standards for maintenance of trees or driveways in the park; rental agreements offered to existing residents; resident concerns regarding utility billing or utility charges; and common area facility hours and availability.

Earlier versions of this bill also required parks to provide a written, good faith response to the homeowners and their representative within 10 days after the meeting. The inclusion of that requirement drew opposition from various advocacy groups representing park owners. Recent Assembly amendments

removed that deadline. As a result, there is no longer any known opposition to this bill.

4) *Overcoming language barriers*

Writing in support of this bill, members of GSMOL Super Chapter 0016 – Pepper Tree and 0018A- Colonial Mobile Manor mention that many of their residents speak limited or no English. To be able to participate fully in a meeting with management conducted in English, these residents require the assistance of an interpreter. Amendments taken in the Senate Judiciary Committee clarify that management must allow resident to bring a language interpreter to the meeting if they wish to do so. Naturally, the interpreter may be the same person as the designated representative or another individual.

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

SUPPORT: (Verified 6/16/22)

Golden State Manufactured-Home Owners League (source)
Affordable Housing Network of Santa Clara County
Asian Law Alliance
Disability Rights California
Golden State Manufactured-Home Owners League Super Chapter 0016 – Pepper Tree and 0018A – Colonial Mobile Manor

OPPOSITION: (Verified 6/16/22)

None received

ARGUMENTS IN SUPPORT: According to the author:

Civil Code 798.53 was enacted to promote communication and problem-solving between mobilehome owners and mobilehome park management on various issues such as maintenance and resident concerns. It specifies that mobilehome park management must meet with homeowners within 30 days of a written request either individually, collectively, or with representatives of a group of homeowners. However, this code section doesn't always work as intended. Some park owners interpret this section so literally that they only allow a resident or their representative to meet with park management, but not both. This results in wasted time and ineffective meetings particularly when the resident needs the help of an interpreter or the specialized knowledge of an advocate or attorney to navigate complex issues. AB 2031 will clarify that both residents and their representatives can meet with park management about

> specified issues such as maintenance standards or resident concerns about park rules. It will also expand the list of possible issues to include common area availability and concerns about utility billing which will ensure the most common questions or problems can be addressed without resorting to court.

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

> When people seek redress, they have the right to do so alone. But should they need assistance, state laws commonly allow them to utilize the assistance of, and be joined by, qualified advocates or representatives for the sake of resolving problems. This bill proposes to align itself with those current California governance values.

In support, Disability Rights California writes:

> This bill would help ensure meetings between mobilehome residents and park management are meaningful and productive.

ASSEMBLY FLOOR: 66-3, 5/16/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Cooley, Cooper, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Valladares, Villapudua, Voepel, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Choi, Davies, Gray
NO VOTE RECORDED: Cunningham, Kiley, Low, Muratsuchi, Nazarian, Quirk-Silva, Blanca Rubio, Ting, Waldron

Prepared by: Timothy Griffiths / JUD. / (916) 651-4113
6/17/22 11:23:20

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

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

THIRD READING

Bill No: AB 2038
Author: Gipson (D)
Amended: 6/9/22 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 6/8/22
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, McGuire, Pan

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-0, 5/5/22 (Consent) - See last page for vote

SUBJECT: School finance: administrative employees to teacher ratio

SOURCE: Los Angeles Unified School District

DIGEST: This bill allows the Los Angeles Unified School District (LAUSD), for purposes of calculating the administrative employee-to-teacher ratio in the 2022–23 to 2024–25 school years, inclusive, to include in the definition of "teacher" intervention specialists and teacher coaches, as specified. This bill also requires LAUSD to submit various reports related to the administrative employee-to-teacher ratio to the Superintendent of Public Instruction (SPI), the Department of Finance, and the budget committees of both houses of the Legislature, as specified.

ANALYSIS:

Existing law:

1) Defines, for the purpose of calculating the maximum ratios of administrative employees to teachers in school districts, the following:

   a) "Administrative employee" means an employee of a school district, employed in a position requiring certification qualifications, who does not come within the definition of a "pupil services employee" or a "teacher".

b) "Classified employee" means an employee of a school district, employed in a position not requiring certification qualifications.

c) "Pupil services employee" means an employee of a school district, employed in a position requiring a standard designated services credential, health and development credential, or a librarian credential, who performs direct services to pupils. "Pupil services employee" includes, but is not limited to, in-school librarians, school nurses, assistant in-school librarians, audiovisual personnel, counselors, psychologists, psychometrists, guidance and welfare personnel, attendance personnel, school social workers, and all other certificated personnel performing pupil-personnel, health, or librarian services.

d) "Teacher" means an employee of a school district, employed in a position requiring certification qualifications, whose duties require him or her to provide direct instruction to pupils in the schools of that district for the full time for which he or she is employed. "Teacher" includes, but is not limited to, teachers of special classes, teachers of exceptional children, teachers of pupils with physical disabilities, teachers of minors with intellectual disabilities, substitute teachers, instructional television teachers, specialist mathematics teachers, specialist reading teachers, home and hospital teachers, and learning disability group teachers. Requires instructional preparation time to be counted as part of the teacher full-time equivalent, including, but not limited to, mentor teacher or department chairperson time.

2) Establishes maximum ratios of administrative employees to each 100 teachers in the various types of school districts, as follows:

a) In elementary school districts—9:100;

b) In unified school districts—8:100; and

c) In high school districts—7:100.

3) Requires the Superintendent of Public Instruction (SPI) to determine, for each current fiscal year, for each school district in the state, to two decimal points, the following:

a) The total number of administrative employees, except those serving in positions that are supported by categorical grants from any source and are in programs that require specific teacher/administrator ratios, or that are supported by federal funds;

b) The total number of teachers except those serving in positions that are supported by federal funds or by categorical grants from any source and are in programs that require specific teacher/administrator ratios;

c) The total maximum number of administrative employees that should be employed by the district based upon the application of the appropriate ratio to the number of teachers; and

d) The number of administrative employees in excess of the number allowable without penalty as determined by subtracting the number of administrative employees from the number of teachers.

4) Requires, for purposes of determining the allowable ratio of administrative employees to teachers for the San Diego City School District, the number of employees and the full-time equivalent of all of the fractional time of employees serving the district in positions mandated as the result of the district's court-ordered integration plan is excluded from the ratio calculation.

5) Requires the SPI to determine the reduction in state support resulting from excess administrative employees as follows:

a) Compute the ratio which total state support to the district general fund bears to the total general fund income of the district;

b) Multiply the ratio by the average salary of administrative employees; and

c) Multiply the product by the number of administrative employees converted to the nearest whole number in excess of the maximum number, as specified.

6) Requires the amount of the second principal apportionment made to the district for the current fiscal year pursuant to Section 41335 to be reduced by the product so produced.

7) Exempts a school district with an average daily attendance (ADA) of more than 400,000 as of the 2016–17 second principal apportionment from any reduction in state support, as specified, for the 2019–20 fiscal year to the 2021–22 fiscal year, inclusive. Requires a school district subject to this exemption to submit the following to the SPI, the Department of Finance, and the budget committees of both houses of the Legislature:

a) By September 1, 2019, a report containing the administrator-to-teacher ratio for the 2011–12 fiscal year to the 2019–20 fiscal year, inclusive, a description of the reasons for not meeting the ratio requirement for each

fiscal year in which the ratio was not met, including the estimated impact on pupils, and a plan setting out goals for meeting the ratio by the 2023–24 fiscal year; and

b) By each September 1 from 2020 to 2022, inclusive, a report detailing the administrator-to-teacher ratio for the prior fiscal year and the progress towards meeting the goals set out in the report.

This bill:

1) Allows LAUSD, for purposes of calculating the administrative employee-to-teacher ratio in the 2022–23 to 2024–25 school years, inclusive, to include any of the following within the definition of a "teacher":

   a) Teachers who spend a majority of their time with pupils as intervention specialists.

   b) Teachers who spend a majority of their time on a school campus providing training, coaching, or professional development to other teachers.

2) Requires LAUSD to submit the following to the SPI, the Department of Finance, and the budget committees of both houses of the Legislature:

   a) By September 1, 2023, a report containing the ratio of administrative employees to teachers for the 2011–12 to 2022–23 fiscal year, inclusive, a description of the reasons for not meeting the ratio requirement for each fiscal year in which the ratio was not met, including the estimated impact on pupils and the number of teachers and administrators above the required ratio, and a plan setting out goals for meeting the ratio by the 2025-26 fiscal year.

   b) By each September 1 from 2024 to 2025, inclusive, a report detailing the ratio of administrative employees to teachers, including the number of teachers and administrators above the required ratio, for the prior fiscal year and the progress towards meeting the goals set out in the report.

Comments

1) *Need for the bill.* According to the author, "With Los Angeles Unified School District being the largest public school system in California, we must do all that we can to continue to provide our teachers and students with the necessary resources needed to recover from learning losses due to the pandemic.

"Administrators play a critical role in improving the learning environment and overall academic progress of a student by directly supporting teachers and students in the classroom, especially in districts like LAUSD that serve a high percentage of high-needs individuals who heavily rely on supplemental services.

"For these reasons, reducing staff to adhere to the administrator teacher ratio (ATR) in a time when our teachers and students need it the most is not ideal. AB 2038 will make necessary clarifications to the term "administrator" in order to assure accuracy in the calculation of the ATR for all school districts in California and would align Los Angeles Unified School District with the San Diego Unified School District to exclude its magnet coordinators from the ATR."

2) *What is the administrator-to-teacher ratio requirement?* School districts are required to have maximum ratios of administrative employees to each 100 teachers in the various types of school districts, as follows: in elementary school districts—9:100; in unified school districts—8:100; and in high school districts—7:100. Each year the California Department of Education (CDE) determines the ratio for each school district and for those that are over the ratio a fiscal penalty is imposed by reducing their principal apportionment.

3) *LAUSD's three-year exemption from this requirement expires this year.* The education omnibus budget trailer bill of 2019 (SB 75, Committee on Budget and Fiscal Review, Chapter 51, Statutes of 2019) authorized an exemption of the administrator-to-teacher fiscal penalty for the LAUSD for the 2019-20 fiscal year, to the 2021-22 fiscal year. Further, LAUSD is required to annually report to the SPI, the Department of Finance, and the budget committees of both houses of the Legislature on the administrator-to-teacher ratio calculation for each year a school district receives an exemption from the fiscal penalty, including historical information for past years and the school district's plan to meet the ratio requirements over time.

According to the LAUSD in the 2019 and 2020 reports, "The administrator-to-teacher ratio is a districtwide number and not a school site number as defined in EC 41402. This is a key distinction because the overall districtwide ratio does not accurately differentiate whether noncompliance is due to central office or school site administrators. Additionally, the narrow definition of what constitutes a 'teacher' results in a substantial number of teachers being defaulted to administrators. In the case of LAUSD, these examples include instructional coaches, magnet school coordinators, intervention coordinators,

dean of students, college and career coaches, targeted student population advisors, and restorative justice coaches."

4) *Recent efforts by LAUSD to reduce its ratio.* In 2021, the LAUSD retained School Services of California Inc. (SSC) to perform a review and analysis of the District's administrator-to-teacher ratio, and to establish a standardized way of evaluating and classifying positions. After a review of LAUSD's job descriptions, SSC recommended approximately 1,000 full-time equivalent employees (FTEs) for reclassification to teacher. This resulted in a lower preliminary ratio for 2020-21. Despite this reclassification, according to information provided by the district, the ratio continues to exceed the statutory requirement by about 417 employees – 230 teachers on special assignment (TOSAs) and 187 magnet coordinators.

   The LAUSD has also engaged other school districts to understand how their methodology to classify positions for the calculation of this ratio. The district has plans to continue to review its internal hiring and classification practices, and worked with SSC to conduct staff training on employee classifications for the calculation of the ratio. Additional measures include a communication campaign and plan to make ratio data available to stakeholders, school leaders, and administrators for decision-making as it relates to staffing and compliance of the ratio requirement. LAUSD plans to reach compliance by 2023-24.

   Despite modest efforts by the LAUSD to reduce the administrator-to-teacher ratio, and a three-year exclusion from the fiscal penalties, the school district remains above the allowable ratio and could be subject to fiscal penalties based on compliance in the 2022-23 fiscal year. Exceeding the ratio remains a persistent problem for the LAUSD, and as of this writing, the district estimates it will be subject to penalties in excess of approximately $36 million per year.

5) *State Board of Education waivers.* The State Board of Education (SBE) considers requests from local educational authorities (LEAs) to waive statutory and regulatory requirements. According to the CDE, ten requests for waivers from this provision in the Education Code (EC 41402(a)) were received for consideration by the SBE from 2011-2020, the majority of which were requested in the years 2016 -2018. Of the ten waiver requests: four were approved, four were approved with conditions, one was denied, and one resulted in no action.

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

SUPPORT: (Verified 6/20/22)

Los Angeles Unified School District (source)
Association of California School Administrators
Diversity in Leadership Institute

OPPOSITION: (Verified 6/20/22)

None received

ARGUMENTS IN SUPPORT: The Los Angeles Unified School District writes, "Current law requires school districts to meet a certain R2 ratio with the intent resources are dedicated to classroom supports and instruction. However, since the enactment of that law, there have been many changes in education policy and funding and in school districts' approaches to supporting the whole child by taking into account the academic, social-emotional and health needs of every student. In 2019, Los Angeles Unified received a three-year waiver from meeting the R2 requirements as an opportunity for the District to reassess local programs and move towards compliance. Despite the ongoing COVID-19 pandemic posing unprecedented challenges for the 2020-21 school year, Los Angeles Unified staff has continued its commitment to examine existing processes and analyze job descriptions, including interpretation of the law as it relates to our staffing needs in educating the whole child.

"While the district continues to examine its hiring practices and impact of the Community of Schools model, it is necessary to pursue the clarification of the definition of "administrator" in order to assure accuracy in the calculation of the R2 ratio. AB 2038 clarifies the definition of "administrator" is intended to include only staff employed in a position requiring an administrative certification qualification. It also exempts Los Angeles Unified – similar to the provision added to state law in 1976 for the San Diego Unified School District – from counting magnet school coordinators in its calculation since these positions support compliance with a court desegregation order."

ASSEMBLY FLOOR: 61-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas,

Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Friedman, Gallagher, Cristina Garcia, Gipson, Levine, McCarty, Medina, Villapudua, Waldron, Wicks

Prepared by: Ian Johnson / ED. / (916) 651-4105
6/22/22 14:49:26

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

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THIRD READING

Bill No: AB 2045
Author: Jones-Sawyer (D)
Amended: 6/30/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-0, 6/22/22
AYES: Cortese, Durazo, Laird, Newman
NO VOTE RECORDED: Ochoa Bogh

SENATE EDUCATION COMMITTEE: 5-0, 6/29/22
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, McGuire
NO VOTE RECORDED: Glazer, Pan

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 75-0, 5/26/22 - See last page for vote

SUBJECT: School district, county office of education, and community college district employees: personnel commissions: ranked groups

SOURCE: Los Angeles County Office of Education

DIGEST: This bill authorizes school (K-12) and community college (CCC) personnel commissions to use a banded system of ranking for job eligibility employment lists instead of the current requirement to use Rank of Three lists, if approved in an election by the majority of classified employees voting, as specified, in order to provide greater flexibility to recruit diversified staff.

ANALYSIS:

Existing law:

1) Authorizes a school district or community college district to adopt a merit system that establishes a process for the employment and retention of classified employees of the district. (Education Code § 45240 and § 88060)

2) Requires a district that adopts the merit system to appoint a commission that consists of either three or five members, and requires the commission to classify employees and positions within the jurisdiction of the governing board of a school district or community college district, or of the commission. (ED § 45243 and § 88063)

3) Requires a personnel commission to classify all employees and positions within the jurisdiction of the governing board of the school district or the commission, except those that are exempt from the classified service, as specified. Among other provisions, "to classify" must include, but not be limited to, allocating positions to appropriate classes, arranging classes into occupational hierarchies, determining reasonable relationships within occupational hierarchies, and preparing written class specifications. (ED § 45256 and § 88076)

4) Defines "classification" within a school or community college district as having a designated title; a regular minimum number of assigned hours per day, days per week, and months per year; a specific statement of the duties required to be performed by the employees in each applicable position, and the regular monthly salary ranges and benefits for each applicable position. (ED § 45101 and § 88001)

5) Requires school and community college districts to fill all vacancies in the classified service by:

   a) Eligibility lists which, whenever practicable and as determined by the personnel commission, must be made up from promotional examinations; or

   b) Appointments made by transfer, demotion, reinstatement, and reemployment. (ED § 45272 and § 88091)

6) Requires the personnel commission to place applicants on the eligibility list in the order of their relative merit, as determined by competitive examination and must round final scores of candidates to the nearest whole percentage for all eligible applicants. (ED § 45272 and § 88091)

7) Requires districts to consider all eligible applicants with the same percentage score as having the same rank and make appointments to the position from a list of eligible applicants in the first three ranks ready and willing to accept the position. (ED § 45272 and § 88091)

This bill:

1) Requires classified employees, upon approval of a K-12 or CCC personnel commission action, to hold an election to determine by majority vote if districts should place applicants on eligibility lists in banded ranked groups according to their relative merit, as specified, in lieu of the currently required individual ranking system.

2) Requires the K-12 or CCC district to conduct the election to change to a banded ranked list system pursuant to existing procedures used for elections by classified employees to implement or revoke a merit system, as specified.

3) Details the personnel commission ballot language, as specified.

4) Prescribes a fixed schedule of ranges for purposes of eligibility in which passing candidates' final examination scores must be rounded to the nearest whole and assembled into distinct groups as follows:

   a) Group 1: 95 percent to 100 percent;

   b) Group 2: 89 percent to 94 percent;

   c) Group 3: 83 percent to 88 percent;

   d) Group 4: 77 percent to 82 percent; and,

   e) Group 5: 76 percent or below.

5) Establishes that the district must make all appointments from the highest-ranking group, as provided, of an eligibility list, except when that group includes fewer than five persons who are ready and willing to accept the position. If a group includes fewer than five such persons, an appointment must be made from combining the next highest group or groups to include at least five persons ready and willing to accept the position, or, if there are fewer than five persons who are ready and willing to accept the position in all remaining groups, from those remaining persons.

6) Provides that the district may consider an eligibility list of fewer than three candidates exhausted if the appointing authority requests the district certify additional eligible candidates for hiring consideration.

7) Requires the district's classified employees to hold an election to determine if the district that adopts the banded ranking system should revert to the individual

ranking system, as provided, and requires the personnel commission to provide public notice of the election, as specified.

Comments

Need for this bill? According to the author:

> Since 1975, California LEAs' Personnel Commissions have used the 'Rule of 3 Ranks' to hire candidates based upon their scores from the employment examination process. Classified positions are any positions that do not require a credential. This system rounds each candidate's final score from the examination process to the nearest percentage point and ranks those scores by one percent intervals. While this system has sufficed since its establishment, there are other methods of ranking that have produced more diverse and equitable lists of candidates eligible for hire. The current system also presents issues for filling vacancies efficiently amidst a staff shortage in the education system.
>
> While intended to prevent nepotism or bias in hiring, this current system has its own set of challenges. The one percent distinction between ranks is so narrow that it limits the ability for hiring committees to select well-qualified candidates that may excel in other job-related factors along with high test scores that are not within the top three ranks. The 'Rule of 3 Ranks' system also causes confusion for candidates, as their rank can shift wildly throughout the life of a hiring list. This one percent distinction also increases the effects of unconscious bias in hiring by denying access to candidates based on unreasonably small differences between scores in the testing process. This unconscious bias is similar to that observed in standardized tests like the SAT or ACT for college admissions. Other civil service systems have begun allowing for a more flexible ranking of candidates, such as the Banding system used by the County of Los Angeles since 1988.

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

SUPPORT: (Verified 8/1/22)

Los Angeles County Office of Education (source)
Association of California School Administrators
California School Boards Association
California School Personnel Commissioners Association
Chico Unified School District
Chico Unified School District, Personnel Commission

Downey Unified School District
Los Angeles Community College District
Pajaro Valley Unified School District
Personnel Commission of the Hacienda LA Puente Unified School District
Personnel Commission of the Long Beach Unified School District
Personnel Commission of the Los Angeles County Office of Education
Personnel Commission of the Lynwood Unified School District
San Mateo County Office of Education
Ventura County Community College District Personnel Commission

OPPOSITION: (Verified 8/2/22)

California School Employees Association

ARGUMENTS IN SUPPORT: According to the Los Angeles County Office of Education:

> Under California's current laws for hiring non-certificated staff at merit system LEAs, such as LACOE, qualified job candidates are ranked on an eligibility list for hiring consideration according to a final percentage score earned in the pre-employment examination process. According to Education Code § 45272, hiring managers may only select from the top three ranks of scores from this list, limiting hiring decisions to only three candidates in most cases.
>
> In order to provide hiring managers with opportunities to select from a more diverse pool of qualified job candidates to fill their vacancies, AB 2945 would allow LEAs to opt-in to an alternative hiring system similar to other government agencies using a "banding" approach. Some examples of agencies who have already made this change include the County of Los Angeles, State of California, and federal Office of Personnel Management. This change from the rule of three to banding, will be taken up for a majority vote by LEA employees, after an LEA's personnel commission has determined whether the change is feasible. Under this bill the term majority would mean the majority of ballots cast during the voting process.
>
> This improved method for certifying eligible job candidates maintains the integrity of merit-based hiring processes while also accounting for the limitations of predictive validity in pre-employment testing and lessening potential adverse impact against protected groups in pre-employment examinations. Furthermore, when these practices are paired with organizational initiatives promoting diversity and inclusion, they should result

in more equitable hiring practices and diverse government workforces reflecting the communities they serve.

ARGUMENTS IN OPPOSITION: According to the California School Employees Association (CSEA), although the author accepted some amendments CSEA requested regarding the election procedure for adopting banded ranking lists instead of the Rule of Three system, this bill still allows the district personnel commission to initiate the election process. CSEA is requesting additional amendments to provide that 15% of the district's classified employees from each represented unit must petition for the election rather than permitting the personnel commission to initiate the election. This presumably would ensure that no one group of classified members could change the list ranking system without broad support from the classified workforce.

ASSEMBLY FLOOR: 75-0, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Kiley, O'Donnell

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
8/3/22 14:31:22

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

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

THIRD READING

Bill No: AB 2048
Author: Santiago (D)
Amended: 6/9/22 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-0, 6/8/22
AYES: Allen, Dahle, McGuire, Skinner, Wieckowski
NO VOTE RECORDED: Bates, Stern

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-0, 5/5/22 (Consent) - See last page for vote

SUBJECT: Solid waste: franchise agreements: database

SOURCE: California Teamsters Public Affairs Council

DIGEST: This bill requires local jurisdictions or specified public agencies to post on their internet website current franchise agreements between contract waste and recycling haulers and the jurisdiction or public agencies and requires the Department of Resources Recycling and Recovery to create and maintain a publicly accessible database of those agreements.

ANALYSIS:

Existing law:

1) Establishes within the California Environmental Protection Agency the Department of Resources Recycling and Recovery (CalRecycle) to administer and oversee the Integrated Waste Management Act of 1989 (IWMA), the Beverage Container Recycling and Litter Reduction Act, and related laws pertaining to solid waste management. (Public Resources Code (PRC) §40400)

2) Enacts the IWMA, which:

   a) Establishes a state recycling goal of 75% of solid waste generated to be diverted from landfill disposal through source reduction, recycling, and composting by 2020. (PRC §41780.01)

   b) Requires each local jurisdiction to divert 50% of solid waste from landfill disposal through source reduction, recycling, and composting. (PRC §41780)

   c) Requires commercial waste generators, including multi-family dwellings, to arrange for recycling services and requires local governments to implement commercial solid waste recycling programs designed to divert solid waste from businesses. (PRC §42649)

   d) Requires that solid waste handling services be provided by the local agency, another local agency, or a solid waste enterprise. (PRC §42649)

   e) Authorizes local jurisdictions to determine: (PRC §40059)

      i) Aspects of solid waste handling that are of local concern, including frequency of collection, means of collection and transportation, level of services, charges and fees, and the nature, location, and extent of providing the services; and

      ii) Whether the services are provided by nonexclusive franchise, contract, license, permit, or otherwise, with or without competitive bidding. If the governing body determines that public health, safety, and well-being require, services may be provided by partially exclusive or wholly exclusive franchise, contract, license, permit, or otherwise, with or without competitive bidding.

3) Requires, under the California Public Records Act, that public records be available to the public upon request. (Government Code §6250 et seq)

This bill:

1) Defines, for the purposes of this legislation:

   a) "Jurisdiction" as a city, county, or regional agency that is approved by CalRecycle; and

b) "Public agency" as a state agency, a large state facility, or a special district, including a school district, that has the authority to provide solid waste handling services and that is within the territory of a jurisdiction.

2) Requires CalRecycle to create and maintain a publicly accessible database of franchise agreements between contract solid waste and recycling haulers and jurisdictions or public agencies, including electronic links to the agreements.

3) Requires local jurisdictions and public agencies to post on their internet websites all current franchise agreements between contract waste and recycling haulers and the jurisdiction or public agency and provide a direct electronic link to those agreements to CalRecycle.

Background

1) *Solid waste in California.* For three decades, CalRecycle has been tasked with reducing disposal of municipal solid waste and promoting recycling in California through the IWMA. Under IWMA, the state has established a statewide 75% reduction, recycling, and composting goal by 2020. Additionally, the state has established a target of a 75% reduction in the level of disposal of organic waste from the 2014 level by 2025. Local governments have been required to divert 50% of the solid waste generated within their jurisdictions from landfill disposal since 2000.

   According to CalRecycle's State of Disposal and Recycling Report for Calendar Year 2020, published in December 2021, approximately 77.4 million tons of material was generated in 2020; with about 52% sent to landfills; 17% exported as recyclables; 12% composted, anaerobically digested or mulched; and 13% either recycled or source reduced. According to the report: "We are falling far short of our 75 percent recycling goal and face clear evidence that an economy driven by resource extraction and single-use disposable products continues to endanger our people and imperil our planet."

2) *Taking out the trash.* Most jurisdictions in the state operate with some form of "franchise," or contract, that limits solid waste hauling within the jurisdiction to one or more specified companies. Jurisdictions have the authority to enter into franchises with waste haulers, with or without competitive bidding. Exclusive franchises authorize a single hauler to operate within a jurisdiction. Non-exclusive franchises allow for more than one hauler, but establish specific requirements for hauling within the jurisdiction. Some communities in California do not have franchise agreements, which allows solid waste businesses to compete within the jurisdiction for service contracts with

individual waste generators. These franchise agreements only apply once the waste has been discarded, individuals or businesses are free to sell recyclable materials to non-franchise companies.

3) *Franchise agreement availability.* Because local jurisdictions have control over franchise agreements, the availability of those agreements vary between jurisdictions. Some cities may post franchise agreements online, some post draft agreements that may differ from the final agreements negotiated with a hauler, and some may not post them at all. All franchise agreements are public records and as such any member of the public can potentially access them by submitting a request to the agency that entered into the agreement. However, a public records request can be an involved and sometimes lengthy or expensive process. While public records request a reasonable path for accessing a single franchise agreement, there are over a thousand local jurisdictions in California, some with multiple agreements, making it an inefficient and time-consuming project to attempt to understand and compare franchise agreements across the state.

Comments

1) *Purpose of Bill.* According to the author, "Under current law, a member of the public can access these franchise agreements by submitting a Public Records Act request to the public agency entered into the agreement. However, these requests can take a prolonged amount of time to respond to and can be costly if one is looking for multiple agencies. For example, there are 58 counties, over a thousand cities, towns, villages, and countless special districts in California. Many of these entities have these franchise agreements, making it virtually impossible to get a real regional and statewide understanding of what's happening in these franchise agreements.

   "AB 2048 will provide ease and transparency to the public regarding agreements made between local agencies and waste/recycle haulers while simultaneously providing cost and time-saving benefits. In the end, this will save constituents and interest groups time and money and create a more streamlined method to access this type of information."

2) *Why focus on waste haulers?* Local jurisdictions enter into many agreements that are a manner of public record but may not be made available online. This bill focuses on waste haulers because of the concerns regarding franchisees informing workers of contract details brought forth by the bill's sponsors. In the future the Legislature may wish to consider further legislation to require local jurisdictions to make all such agreements available online.

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

SUPPORT: (Verified 6/20/22)

California Teamsters Public Affairs Council (source)
California Labor Federation
Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force

OPPOSITION: (Verified 6/20/22)

None received

ARGUMENTS IN SUPPORT: According to the California Teamsters Public Affairs Council, "We represent thousands of members in the waste and recycling industry in California. Our employers are subject to these franchise agreements, and they often have provisions affecting the workers. Theses may include provisions dealing with compliance with worker retention rules, employee notice when contracts come for rebid, or any number of things affecting the workforce. Many of these worker provision have timetables or triggers that can be easily ignored when there is no access to the franchise agreement itself.

"The reality is that there are too many waste haul and recycle hauling agreements out there for any union or member of the public to go local government by local government with PRA requests. It would be much more efficient to have these agreements in one place so the public can view these agreements and, if necessary, hold their elected and the companies they contract with accountable. Moreover it will help facilitate better labor relations in the industry by ensuring that worker rights contained in the agreements are followed"

ASSEMBLY FLOOR: 61-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wilson, Wood, Rendon

NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Friedman, Gallagher, Cristina Garcia, Gipson, Levine, McCarty, Medina, Villapudua, Waldron, Wicks

Prepared by: Jacob O'Connor / E.Q. / (916) 651-4108
6/22/22 15:57:01

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

SENATE RULES COMMITTEE AB 2075
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2075
Author: Ting (D)
Amended: 5/2/22 in Assembly
Vote: 21

SENATE HOUSING COMMITTEE: 9-0, 6/13/22
AYES: Wiener, Bates, Caballero, Cortese, McGuire, Ochoa Bogh, Skinner, Umberg, Wieckowski

SENATE ENERGY, U. & C. COMMITTEE: 13-0, 6/27/22
AYES: Hueso, Dahle, Becker, Bradford, Dodd, Eggman, Gonzalez, Grove, Hertzberg, McGuire, Min, Rubio, Stern
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 60-9, 5/25/22 - See last page for vote

SUBJECT: Energy: electric vehicle charging standards

SOURCE: Author

DIGEST: This bill requires the California Building Standards Commission (CBSC) to convene a workshop every triennial rulemaking cycle on electric vehicle (EV) charging infrastructure standards.

ANALYSIS:

Existing law:

1) Establishes the CBSC and requires any standards adopted or proposed by state agencies to be submitted to, and approved by, the CBSC.

2) Requires various state agencies, 14 in total, to propose adoption of standards to the CBSC.

3) Requires agencies to actively consult with interested parties, including, but not limited to, investor-owned utilities, municipal utilities, manufacturers, local building officials, commercial building and apartment owners, and the building industry when proposing and adopting standards related to EV charging infrastructure.

4) Requires CBSC to publish the California Green Building Standards Code in its entirety every three years along with supplement pages 18 months after each three-year revision which includes requirements for EV charging infrastructure.

This bill:

1) Includes the State Energy Resources Conservation and Development Commission, also known as the California Energy Commission (CEC), as an interested party that the Department of Housing and Community Development (HCD) must consult with for standards associated with EV charging infrastructure.

2) Requires CBSC to convene a workshop every triennial rulemaking cycle on EV charging infrastructure standards. The workshop shall include:

   a) CBSC, the HCD, the Division of the State Architect, the State Air Resources Board, the CEC, and other relevant stakeholders.

   b) Projected demand for EV charging infrastructure.

   c) The statewide assessment of the EV charging infrastructure, electric load forecasts, and statewide transportation electrification goals prepared by the CEC.

   d) A cost effective proposed standard, if the CEC recommends a standard. Provides that a cost-effectiveness determination shall consider factors including, but not limited to, the impact on housing costs, the total statewide costs and benefits of the standard over its lifetime, the economic impact on California businesses, and any alternative approaches.

3) Specifies that the future electrification needs of buildings to include anticipated future vehicle charging standards.

Background

Pursuant to Executive order B-48-18, issued by Governor Brown in 2018, also referred to as the "ZEV Mandate," California aims to achieve five million zero-emission vehicles (ZEV) on the road by 2030 and 250,000 charging stations by 2025. Additionally, 15% of new cars sold in California must be ZEV or near-ZEV, according to the ZEV mandate. Pursuant to Executive Order N-79-20, the state has a goal to phase out the sale of new internal combustion engine vehicles by 2035. According to the California Energy Commission, in order to achieve this goal, California will require a total of 1.2 million EV chargers to support the transition.

Comments

1) *Author's statement.* According to the author, "Although the California Energy Commission (CEC) is the state's EV charging expert, it has no formal role in recommending EV charging standards for multifamily buildings, commercial buildings, or retrofits. The CEC already develops the building codes for energy efficiency considered for adoption by the Building Standards Commission, including electric vehicle charging for single-family homes. This bill empowers the CEC to use their expertise to develop necessary and cost-effective EV charging standards for all buildings prior to final BSC adoption."

2) *Where are we in achieving our goals?* According to the CEC, there were about 650,000 light-duty ZEVs at the end of 2020, of which the vast majority are battery electric vehicles or plug-in hybrids. ZEV sales share is about 12.5% of all car sales, but the majority of these sales are attributed to Tesla, which only produces battery electric vehicles. Presently, there are 79,000 electric vehicle chargers in California, about 55% percent of them are private chargers.

3) *How does this bill help in getting to our goals?* One major limitation for the switch from gas-powered cars to EVs is the availability of charging. Their price has decreased over time with some new EVs costing less than $40,000. Their range is now up to 200 miles, which is very reasonable for commuters. However, charging stations are difficult to come by. This bill helps understand how to bring charging capability to people which may make adoption more appealing because charging would become more widely available. Research from the University of California, Davis National Center for Sustainable Transportation suggests that access to charging does have a positive effect on ZEVs, even though they could not tease out quantitative information.

4) *Balancing Costs.* The Federal Department of Energy estimates the cost to be $1,000-$20,000 for a level 2 charger, a charger that can charge a battery electric vehicle overnight. The cost ranges vary wildly depending on the output and amount of work needed for the infrastructure (conduits, site improvements, upgrading electrical service, etc.), and the higher end numbers would be for complete retrofits and construction. Thus, ensuring that the cost of the infrastructure would not render publically beneficial projects infeasible is important.

5) *The California Energy Commission.* The CEC has a number of programs related to EV charging infrastructure. They also assess needs, report findings, and map chargers for EV adoption. It is understandable to include the CEC in EV charging infrastructure planning.

6) *Proposing Building Codes.* The California Building Standards Code (Title 24) serves as the basis for the design and construction of buildings in the state. California's building codes are published in their entirety every three years; intervening code adoption cycles produce supplement pages halfway (18 months) into each triennial period. Amendments to California's building standards are subject to a lengthy and transparent public participation process throughout each code adoption cycle. Through this process, relevant state agencies propose amendments to building codes, which the CBSC must then adopt, modify, or reject.

7) *Keeping the EV charging bills straight.* SB 1482 (Allen, 2022) was recently passed out of the Senate Housing Committee. It requires HCD to propose mandatory standards for level 2 charging in new multifamily dwellings. AB 1738 (Boerner-Horvath, 2022) requires HCD to propose standards to level 2 charging in retrofitted multifamily dwellings, hotels, motels, and non-residential buildings. This bill requires CBSC to convene a workshop of EV charging infrastructure standards, include the CEC in proposing standards, and anticipate future EV needs in electrification of buildings.

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

SUPPORT: (Verified 8/2/22)

350 Sacramento
350 Silicon Valley
California Electric Transportation Coalition
California Environmental Voters

California Solar & Storage Association
California Travel Association
CALSTART, Inc.
Elders Climate Action, NorCal and SoCal Chapters
Electric Vehicle Charging Association

OPPOSITION: (Verified 8/2/22)

None received

ASSEMBLY FLOOR: 60-9, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Megan Dahle, Davies, Fong, Gallagher, Nguyen, Smith, Voepel, Waldron
NO VOTE RECORDED: Berman, Chen, Choi, Flora, Gray, Kiley, Mayes, O'Donnell, Patterson

Prepared by: Andrew Dawson / HOUSING / (916) 651-4124
8/5/22 15:44:47

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

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THIRD READING

Bill No: AB 2081
Author: Eduardo Garcia (D) and Waldron (R), et al.
Amended: 5/12/22 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/1/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 70-0, 5/2/22 - See last page for vote

SUBJECT: Municipal water districts: water service: Indian lands

SOURCE: Barona Band of Mission Indians
Rincon Band of Luiseno Indians

DIGEST: This bill extends the sunset date on provisions related to delivery of water service to Indian lands to January 1, 2027.

ANALYSIS:

Existing law:

1) Authorizes a municipal water district (MWD) to sell water under its control, without preference, to cities, other public corporations and agencies, and persons within the district for use within the district. Defines "water" to include potable and nonpotable water.

2) Establishes the Cortese-Knox-Hertzberg Act, which defines the procedures for the organization and reorganization of cities, counties, and special districts.

3) Authorizes a MWD to provide new or extended services by contract or agreement outside its jurisdictional boundaries if it requests and receives written approval from LAFCO, as specified.

4) Requires, notwithstanding any other provision of law, a district, upon request of an Indian tribe and the satisfaction of specific conditions, to provide water service to the tribe's lands that are not within a district, subject to the following:

   a) The lands were owned by the tribe on January 1, 2016.

   b) The lands are contiguous with at least two district.

   c) The lands lie within the special study area of at least one district.

   d) At least 70% of the Indian tribe's total Indian lands are currently within the boundaries of one or more districts.

5) Requires the Indian tribe, before a district provides water service, to satisfy both of the following conditions:

   a) Comply with all federal and tribal laws.

   b) Acquire all federal and tribal approvals necessary for the applicable district to provide water service to the tribal lands on substantially the same terms applicable to customers of the district.

   c) Accept all terms of and payments to the district and any public agency providing water to the district.

6) Specifies that upon request of an Indian tribe, a MWD may, until January 1, 2023, apply to the applicable LAFCO to extend water service at substantially the same terms applicable to customers of the MWD to Indian lands that are not within a MWD as if the lands had been fully annexed into the MWD and into any other public agencies required for the provision of water service.

7) Requires the LAFCO to approve the application pursuant to 6) above and may impose conditions on the district with regard to the extension of service as long as those terms and conditions do not impair the provision of water service to Indian lands and are similar to those imposed on all agency service recipients without discrimination. The MWD shall provide the water extension agreement to the LAFCO.

8) Specifies that “Indian lands” are lands, as defined by federal law, that were part of the reservation or held in trust as of January 1, 2017.

9) Requires that before a MWD provides service of water to an Indian tribe, the Indian tribe must satisfy specified conditions.

This bill:

1) Extends the sunset date for a local agency to apply to a LAFCO for an extension of service to Indian lands by four years, to January 1, 2027.

2) Extends this authorization to all lands held in trust, not just those held in trust as of January 1, 2017.

3) Makes technical changes and includes findings and declarations to support its purposes.

Background

In 2018, the Legislature granted similar authority to Indian tribes statewide (AB 1361, E. Garcia, chapter 449, Statutes of 2017). Specifically, AB 1361 allowed, until January 1, 2023, a municipal water district to apply to the applicable LAFCO to extend water service at substantially the same terms applicable to customers of the district to Indian lands that are not within a district as if the lands had been fully annexed into the district and into any other public agencies required for the provision of water service. The LAFCO must approve the application, but may impose conditions on the district, as long as those terms and conditions do not impair the provision of water service to Indian lands and are non-discriminatory. The Indian tribe must comply with all federal and tribal laws and acquire all federal and tribal approvals for the service extension, and must accept all terms of and payments to the district and any public agency providing water to the district. This authorization applies to proposals to serve Indian lands that were part of a reservation or held in trust as of January 1, 2017, and sunsets on January 1, 2023, but allows the continuation of services after this date if they were already authorized.

No extensions of service have been approved under AB 1361's authority to date. However, in April 2022, the Ramona Municipal Water District board agreed to begin negotiations to sell potable and recycled water to the Barona Band of Mission Indians for existing homes, future home construction, tribal businesses, and the Tribe's resort, as well as fire protection and other non-potable uses.

Because the authorization to extend services under AB 1361 expires on January 1, 2023, two Tribes wants the Legislature to extend the sunset date to ensure sufficient time for the negotiations and LAFCO process to occur.

Comments

1) *Purpose of the bill*. According to the author, "AB 1361 has provided Indian tribes with the independence that is warranted by their sovereign nation status. Therefore, the sunset date for this statute should be extended to allow additional tribes to pursue water service when needed."

2) *The bigger picture*. The Legislature has delegated the power to control local boundaries to the 58 LAFCOs, directing the LAFCOs to discourage urban sprawl, preserve open space and agricultural lands, and ensure the efficient provision of government services, while considering local conditions and circumstances. AB 2081 extends the sunset on a process that bypasses LAFCO and circumvents the usual annexation process. Proponents of this bill argue that it is appropriate for the Legislature to exclude service extensions related to Indian tribes from the LAFCO process to reflect the tribes' unique status as sovereign nations. However, the role of LAFCOs is to examine the larger impacts that may result from a change in how local agencies provide services. Extending the sunset as provided in AB 2081 could result in unintended consequences, such as burdening other water users that use the same sources of water.

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

SUPPORT: (Verified 6/21/22)

Barona Band of Mission Indians (co-source)
Rincon Band of Luiseno Indians (co-source)
Agua Caliente Band of Cahuilla Indians
Cahuilla Band of Indians
Habematolel Pomo of Upper Lake
Pechanga Band of Luiseno Mission Indians
Sycuan Band of The Kumeyaay Nation
Viejas Band of Kumeyaay Indians

OPPOSITION: (Verified 6/21/22)

California Association of Local Agency Formation Commissions

ASSEMBLY FLOOR: 70-0, 5/2/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Daly, Davies, Flora, Mike Fong, Fong, Friedman,

Gabriel, Cristina Garcia, Eduardo Garcia, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Mia Bonta, Calderon, Megan Dahle, Gallagher, Gipson, Medina, Waldron

Prepared by: Anton Favorini-Csorba / GOV. & F. / (916) 651-4119
6/22/22 14:49:28

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

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THIRD READING

Bill No: AB 2083
Author: Bauer-Kahan (D)
Amended: 6/27/22 in Senate
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 12-0, 6/21/22
AYES: Hueso, Dahle, Becker, Bradford, Dodd, Gonzalez, Grove, Hertzberg, McGuire, Min, Rubio, Stern
NO VOTE RECORDED: Borgeas, Eggman

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 57-0, 5/25/22 - See last page for vote

SUBJECT: Public utilities: rates

SOURCE: The Utility Reform Network

DIGEST: This bill prohibits electrical and gas corporations from recovering in rates costs from legal settlement agreements, as specified.

ANALYSIS:

Existing law:

1) Establishes and vests the California Public Utilities Commission (CPUC) has regulatory authority over public utilities, including electrical corporations and gas corporations. (Article XII of the California Constitution)

2) Authorizes the CPUC to fix the rates and charges for every public utility and requires that those rates and charges be just and reasonable. (Public Utilities Code §451)

3) Prohibits electrical corporations and gas corporations from recovering fines and penalties through rates approved by the CPUC. (Public Utilities Code §748.1)

4) Requires an electrical corporation to construct, maintain, and operate its electrical lines and equipment in a manner that will minimize the risk of catastrophic wildfire posed by those electrical lines and equipment. Requires each electrical corporation to annually prepare a wildfire mitigation plan and to submit its plan to the Office of Energy Infrastructure and Safety (OEIS) for review and approval, as specified. (Public Utilities Code §8386)

5) Requires the administrator of the Wildfire Fund to review and approve claims and settlements and provide funds to the participating electrical corporations for the purposes of paying eligible claims. (Public Utilities Code §3281)

This bill prohibits an electrical corporation or gas corporation from recovering, through a rate approved by the CPUC, costs arising directly from new or additional activities expressly-agreed to by the corporation, or any direct payment, fine, or penalty paid by the corporation, in a settlement agreement resolving a criminal or civil inquiry, investigation, or prosecution, except when the CPUC determines that those costs were just and reasonably incurred.

Background

Settlements by investor-owned utilities (IOUs). Legal settlements are commonly entered into by a multitude of businesses and entities, including utilities. While the CPUC has broad regulatory authority over IOUs, the CPUC is not always privy to legal settlements entered into by IOUs and third parties, unless the CPUC is a party to the settlement or the IOU requests explicit cost recovery for all, or a portion of, the settlement. Even in cases where the CPUC may be aware of a settlement, they may not be privy to the details of the settlement between the IOU and another party due to the lack of explicit request for cost recovery or the structure of the settlement and potential requirements limiting disclosure. Nonetheless, IOU settlements may often include more than strictly monetary requirements paid for by shareholders. In some instances, legal settlements between an IOU and another party may include provisions related to the operation of the utility. These include settlements with victims' families, such as those stemming from the Pacific Gas & Electric (PG&E) San Bruno deadly natural gas pipeline explosion where victims' families secured safety operational improvements by the utility, as part of the settlement agreements, in order to prevent similar incidents in the future. In other cases, district attorneys may wish to combine monetary requirements with utility operational improvements for their community. Given the broad, sometimes qualitative, amorphous, and/or duplicative nature of non-monetary requirements in settlements, IOUs may enter into settlements with the expectation that cost recovery from ratepayers for these agreements could be granted by the CPUC.

Wildfire mitigation plans (WMPs). After numerous wildfires, including several catastrophic and deadly wildfires, the state has various passed statues to require electric utilities to mitigate wildfire risks of their equipment igniting wildfires. As a result of recent statutes, electric IOUs are required to file WMPs with guidance by the OEIS at the Natural Resources Agency, specifically the Wildfire Safety Division (WSD). The WSD reviews and determines whether to approve these plans and ensures compliance with guidance and statute. The electric IOUs' WMPs detail, describe, and summarize electric IOU responsibilities, actions, and resources to mitigate wildfires. These actions include plans to harden their system and conduct vegetation management to prevent wildfire ignitions caused by utility infrastructure. Costs related to implementing WMPs are addressed at the CPUC via a cost recovery proceeding, including the utility's general rate case.

PG&E wildfire related settlements with district attorneys. On April 11th, PG&E announced that it had reached settlements with the district attorneys in six Northern California counties to address the impacts of the Kincade Fire in 2019 and the Dixie Fire in 2021. According to PG&E:

> As a result of these agreements, no criminal charges will be filed in the Dixie Fire, and the criminal complaint regarding the Kincade Fire will be dismissed. PG&E has also entered into long-term agreements with Butte, Lassen, Plumas, Shasta, Sonoma and Tehama counties to strengthen wildfire safety and response programs and to work with local organizations affected by the fires to help rebuild impacted communities.

The utility will pay civil penalties to the counties and additional cash payments to specified community and governmental organizations totaling $55 million with a commitment that "PG&E will not seek recovery of these costs from customers." However, separate from those specific costs the utility also committed to the six county district attorneys to:

> …a five-year monitorship of its vegetation management and system inspection work in the six counties. The monitor will be independent of PG&E and will regularly report to the district attorneys on the company's progress. This role will be filled by Filsinger Energy Partners, which also serves as the Independent Safety Monitor for the CPUC. PG&E will continue to provide the resources needed to enable the monitor to meet its commitments to the CPUC, as well as additional resources needed to focus on PG&E's critical wildfire safety work in these six counties.

The "specified resources" committed to by the utility include specified safety work which is normally included in its WMPs as approved by the WSD at the OEIS, and

reviewed by the CPUC for cost recovery from ratepayers. Some of the work the utility has committed to includes the hiring of "100 new positions headquartered in or serving Sonoma County" and 100 positions in the other five counties, undergrounding distribution and transmission lines, and operating the *Enhanced Powerline Safety Settings* program in those counties.

These commitments to safety work do not appear to have been approved by the CPUC or the OEIS. It is not clear how the funding and execution of this safety work in these six counties stacks up against the safety needs and priorities of those counties compared to the other counties in the PG&E electric service territory.

Comments

AB 2083. This bill is intended to prevent electric and gas IOUs from entering into legal settlements with the expectation that the CPUC would approve cost recovery from IOU customers for the activities. As the sponsor of this bill, The Utility Reform Network (TURN), states: "AB 2083 would prevent PG&E from even attempting to pass along the costs of monetary or non-monetary remedies to its ratepayers." TURN contends this bill will help hold the utility accountable for its misdeeds, protect customers from these costs, and remove incentives for the IOU to simply offer work it had already planned on completing as part of a settlement.

Questions raised of IOU legal settlements. Given the nature of legal settlements, the lack of transparency and universe of settlements, the need to protect ratepayers from additional costs, and from implications to utility safety efforts, seems reasonable. As noted above, it is unclear how the non-monetary commitments made by PG&E with the six district attorneys stack up to other safety efforts in the IOU's WMPs. These types of settlements can raise questions about how the IOU's safety risks are being prioritized. This is especially true in relation to wildfire risk which is identified as a high threat in much of PG&E's service territory – beyond just the counties represented in the settlement agreements. These concerns can be exacerbated when the settlements entail commitments in exchange for reducing or eliminating criminal prosecution. If the CPUC denies the recovery of settlement costs in rates, the IOU would either need to recover the costs using shareholder funds, or violate the settlement which could trigger additional legal actions. The proponents of this bill wish to discourage IOUs from including activities in any legal settlements that would burden ratepayers with the costs. IOUs express concerns that in many cases it is the prosecuting district attorney and other parties who seek non-monetary actions to be included in legal settlements.

Other IOUs. This bill currently applies to electric and gas IOUs. However, the principles related to ensuring just and reasonableness of IOU legal settlements would seem to also apply to water and telephone IOU-related legal settlements.

Constitutional considerations. In seeking guidance from Legislative Counsel to ensure this bill does not run afoul of constitutional protections, including those related to the Fifth Amendment Takings Clause and Fourteenth Amendment Due Process provisions, Legislative Counsel advised, and the bill includes, language to explicitly state the CPUC's role in reviewing costs for just and reasonableness.

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

SUPPORT: (Verified 8/3/22)

The Utility Reform Network (source)

OPPOSITION: (Verified 8/3/22)

None received

ARGUMENTS IN SUPPORT: In support of this bill, TURN states this bill would "prevent PG&E from even attempting to pass along the costs of monetary or non-monetary remedies to its ratepayers." TURN argues this bill is necessary to "hold the utility accountable for the consequences of its misdeeds" and "protect ratepayers from paying even more for the operational failure of the utility."

ASSEMBLY FLOOR: 57-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Petrie-Norris, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Berman, Bigelow, Calderon, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Lackey, Mayes, O'Donnell, Patterson, Quirk, Quirk-Silva, Ramos, Seyarto, Smith, Valladares, Wilson

Prepared by: Nidia Bautista / E., U. & C. / (916) 651-4107
8/3/22 14:31:24

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

SENATE RULES COMMITTEE AB 2085
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2085
Author: Holden (D)
Amended: 8/2/22 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 6/21/22
AYES: Bradford, Kamlager, Skinner, Wiener
NO VOTE RECORDED: Ochoa Bogh

ASSEMBLY FLOOR: 53-2, 5/23/22 - See last page for vote

SUBJECT: Crimes: mandated reporters

SOURCE: Children's Law Center of California

DIGEST: This bill redefines "general neglect" for purposes of the Child Abuse and Neglect Reporting Act (CANRA) by excluding a person's economic disadvantage, as specified.

Senate Floor Amendments of 8/2/22 update the code sections amended by this bill to reflect changes made by SB 187 (Senate Budget and Fiscal Review Committee, Chapter 50, Statutes of 2022).

ANALYSIS:

Existing law:

1) Defines "severe neglect" under CANRA as the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. "Severe neglect" also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, as specified, including the intentional failure to provide adequate food, clothing, shelter, or medical care. (Penal Code § 11165.2 (a).)

2) Specifies that “the willful harming or injuring of a child or the endangering of the person or health of a child” means a situation in which any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation in which his or her person or health is endangered. (Penal Code § 11165.3.)

3) Defines “general neglect” under CANRA as the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred. (Penal Code § 11165.2 (b).)

4) Defines “child abuse or neglect” under CANRA to include physical injury or death inflicted by other than accidental means upon a child by another person, sexual abuse as defined, neglect as defined, the willful harming or injuring of a child or the endangering of the person or health of a child as defined, and unlawful corporal punishment or injury. "Child abuse or neglect" does not include a mutual affray between minors. "Child abuse or neglect" does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer. (Penal Code § 11165.6.)

5) Defines “mandated reporter” under CANRA as specific child-care custodians, health practitioners, law enforcement officers, and other medical and professional persons. (Penal Code § 11165.7.)

6) Requires any mandated reporter who has knowledge of or observes a child, their professional capacity or within the scope of their employment whom they know or reasonably suspect has been the victim of child abuse or neglect, to report it as specified, to any police or sheriff's department, a county probation department if designated by the county to receive mandated reports, or the county welfare department. (Penal Code §§ 11166 (a) 11165.9.)

7) Defines “reasonable suspicion” under CANRA as meaning that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on the person’s training and experience, to suspect child abuse or neglect. “Reasonable suspicion” does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect; any “reasonable suspicion” is sufficient. For purposes of this article, the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse. (Penal Code § 11166 (a)(1).)

8) Mandates reports of suspected child abuse or neglect to include the name, business address, and telephone number of the mandated reporter; the capacity that makes the person a mandated reporter; and the information that gave rise to the reasonable suspicion of child abuse or neglect and the source or sources of that information. If a report is made, the following information, if known, shall also be included in the report: the child's name, the child's address, present location, and, if applicable, school, grade, and class; the names, addresses, and telephone numbers of the child's parents or guardians; and the name, address, telephone number, and other relevant personal information about the person or persons who might have abused or neglected the child. The mandated reporter shall make a report even if some of this information is not known or is uncertain to them. (Penal Code § 11167 (a).)

9) States that information relevant to the incident of child abuse or neglect may be given to an investigator from an agency that is investigating the known or suspected case of child abuse or neglect. (Penal Code § 11167 (b).)

10) Allows information relevant to the incident of child abuse or neglect, including the investigation report and other pertinent materials, to be given to the licensing agency when it is investigating a known or suspected case of child abuse or neglect. (Penal Code § 11167 (c).)

11) Keeps the identity of all persons who report confidential and disclosed only among agencies receiving or investigating mandated reports. No agency or person shall disclose the identity of any person who reports under this article to that person's employer except with the employee's consent or by court order. (Penal Code § 11167 (d).)

12) Provides that notwithstanding the confidentiality requirements of these provisions, a representative of a child protective services agency performing an investigation that results from a report of suspected child abuse or neglect, as specified, at the time of the initial contact with the individual who is subject to the investigation, shall advise the individual of the complaints or allegations against them, in a manner that is consistent with laws protecting the identity of the reporter. (Penal Code § 11167 (e).)

13) Requires specified government agencies to forward to the Department of Justice (DOJ) a report of every case of suspected child abuse or neglect that it investigates and determines to be substantiated; and if a previously filed report proves to be not substantiated, the DOJ shall be notified in writing, and shall not retain that report. (Penal Code § 11169 (a).)

14) Defines "substantiated report" as a report that is determined by the investigator to constitute child abuse or neglect based on some evidence that makes it more likely than not that child abuse or neglect occurred. (Penal Code § 11165.12(b).)

15) Provides that any mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of $1,000 or by both. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect, the failure to report is a continuing offense until a specified agency discovers the offense. (Penal Code § 11166 (c).)

This bill:

1) Clarifies that for the purposes of mandating reporting, "general neglect' means that the child is at substantial risk of suffering serious physical harm or illness and that it does not include a parent's economic disadvantage.

2) Clarifies that the duty to report suspected child abuse is only required when the abuse is "reasonably" suspected.

Background

Under current law, a mandated reporter must report known or reasonably suspected "general neglect." This is defined as the "negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred." (Penal Code, § 11165.2 (b).)

Unfortunately, reporting for general neglect can often be just reporting a family for being poor, even when there is no substation risk of physical harm to the child.

This bill refines the definition of "general neglect" by stating that it is when there is no physical harm by the child is at substantial risk of suffering serious physical harm or illness. This bill also specifically states that "general neglect" does not include a parent's economic disadvantage.

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

SUPPORT: (Verified 8/2/22)

Children's Law Center of California (source)

ACLU California Action
All Saints Church Foster Care Project
California Catholic Conference
Los Angeles Dependency Lawyers, Inc.
National Center for Lesbian Rights
The Children's Partnership

OPPOSITION: (Verified 8/2/22)

None received

ARGUMENTS IN SUPPORT: ACLU California Action supports this bill stating:

> AB 2085 will address concerns with general-neglect reporting requirements that require families to be reported to child protective services agencies for poverty-related reasons by clarifying that general neglect does not include a parent's economic disadvantage. Any person could still opt to report a family for poverty-based reasons should they wish; however, mandated reporters would no longer be required to do so and would not be subject to liability for failing to report families for poverty-related reasons. We have heard from teachers, for example, who do not want to report in general neglect situations that are poverty-based but who feel they have to report because of their liability exposure if they do not report, including both criminal penalties and civil fines.
>
> Research does not support the assertion that mandatory reporting protects children; it shows in fact that it may cause more harm through increased system involvement. Many studies show that children do better at home than in foster care, and that mandated reporting does not decrease child abuse or harm. Additionally, the current mandated reporter system results in irreparable harm to families through consequences such as negative health outcomes – especially for mothers and babies who are separated by the family regulation system for issues largely related to economic insecurity, short-term removals and extended system-involvement. Nationally, in 2017, of all mandated reporter calls (approx. 4.1 million), only 9% ended in substantiated investigations (meaning there was any purported cause for concern to proceed with an investigation). Of that 9%, three quarters of cases were related to neglect, which is frequently attributed to poverty and the need for resources and support. Mandated reporting undermines such support services because families are less likely to trust support services forced upon them through this punitive intervention and system surveillance process.

Limiting the kinds of neglect that must be reported could substantially shrink the pipeline of people brought into the family regulation system for reasons unrelated to harming a child. AB 2085 would allow teachers and other mandated reporters to

not report much of what gets reported now as a result of poverty rather than negligence and clarifies general neglect reporting requirements to ensure that poverty-related reasons are addressed outside of the family regulation system while continuing to require that mandatory reporters report instances of child abuse and neglect. For this reason, ACLU California Action supports AB 2085.

ASSEMBLY FLOOR: 53-2, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Nazarian, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Davies
NO VOTE RECORDED: Berman, Mia Bonta, Chen, Choi, Megan Dahle, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Mathis, Muratsuchi, Nguyen, O'Donnell, Patterson, Petrie-Norris, Blanca Rubio, Seyarto, Smith, Valladares, Voepel, Waldron

Prepared by: Mary Kennedy / PUB. S. /
8/3/22 14:31:25

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

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THIRD READING

Bill No: AB 2089
Author: Bauer-Kahan (D), et al.
Amended: 8/1/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 6/21/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, McGuire, Stern, Wiener

SENATE HEALTH COMMITTEE: 10-0, 6/29/22
AYES: Pan, Melendez, Eggman, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Gonzalez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 70-1, 5/26/22 - See last page for vote

SUBJECT: Privacy: mental health digital services: mental health application information

SOURCE: Author

DIGEST: This bill includes mental health application information in the definition of "medical information" and the businesses that offer mental health digital services to consumers in the definition of a provider of health care for purposes of the Confidentiality of Medical Information Act (CMIA).

ANALYSIS:

Existing federal law:

1) Establishes the Health Insurance Portability and Accountability Act (HIPAA), which provides privacy protections for patients' protected health information

and generally prohibits a covered entity from using or disclosing it except as specified. (45 C.F.R. § 164.500 et seq.)

2) Provides that if HIPAA's provisions conflict with a provision of state law, the provision that is the most protective of patient privacy prevails. (45 C.F.R. § 164.500 et seq.)

Existing state law:

1) Establishes the CMIA, which establishes protections for the use of medical information. (Civ. Code § 56 et seq.)

2) Prohibits providers of health care, health care service plans, or contractors from sharing medical information without written authorization, subject to certain exceptions. (Civ. Code § 56.10.) It also requires those that create, maintain, preserve, store, abandon, destroy, or dispose of medical information to do so in a manner that preserves the confidentiality of the information. Any such entity that negligently violates that provision is subject to penalties, as specified. (Civ. Code § 56.101.)

3) Defines "medical information," for purposes of CMIA, to mean any individually identifiable information, in electronic or physical form, in possession of or derived from a provider of health care, health care service plan, pharmaceutical company, or contractor regarding a patient's medical history, mental or physical condition, or treatment. (Civ. Code § 56.05(j).)

4) Defines "provider of health care," for purposes of CMIA, to mean certain licensed or certified persons or clinics, health dispensaries, or health facilities, as specified. The term does not include insurance institutions, as defined. (Civ. Code § 56.05(m).)

5) Provides that any business organized for the purpose of maintaining medical information in order to make the information available to an individual or to a provider of health care at the request of the individual or the provider of health care, for purposes of allowing the individual to manage their information, or for the diagnosis and treatment of the individual, shall be deemed to be a provider of health care subject to the requirements of CMIA. (Civ. Code § 56.06(a).)

6) Provides that any business that offers software or hardware to consumers, including a mobile application or other related device that is designed to maintain medical information in order to make the information available to an individual or a provider of health care at the request of the individual or a provider of health care, for purposes of allowing the individual to manage their

information, or for the diagnosis, treatment, or management of a medical condition of the individual, shall be deemed to be a provider of health care subject to the requirements of CMIA. (Civ. Code § 56.06(b).)

7) Provides that any business that is licensed pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act that is authorized to receive or receives identification cards or information contained in a physician's recommendation, as provided, shall be deemed to be a provider of health care subject to the requirements of CMIA. (Civ. Code § 56.06(c).)

This bill:

1) Defines "mental health digital service" to mean a mobile-based application or internet website that collects mental health application information from a consumer, markets itself as facilitating mental health services to a consumer, and uses the information to facilitate mental health services to a consumer.

2) Defines "mental health application information" as information related to a consumer's inferred or diagnosed mental health or substance use disorder, as defined, collected by a mental health digital service.

3) Includes mental health application information in the definition of "medical information" in CMIA.

4) Provides that a business that offers a mental health digital service to a consumer for the purpose of allowing the consumer to manage their information, or for the diagnosis, treatment, or management of a medical condition of the individual, shall be deemed to be a provider of health care subject to the requirements of CMIA. However, it specifies that it does not make the business a provider of health care for purposes of any other law, including laws that specifically incorporate by reference the definitions of this part.

5) Requires any business that offers a mental health digital service, when partnering with a provider of health care to provide mental health digital services, to provide to the provider of health care information regarding how to find data breaches reported on the Attorney General's website pursuant to the data breach notification laws.

Background

Existing California and federal law strictly govern the use of a patient's medical information. These statutory frameworks favor the privacy of the patient, with caveats for the sharing of medical information when necessary for treatment.

California's CMIA allows adult patients in California to keep personal health information confidential and decide whether and when to share that information. CMIA protects "medical information," and restricts its disclosure by "providers of health care" and "health care service plans," as defined and specified.

The use of digital health products and services that collect and transmit certain health data raises serious privacy concerns. This bill addresses mental health digital services that collect mental health information and that are offered by businesses for the purpose of allowing individuals to manage their information or even for diagnosis, treatment, or management of a medical condition. This bill deems the information as medical information and the businesses offering these digital services as providers of health care, bringing them within the protective ambit of CMIA.

This bill is author-sponsored and supported by various consumer and privacy groups. There is no known opposition. (NOTE: For a more thorough analysis, please see the Senate Judiciary Committee analysis of this bill.)

Comments

Extending existing protections to sensitive medical information

The COVID-19 pandemic has arguably fundamentally altered our society and the health care system. While there was already a trend toward Californians and health care professionals relying on digital health products and services, the pandemic has expedited the process.

One particular area this is occurring in is mental health care. The pandemic has only exacerbated individuals' mental health issues, and with social distancing in full effect, many have turned to mental health apps and online mental health services. The concern with such tools is that while mental health information collected by a heath professional would be considered "medical information" and covered by existing medical privacy laws, because this information is being collected by apps and websites, meaning at the patient level and outside of a medical facility, it will not necessarily be captured under the existing definition of medical information.

Reports on these services and their information practices create legitimate concerns about how this data is being protected and how it synchronizes with consumers'

expectations.[1] Mental health information is incredibly sensitive, amplifying the impact of poor data security and any resulting breaches and identity theft. Simply the collection and utilization of this information for targeted advertising can lead to emotional harms, heightened anxiety, and even impacts beyond that depending on who receives the information.

Legislation is arguably needed to strike an appropriate balance between broadened access to mental health information and services for the public good and protection of the fundamental right to privacy. Given the sensitivity of mental health information and the increasing collection of it outside the protective ambit of our medical confidentiality laws, this bills looks to expand CMIA to cover it. This bill includes within the definition of "medical information" "mental health application information." That term is defined as information related to a consumer's inferred or diagnosed mental health or substance use disorder collected by a mental health digital service, which is a mobile-based application or internet website that collects mental health application information from a consumer, markets itself as facilitating mental health services to a consumer, and uses the information to facilitate mental health services to a consumer.

This bill also deems a business that offers such digital services to a consumer for the specific purpose of allowing them to manage their information or to diagnose, treat, or manage a medical condition a provider of a health care and therefore subject to CMIA.

This inclusion creates guardrails that are arguably necessary to protect this privately-collected but particularly sensitive information that consumers likely expect to be kept confidential. Providers of health care are subject to various requirements under CMIA. They are prohibited from sharing medical information without the patient's written authorization, subject to certain exceptions. (Civ. Code § 56.10.) A provider of health care who creates, maintains, preserves, stores, abandons, destroys, or disposes of medical information is required to do so in a manner that preserves the confidentiality of the information contained therein. Any provider of health care who negligently creates, maintains, preserves, stores, abandons, destroys, or disposes of medical information is subject to certain penalties. (Civ. Code § 56.101.) If a provider negligently creates, maintains, preserves, stores, abandons, destroys, or disposes of written or electronic medical records, they are subject to damages in a civil action or an administrative fine, as specified. (Civ. Code § 56.36.)

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[1] Thomas Germain, *Mental Health Apps Aren't All As Private As You May Think* (March 2, 2021) Consumer Reports, https://www.consumerreports.org/health-privacy/mental-health-apps-and-user-privacy-a7415198244/ [as of June 9, 2022].

This bill also places an obligation on businesses that offer these mental health digital services to provide providers of health care that they partner with information regarding how to find data breaches reported on the Attorney General's website pursuant to the Data Breach Notification Law.

According to the author:

> Apps and other digital services that provide mental healthcare use predatory advertising and misleading privacy standards to create a false sense of security for consumers. When Californians are at their most vulnerable point, they must know their information is safe and their health information is private and secure. This bill finds a balance to protect consumer's information in a uniquely sensitive and vulnerable to exploitation.

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

SUPPORT: (Verified 8/8/22)

ACLU California Action
California Psychological Association
County Behavioral Health Director's Association of California
Depression and Bipolar Support Alliance
Electronic Frontier Foundation
Steinberg Institute

OPPOSITION: (Verified 8/8/22)

None received

ARGUMENTS IN SUPPORT: ACLU California Action writes:

> Current privacy laws do not adequately protect the sensitive information collected by mental healthcare apps. In California, patient privacy is protected by the [CMIA] and [HIPAA], neither of which contemplate personal health information generated by technology outside the traditional care setting. Combined, these two laws only protect sensitive health information that is generated by healthcare providers, insurers and health plans, pharmaceutical companies, healthcare clearinghouses and businesses organized for the purpose of maintaining medical information. The information created by new health technologies, such as mental health apps, do not fall cleanly into this rubric. . . .

This highly sensitive data is shared without consumer knowledge, especially because consumers often assume their information is protected under medical privacy laws. Information people thought was going to be used to provide them care was going to advertisers and other third parties. BetterHelp, Sanity & Self, Talkspace, and Wysa apps have all been sending data to Facebook, for example.

AB 2089 is necessary to provide users with the medical privacy protections many wrongly assume mental health app data already has and to ensure the information provided to improve mental wellbeing is not used against the user.

ASSEMBLY FLOOR: 70-1, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Smith
NO VOTE RECORDED: Berman, Bigelow, Chen, Fong, Mayes, O'Donnell, Seyarto

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
8/10/22 14:24:44

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

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THIRD READING

Bill No: AB 2091
Author: Mia Bonta (D), et al.
Amended: 8/1/22 in Senate
Vote: 27 - Urgency

SENATE JUDICIARY COMMITTEE: 9-2, 6/14/22
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Stern, Wieckowski, Wiener
NOES: Borgeas, Jones

SENATE HEALTH COMMITTEE: 8-2, 6/29/22
AYES: Pan, Eggman, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NOES: Melendez, Grove
NO VOTE RECORDED: Gonzalez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 54-16, 5/26/22 - See last page for vote

SUBJECT: Disclosure of information: reproductive health and foreign penal civil actions

SOURCE: Equity California
Planned Parenthood Affiliates of California

DIGEST: This bill prohibits the validation of foreign subpoenas pertaining to a foreign penal civil action, as defined. This bill prohibits the sharing of specified information in response to subpoenas related to out-of-state anti-abortion statutes or foreign penal civil actions. This bill authorizes the Insurance Commissioner to issue civil penalties against health insurers who violate the confidentiality of an insured's medical information. This bill also prohibits prison staff from disclosing identifying medical information related to an incarcerated person's right to seek and obtain an abortion if the information is being requested is based on out-of-state

anti-abortion statutes or foreign penal civil actions. This bill declares it is to take effect immediately as an urgency statute.

ANALYSIS: Existing federal law provides that full faith and credit must be given in each state to the public acts, records, and judicial proceedings of every other state, and that the United States Congress may by general laws prescribe the manner in which such acts, records, and proceedings must be proved, and the effect thereof. (U.S. Const. art. IV, sec. 1.)

Existing state law:

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

2) Provides that a court of this state may exercise jurisdiction on any basis not inconsistent with the Constitution of this state or of the United States. (Code of Civ. Proc. § 410.10.)

3) Establishes the Reproductive Privacy Act, provides that the Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions and, therefore, it is the public policy of the State of California that every individual has the fundamental right to choose or refuse birth control and every individual has the fundamental right to choose to bear a child or to choose to obtain an abortion, with specified limited exceptions. (Health & Safe. Code § 123460 et. seq., § 123462.)

4) Requires a health insurer to recognize the right of a protected individual to exclusively exercise rights regarding medical information related to sensitive services that the protected individual has received, including reproductive health services. (Ins. Code § 791.29 (a)(2).)

5) Provides that a court of this state may exercise jurisdiction on any basis not inconsistent with the Constitution of this state or of the United States. (Code of Civ. Proc. § 410.10.)

6) Provides, under the Interstate and International Depositions and Discovery Act, the procedure for obtaining discovery in California for purposes of a case pending in a jurisdiction outside of California. (Code of Civ. Proc. § 2029.100 et seq.)

7) Provides specified rights and medical care requirements for incarcerated pregnant persons, including the right to seek and obtain an abortion. (Pen. Code § 3408 et seq.)

This bill:

1) Makes various findings and declarations, including that abortion care is a constitutional right; California is committed to building upon existing protections that preserve the right to abortion; actions against California abortion providers, patients and supporters based on hostile antiabortion statues in other states would interfere with protected rights under the Reproductive Privacy Act; and that California must protect the confidentiality of medical records related to abortion.

2) Prohibits a provider of health care, a health care service plan, a contractor, or employer from releasing medical information related to an individual seeking or obtaining an abortion in response to a subpoena or request if that subpoena or request is based on either: (a) another state's laws that interferes with a person's rights under the Reproductive Privacy Act; or (b) a foreign penal civil action, as defined. Also prohibits them from releasing that information to law enforcement for specified purposes.

3) Defines "foreign penal civil action" to mean a civil action authorized by the law of a state other than this state in which the sole purpose is to punish an offense against the public justice of that state.

4) Prohibits the superior court or an attorney licensed in California from issuing a subpoena based on a foreign subpoena that relates to a foreign penal civil action and would require disclosure of information related to sensitive services, as defined.

5) Prohibits compelling a person in a state, county, city, or other local criminal, administrative, legislative, or other proceeding to identify or provide information that would identify or is related to an individual who sought or obtained an abortion if the information being requested is based on either: a) another state's law that interferes with a person's rights under the Reproductive Privacy Act, or b) a foreign penal civil action, as defined.

6) Provides that, if the Insurance Commissioner determines that an insurer has violated specified rights and requirements providing for the privacy and confidentiality of an insured person, the Commissioner may, after appropriate

notice and opportunity for a hearing, assess a civil penalty not to exceed $5,000 for each violation, or $10,000 for a willful violation.

7) Provides the provisions of this bill are severable and declares it is to take effect immediately as an urgency statute.

Comments

The California Supreme Court held in 1969 that the state constitution's express right to privacy extends to an individual's decision about whether or not to have an abortion. *(People v. Belous* (1969) 71 Cal.2d 954.*)* Existing California statutory law provides, under the Reproductive Privacy Act, that that the Legislature finds and declares every individual possesses a fundamental right of privacy with respect to personal reproductive decisions; therefore, it is the public policy of the State of California that every individual has the fundamental right to choose or refuse birth control and the right to choose to bear a child or to choose to obtain an abortion. (Health & Safe. Code § 123462(a)-(b).) The Act further provides that it is the public policy of the state that the state shall not deny or interfere with a person's fundamental right to choose or obtain an abortion prior to viability of the fetus or when the abortion is necessary to protect the life or health of the pregnant person. (Health & Safe. Code § 123462(c) & § 123466.) In 2019, Governor Newsom issued a proclamation reaffirming California's commitment to making reproductive freedom a fundamental right in response to the numerous attacks on reproductive. rights across the nation.[1]

Roe v. Wade is the landmark U.S. Supreme Court decision that held the implied constitutional right to privacy extends to a person's decision whether to terminate a pregnancy; while allowing that some state regulation of abortion access could be permissible. ((1973) 410 U.S. 113.) *Roe* has been one of the most debated Supreme Court decisions, and its application and continued validity have frequently been challenged in the courts. On June 24, 2022 the Court published its official opinion in *Dobbs v. Jackson Women's Health* and voted 6-3 to overturn the holding in *Roe*, overturning almost 50 years of precedent.[2]

Texas recently enacted a law that essentially places a near-categorical ban on abortions beginning six weeks after a person's last menstrual period. This law has far-reaching implications, not solely for a person obtaining an abortion or performing abortion services, as it prohibits anyone from "aiding and abetting" a

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[1] California Proclamation on Reproductive Freedom (May 31, 2019) available at https://www.gov.ca.gov/wp-content/uploads/2019/05/Proclamation-on-Reproductive-Freedom.pdf.
[2] *Dobbs v. Jackson Women's Health* (2022) 597 U.S. _ (141 S.Ct. 2619) at p. 5, available at https://www.supremecourt.gov/opinions/21pdf/19-1392_6j37.pdf.

person in obtaining an abortion. (Tex. Health & Safety Code § 171.208.) This potentially implicates and imposes significant civil liability upon a person providing transportation to or from an abortion clinic, a person donating to a fund to assist individuals receiving an abortion, or even a person who simply discusses getting an abortion with someone. The Texas law provides that any person, other than an officer or employee of a state or local governmental entity in Texas, may bring a civil action to enforce its provisions, which includes liability of $10,000 plus costs and fees if a plaintiff prevails while a defendant is prohibited from recovering their own costs and fees if they prevail. (*Id*. at § 171.201(b) & (i).)

This bill seeks to further the public policy of this State that access to abortion is a fundamental right by providing protection to individuals seeking to exercise that right and to ensure their privacy. This bill prohibits a provider of health care, health care service plan, a contractor, or employer from releasing medical information related to an individual seeking or obtaining an abortion in response to a subpoena or request if that subpoena or request is based on either: a) another state's laws that interfere with a person's rights to choose or obtain an abortion, or b) a foreign penal civil action, as defined. This bill prohibits a person from being compelled in a state, county, city, or other local criminal, administrative, legislative, or other proceeding to identify or provide information that would identify or that is related to an individual who has sought or obtained an abortion if the information is being requested based on either of those instances. This bill prohibits the issuance of a subpoena by a state court or an attorney licensed in this state based on a foreign subpoena that relates to a foreign penal civil action and would require disclosure of information related to sensitive services.

Article IV, Section 1 of the U. S. Constitution, known as the Full Faith and Credit Clause, requires every state to give full faith and credit to the public acts (statutes), records, and judicial proceedings of every other state. As this bill requires certain orders and judgments of other states to not be enforced in California, it implicates the Full Faith and Credit Clause. Current legal scholarship regarding the Full Faith and Credit Clause posits that the clause applies differently to public acts (statutes), records, and judicial proceedings.[3] The Court has generally held, dating back to 1813, that states must recognize and enforce the judicial determinations of another state. (*Mills v. Duryee* (1813) 7 Cranch 481, 484-485.) However, the Court has intimated that there may be exceptions to this general rule, stating that states are not automatically required to enforce civil judgments of another state that are based on that state's civil statutes when the goal or purpose of the civil statute is

[3] Redpath***, Between Judgment and*** *Law: Full Faith and Credit, Public Policy, and State Records* (2013) 62 Emory L.J. 639.

punishing a person for an offence against the "public justice." (*Huntington v Attrill* (1892) 146 U.S. 657, 673-674.)

It can be plausibly argued that the Texas statute, and others like it, are designed to punish an offense against the public justice. They do not require any actual harm or violation of personal rights for a plaintiff to bring a civil suit to enforce its provisions. As such, the $10,000 civil penalty cannot be intended to compensate the plaintiff for a personal injury or remedy a specific harm. Statutes regulating abortion have historically been enforced through criminal prosecutions or by state regulatory agencies as public health measures. Further evidence that the purpose of the Texas law is penal is found in statements made by John Seago, the legislative director of Texas Right to Life, which was a sponsor of the Texas bill, where he stated one motivation for enacting the law was because district attorneys publicly signed a letter stating they will not enforce laws that criminalize abortion.[4] If in-state district attorneys refuse to enforce laws to punish an offense against the public justice of that state, it seems even more absurd to require courts of another state to, especially when the out-of-state policy is diametrically opposed to the public policy of this state and would require California to undermine fundamental rights.

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

SUPPORT: (Verified 8/8/22)

Equality California (co-source)
Planned Parenthood Affiliates of California (co-source)
Lieutenant Governor Eleni Kounalakis
Attorney General Rob Bonta
American College of Obstetricians and Gynecologists District IX
California Academy of Family Physicians
California Alliance for Retired Americans
California Department of Insurance
California Federation of Teachers AFL-CIO
California High School Democrats
California Legislative Women's Caucus
California Nurse Midwives Association
California Nurses Association
California Pan-Ethnic Health Network
City of Los Angeles

[4] Emma Green, *What Texas Abortion Foes Want Next*, (Sep. 2021) The Atlantic, available at: https://www.theatlantic.com/politics/archive/2021/09/texas-abortion-ban-supreme-court/619953/.

City of Oakland
Electronic Frontier Foundation
Los Angeles County Democratic Party
NARAL Pro-Choice California
National Association of Social Workers, California Chapter
Oakland Privacy
Santa Barbara Women Lawyers
Stanford Health Care
Stronger Women United
University of California

OPPOSITION: (Verified 8/8/22)

Right to Life League
Concerned Women for America
Four individuals

ARGUMENTS IN SUPPORT: The author writes:

> States throughout the U.S. have been targeting and restricting abortion access. With the U. S. Supreme Court likely to overturn the protections granted under *Roe v. Wade,* it is essential for states like California to double down on abortion access and strong abortion related privacy protections. Regressive abortion laws, like we most recently saw in a Texas law that allows private citizens to sue anyone who even utters the word abortion, are a huge infringement on a person's constitutional right to an abortion. We know that people are coming to California to seek reproductive care. However, we worry that private citizens will demand the medical records of those who seek care here in California, in order to punish them. No one should be able to manipulate California's legal system to target and punish people who seeks care and refuge here. My bill will ensure out of state subpoenas, which seek information related to a patient who received reproductive healthcare here in California, are not granted. By doing this, California will protect the medical privacy of those patients who may be targeted under these hostile states' laws. California must proactively protect the confidentiality of medical records, related to abortion care, especially as we see states around the country paving the way to use those records to enforce their own state's anti-abortion laws.

Planned Parenthood Affiliates of California, a sponsor of this bill, write:

> […The Texas law relies on private citizens, even those who have no connection to the person seeking the abortion, to enforce the abortion ban by

filing civil lawsuits against abortion providers and those who assist people in obtaining abortions. Unfortunately, the U.S. Supreme Court has upheld this scheme to circumvent judicial review of an unconstitutional state law and lawmakers in 18 states have now introduced or announced they will introduce legislation to ban abortion modeled after the Texas law. As people in these states travel out of state to seek abortion care, more and more patients will turn to California for care – putting abortion providers and patients at risk of civil liability.

AB 2091 takes specific steps to protect patient privacy by prohibiting health plans, health care providers, and their contractors from disclosing medical information of a person seeking an abortion in response to a subpoena based on the violation of another state's law and by ensuring that an out of state subpoena is not immediately granted as it relates to a patient who received an abortion in California. The bill also protects an individual from being compelled to disclose information that would identify an individual who sought or obtained an abortion. Additionally, it authorizes the Insurance Commissioner to assess a civil penalty against an insurer that has disclosed an insured's confidential medical information. These actions are just a few steps necessary to protect patient privacy for all patients seeking care in California. […]

ARGUMENTS IN OPPOSITION: The Right to Life League writes in opposition:

[…] [A]B 2091 will effectively grant immunity from foreign subpoenas to sexual abusers and human traffickers who coerce women and minors into pregnancy termination in other states then flee to California to avoid the legal consequences. SB 2091 is dangerous because it declares another state's court orders to have no effect, thwarting enforcement of foreign laws against abusers and human traffickers who may hide in California, denying justice to victims.

[A]B 2091 would remove consequences for proven abuse and neglect by extending legal protection to abusers fleeing other states, thereby covering the tracks of abortion coercion. The bill will embolden bad actors to exploit women. […]

ASSEMBLY FLOOR: 54-16, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooper, Daly, Mike

Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NOES: Bigelow, Chen, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Voepel, Waldron

NO VOTE RECORDED: Berman, Choi, Cooley, Cunningham, Mayes, O'Donnell, Valladares, Villapudua

Prepared by: Amanda Mattson / JUD. / (916) 651-4113
8/10/22 14:24:45

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

SENATE RULES COMMITTEE AB 2096
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

CONSENT

Bill No: AB 2096
Author: Mullin (D), et al.
Amended: 8/1/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 10-0, 6/29/22
AYES: Pan, Melendez, Eggman, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Gonzalez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 72-0, 5/19/22 (Consent) - See last page for vote

SUBJECT: Chemical dependency recovery hospitals

SOURCE: Sutter Health

DIGEST: This bill permits chemical dependency recovery hospital (CDRH) services to be collocated as a distinct part with other services or distinct parts of its parent facility, as specified. This bill permits CDRH services to be provided within a hospital building that has been removed from general acute care use, recasts existing law, and makes other conforming changes.

ANALYSIS:

Existing law:

1) Licenses and regulates health facilities, which are facilities licensed for the treatment of individuals who are admitted for a period of 24 hours or longer, by the California Department of Public Health (CDPH), including general acute care hospitals (GACHs). [HSC §1250, et seq.]

2) Establishes CDRH, licensed by CDPH, to provide 24-hour inpatient care for persons who have a dependency on alcohol or other drugs, or both alcohol and other drugs and includes the following basic services: patient counseling, group therapy, physical conditioning, family therapy, outpatient services, and dietetic services. Requires each CDRH to have a medical director who is a physician licensed to practice in this state. [HSC §1250.3]

3) Permits CDRH services to be provided as a supplemental service in existing general acute care beds and acute psychiatric beds in a GACH or in existing acute psychiatric beds in an acute psychiatric hospital (APH) or in existing beds in a freestanding facility. Requires a GACH, APH, or freestanding facility, when providing chemical dependency recovery services as a supplemental service, to provide the supplemental services in a distinct part of the hospital or freestanding facility, if the distinct part satisfies the criteria established by law and regulation for approval as a CDRH supplemental service. [HSC §1250.3]

4) Defines "distinct part" as an identifiable unit of a hospital or a freestanding facility accommodating beds, and related services, including, but not limited to, contiguous rooms, a wing, a floor, or a building that is approved by CDPH for a specific purpose. Prohibits a separate license or reclassification of beds under the health planning laws when CDRH services are provided as a supplemental service. [HSC §1250.3]

5) Exempts all freestanding CDRHs from seismic requirements. [HSC §1275.2]

6) Makes a Legislative declaration that significant cost reductions can be achieved by CDRHs when architectural requirements established by CDPH encourage a flexible and open construction approach that significantly reduces capital construction costs, and programs are designed to provide comprehensive inpatient treatment while permitting substantial flexibility in the use of qualified personnel to meet the specific needs of the patients of the CDRH. [HSC §1250.3]

This bill:

1) Permits CDRH services to only be co-located as a distinct part with other services or distinct parts of its parent GACH or APH.

2) Permits CDRH services to be provided within a hospital building that has been removed from general acute care use.

3) Requires a separately licensed CDRH that is not a distinct part of a GACH to have agreements with one or more GACHs providing for 24-hour emergency service and pharmacy, laboratory, and any other services that CDPH may require.

4) Prohibits a distinct part from being licensed under another distinct part of a health facility.

5) Adds the permission of the use of freestanding facilities to the Legislative declaration in existing law related to significant cost reductions achieved by CDRHs.

6) Recasts existing law and makes other conforming changes.

Comments

1) *Author's statement.* According to the author, this bill is a very important bill for the district. There is only one other CDRH in northern California, and a severe overall shortage of CDRH services at a time when addictive illnesses are rising during the pandemic. Almost one in ten people aged 12 and above, and one in six ages 18-25 have a substance use disorder (SUD), but only one in five with this diagnosis receive treatment. Mills-Peninsula Medical Center (Mills-Peninsula), located in San Mateo County, has been providing inpatient CDRH services since 1981, and for the past nine years at its current location. Establishing a new CDRH would address a critical shortage of services for the San Francisco Peninsula and the Bay Area. Due to an anomaly in the law that requires CDRHs to be in freestanding facilities, Mills Peninsula was forced to close, ending SUD treatment for those patients. Health facilities have existing space within existing buildings that can provide CDRH services. This bill will allow these services to be provided in existing facilities and be located in non-freestanding buildings.

2) *CDRHs.* CDRH are the medical model facilities that treat those with SUDs, versus the California Department of Health Care Services' licensed residential treatment facilities, which are the nonmedical, social model. CDRHs allows the most comprehensive range of chemical dependency (CD) services including inpatient medical withdrawal management to longer term CD rehabilitation/residential, to intensive CD outpatient programs. There is only one other CDRH in northern California, and a severe overall shortage of CD

services, at a time when SUDs are rising during the pandemic. Currently in California there are seven independently licensed CDRHs, with a total of 429 beds, and two CDRHs licensed as "distinct part" facilities under a hospital license with a total of 66 beds.

3) *Mills-Peninsula.* Existing law requires a CDRH to be in one of three approved building types: a GACH, an APH, or a "freestanding" facility. The San Mateo campus of Mills-Peninsula is not any of these building types, but the location is a former acute care general hospital that houses inpatient psychiatric services and ambulatory services. The building is a former hospital building that did not meet seismic safety requirements and was removed from use as a GACH. HCAI deems the building as "1-R" which means it has no seismic rating. CDRHs are not required to meet seismic safety requirements. According to Sutter Health, sponsors of this bill, Mills Peninsula relocated their CDRH nine years ago and only within the past two years HCAI reinterpreted the meaning of "freestanding," which deemed Mills Peninsula out of compliance with CDRH requirements.

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

SUPPORT: (Verified 8/8/22)

Sutter Health (source)
California Council of Community Behavioral Health Agencies
California Hospital Association
California Medical Association
County Behavioral Health Directors Association
San Mateo County Board of Supervisors
Steinberg Institute

OPPOSITION: (Verified 8/8/22)

None received

ARGUMENTS IN SUPPORT: Sutter Health, sponsor of this bill, states that Mills-Peninsula applied to CDPH for its CDRH license with new and expanded services at its San Mateo Campus location. Unfortunately, Mills-Peninsula received new guidance that the CDRH could not be licensed in its current space, and that the CDRH would need to be separately licensed as a freestanding facility. Following CDPH guidance, a new, separate CDRH entity was created and licensing application submitted. Mills Health Center was then informed that the project was blocked by the California Department of Health Care Access and

Information (HCAI) because a CDRH license was incompatible with the selected location. CDPH stated the project could not move forward without HCAI approval; no solutions were offered by either entity. Sutter states this bill clarifies that the flexible and open construction approach referenced in existing law includes the use of non-freestanding facilities in the establishment of CDRHs. Sutter Health argues that using existing space, rather than building, buying, or leasing a freestanding facility, will save CDRH providers substantial capital and allow for the proliferation of these much-needed services in the community. Other supporters echo this argument.

ASSEMBLY FLOOR: 72-0, 5/19/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Cervantes, Medina, Nazarian, Quirk-Silva, Blanca Rubio

Prepared by: Reyes Diaz / HEALTH / (916) 651-4111
8/10/22 14:24:38

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

SENATE RULES COMMITTEE AB 2122
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

CONSENT

Bill No: AB 2122
Author: Choi (R), et al.
Amended: 3/9/22 in Assembly
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 6/8/22
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, McGuire, Pan

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-0, 5/5/22 (Consent) - See last page for vote

SUBJECT: Public postsecondary education: mental health hotlines: student identification cards

SOURCE: Generation Up

DIGEST: This bill requires each campus of a California State University (CSU) and the California Community Colleges (CCC), and request each campus of the University of California (UC), with a campus mental health hotline to have printed on either side of student identification cards the telephone number of their mental health hotline or the city's or county's mental health hotline, for which the campus is located, if the campus does not have a campus mental health hotline.

ANALYSIS:

Existing law

1) Specifies commencing July 1, 2019, a public or private institution of higher education that issues student identification cards shall have printed on either side of the student identification cards the telephone number to the "National Suicide Prevention Lifeline" and may include the telephone number of "Crisis Text Line," campus police or security, the local suicide prevention hotline telephone number, or the local non-emergency telephone number if the campus

does not have a campus police or security telephone number. (Education Code § 215.5(b)(1))

2) Clarifies October 1, 2020, a public or private institution of higher education that issues student identification cards shall have printed on either side of the student identification cards the telephone number for either the "National Domestic Violence Hotline" or a local domestic violence hotline. (EC § 215.5(b)(2))

3) States commencing July 1, 2019, a public school, including a charter school, or a private school, that serves pupils in any of grades 7 to 12, inclusive, and that issues pupil identification cards shall have printed on either side of the pupil identification cards the telephone number to the "National Suicide Prevention Lifeline" and may include the telephone number for the "Crisis Text Line" or a local suicide prevention hotline. (EC § 215.5(a))

This bill requires each campus of a CSU and CCC, and request each campus of UC, with a campus mental health hotline to have printed on either side of student identification cards the telephone number of their mental health hotline or the city's or county's mental health hotline, for which the campus is located, if the campus does not have a campus mental health hotline. Specifically, this bill:

1) Requires each campus of a CSU, CCC, and requests each campus of the UC, to have printed on either side of student identification cards the telephone number of their campus mental health hotline, if that campus has a campus mental health hotline.

2) Requires each campus of a CSU, CCC and request each campus of the UC, to have printed on either side of student identification cards the telephone number of their city's or county's mental health hotline, for which the campus is located, if the campus does not have a campus mental health hotline.

3) Clarifies that the telephone number of a campus's mental health hotline or the campus's city or county mental health hotline must be affixed on a student's identification card if it is issued for the first time or to replace a damaged or lost identification card anytime on or after January 2023.

4) Authorizes each campus of a CSU, CCC, and UC without a campus mental health hotline to establish a campus mental health hotline for students to access mental health services remotely.

Comments

1) *Need for the bill.* According to the author, "With academic and economic burdens of higher education, college students face an overwhelming amount of pressure and struggle from a variety of mental health issues ranging from depression to anxiety. The 2018 National College Health Assessment discovered that in 2018, "63% of college student's surveyed felt overwhelming anxiety, 42% felt so depressed that it was difficult to function, 62% felt very lonely and 12% seriously considered suicide […] Such mental health struggles have only been exacerbated during the COVID-19 pandemic when feelings of isolation, financial burdens, and grief have increased at alarming rates. According to an Active Minds survey in 2020, 80% of college students reported feeling that their mental health was negatively impacted by COVID-19 while 85% reported that focusing on school and work has been the most difficult struggle with the stay-at-home orders […] AB 2122 builds upon SB 972 (Portantino, 2018), which requires public and private schools that serve pupils in any grades 7-12 and that issue student identification (ID) cards, and public or private institutions of higher education that issue student ID cards, to have printed on either side of the cards the telephone number for a suicide prevention hotline.

2) *UC, CSU, and CCC campus mental hotline.* As noted in the Assembly Higher Education analyses, 13 of the 23 CSU campuses have campus mental health hotlines. Additionally, nine of the 10 UC campuses have campus mental health hotlines. It is presently unclear if any of the 116 CCC campuses have campus mental health hotlines.

3) *Room for information on identification cards?* Current law requires Institutions of Higher Education (IHE) to provide the National Suicide Prevention Lifeline and either the local suicide prevention hotline telephone number or the local non-emergency telephone number if the campus does not have a campus police or security telephone number. Furthermore, current statute authorizes an IHE to include additional information such as the "Crisis Text Line" or a local suicide prevention hotline telephone number. This information is in addition to a student's name, identification number, photo, barcode, school logo, or any other information that an IHE has deemed necessary to include. A student identification card is roughly the same size as a State Driver's license. Thus, only a finite amount of information can be affixed to a student identification card.

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

SUPPORT: (Verified 8/8/22)

Academic Senate for California Community Colleges
California Council of Community Behavioral Health Agencies
California State Association of Psychiatrists
Generation Up
San Jose Evergreen Community College District
Student Senate for California Community Colleges

OPPOSITION: (Verified 8/8/22)

None received

ARGUMENTS IN SUPPORT: According to the San Jose-Evergreen Community College District (SJECCD), "The Pandemic these past 2+ years has further impacted the well-being of many of our community college students who were already dealing with mental health issues like depression and anxiety. More of our students reported that their mental health negatively affected their academic performance in this period. Last year, the Legislature approved additional state funding for mental health counseling services. We want to thank you for this support. The proposed campus mental health hotline and scripting the phone number onto the student ID card will help our students to be able to reach out for professional assistance."

ASSEMBLY FLOOR: 61-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wilson, Wood, Rendon

NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Friedman, Gallagher, Cristina Garcia, Gipson, Levine, McCarty, Medina, Villapudua, Waldron, Wicks

Prepared by: Kordell Hampton / ED. / (916) 651-4105
8/10/22 15:04:45

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

SENATE RULES COMMITTEE AB 2133
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2133
Author: Medina (D)
Amended: 3/23/22 in Assembly
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-0, 6/29/22
AYES: Cortese, Durazo, Newman, Wiener
NO VOTE RECORDED: Ochoa Bogh

ASSEMBLY FLOOR: 51-14, 5/16/22 - See last page for vote

SUBJECT: Wages: final payments

SOURCE: Author

DIGEST: This bill reduces the amount of time to pay any terminated employee's unpaid wages for specified seasonal employers from 72 hours to 48 hours.

ANALYSIS:

Existing law:

1) Orders an employer who discharges an employee to pay any wages earned and unpaid at the time of discharge to that employee immediately. (Labor Code §201)

2) Requires that if an employer willfully fails to pay the wages of a terminated employee those wages shall continue to accrue as a penalty from the due date thereof at the same rate until paid or until an action is commenced in court or by the Labor Commissioner. The additional accrual of wages shall not continue for more than 30 days. An employee who attempts to avoid receiving this payment from the employer or who refuses to receive the payment when fully tendered to them, including any penalty then accrued under this section, is not entitled to any benefit under this section for the time during which the employee so avoids payment. (Labor Code §203)

3) Allows an employer who lays off a group of employees by reason of termination of seasonal employment in the curing, canning, or drying of any variety of perishable fruit, fish, or vegetables to fulfill the above requirements if those employees are paid within 72 hours of termination. (Labor Code §201)

This bill reduces the amount of time an employer of seasonal employees in the curing, canning, or drying of any variety of perishable fruit, fish, or vegetables has to pay their employees after termination to 48 hours.

Comments

Need for this bill? Existing law provides that employers are obligated to pay their employees on time and in full, on a schedule that provides for regular pay days in reasonable intervals. These requirements are especially important in the event that an employee is terminated, where there are immediate and important expenses that workers cannot afford to delay. For this reason, wages owed to employees are generally due to that employee upon being terminated.

Exceptions exist in industries with seasonal and temporary workers, such as farming and canning, where there is more of an expectation that work will end at the conclusion of a harvest or large drying or canning order. In these specified industries, employers are able to delay final payment of wages for up to 72 hours, in order to coordinate and calculate wages for a large number of terminations at once. AB 2133 reduces this time period from 72 hours to 48 hours for employers of seasonal employees in the curing, canning, or drying of any variety of perishable fruit, fish, or vegetables.

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

SUPPORT: (Verified 7/14/22)

None received

OPPOSITION: (Verified 7/14/22)

None received

ASSEMBLY FLOOR: 51-14, 5/16/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Maienschein, McCarty, Medina, Mullin, O'Donnell, Petrie-Norris, Quirk,

Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Choi, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Mathis, Nguyen, Patterson, Smith, Voepel, Waldron
NO VOTE RECORDED: Chen, Cunningham, Gray, Lackey, Low, Mayes, Muratsuchi, Nazarian, Quirk-Silva, Blanca Rubio, Seyarto, Ting, Valladares

Prepared by: Jake Ferrera / L., P.E. & R. / (916) 651-1556
7/28/22 10:33:08

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

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

THIRD READING

Bill No: AB 2154
Author: Cooley (D)
Amended: 6/13/22 in Senate
Vote: 27

SENATE INSURANCE COMMITTEE: 8-0, 6/22/22
AYES: Rubio, Bates, Dodd, Hertzberg, Hueso, Melendez, Portantino, Roth
NO VOTE RECORDED: Jones, Borgeas, Glazer, Hurtado

ASSEMBLY FLOOR: 65-0, 5/12/22 - See last page for vote

SUBJECT: California Insurance Guarantee Association

SOURCE: California Insurance Guarantee Association

DIGEST: This bill simplifies the California Insurance Guarantee Association's (CIGA) bonding authority and deletes a sunset on that authority; provides a statutory mechanism for use by CIGA to impose a surcharge on new licensees and existing licensees that begin writing a new line of business; and clarifies CIGA's obligation to cover cyber security insurance policy claims in the event of the insolvency of a company writing this type of insurance.

ANALYSIS:

Existing law:

1) Establishes CIGA to pay "covered claims" of insolvent member insurers up to $500,000 per claim for all insurance policies except workers' compensation claims, which are unlimited, as specified.

2) Requires each insurer admitted to transact insurance in this state in three specified classes of insurance – (1) workers' compensation, (2) auto and homeowners, and (3) all other property/casualty insurance – to participate in CIGA as a condition of doing business.

3) Requires CIGA to allocate levy assessments and claims payments and costs based on the three categories of insurance.

4) Defines "covered claims," and expressly limits CIGA's authority to make payments to only those claims that are specifically enumerated.

5) Authorizes CIGA to levy an assessment of up to 1% of direct written premium of insurers in each assessment category to pay covered claims.

6) Authorizes the California Department of Insurance (CDI) to issue bonds on behalf of CIGA to provide for rapid payment of covered claims that arise as a result of a natural disaster.

7) Creates the Insurance Assessment Bond Fund (IABF), and specifies that proceeds from the sale of bonds in #6 above and insurance assessments to repay those bonds are deposited in the IABF.

8) Authorizes CIGA to issue up to $1.5 billion in bonds through the Infrastructure and Economic Development Bank (IEDB) by January 1, 2026 to pay workers' compensation claims and efficiently manage its cash flow needs, as specified.

9) Establishes the Workers' Comp Bond Fund (WCBF), and specifies that proceeds from the sale of bonds in #8 above shall be deposited in that Fund.

10) Authorizes the CIGA board of directors to request the IEDB to issue bonds when it determines that the insolvency of one or more workers' compensation insurers will result in covered claims in excess of CIGA's capacity to pay from current funds.

11) Allows CIGA to levy an assessment on workers' compensation insurers, based upon direct premium collected, for the purpose of paying off the bonds.

12) Requires member insurers to recoup the premium assessment charge through a surcharge on premiums charged for insurance policies in the year following the premium charge.

This bill:

1) Repeals the provisions relating the issuance of bonds by the CDI to pay covered claims after a natural disaster in favor of streamlining the two authorities.

2) Authorizes CIGA to ask the IEDB to issue bonds if it determines the insolvency of member insurers writing auto and homeowners' insurance and all other insurance will exceed CIGA's ability to pay covered claims from current funds.

3) Authorizes CIGA to levy an assessment on member insurers writing homeowners' and auto insurance and other insurance to pay the principal and interest on the bonds issued for that claims category, which would be recouped by insurers through a surcharge on applicable policies.

4) Creates the Homeowners' and Automobile Bond Fund and the Other Bond Fund into which the proceeds from the sale of bonds would be deposited.

5) Specifies that obligations under a policy issued to cover cyber security are covered claims, but limits CIGA's liability to $1,000,000 or the policy limits, whichever is less.

6) Requires an insurer to recoup the premium charge amount through a surcharge of premiums, even if a premium charge has not yet been paid to CIGA because the member insurer had no direct written premium for that category of insurance for the prior year.

7) Requires the CIGA board, whenever it requests the IEDB to issue bonds, to within 60 days of the request report to the Assembly Committee on Insurance and the Senate Committee on Insurance, and annually thereafter while bonds remain outstanding:

   a) The amount of the bonds requested;

   b) The reason for the requested bonds;

   c) Details of covered claims obligations requiring the issuance of bonds; and

   d) Planned bond repayment assessments.

Background

According to the author:

> AB 2154 allows the California Insurance Guarantee Association (CIGA) to have an efficient funding mechanism when responding to catastrophic events such as wildfires or insolvency in the insurance

market. In particular, this bill streamlines the process by creating one set of procedures and creates a track record that will make such funding readily accessible and less costly. AB 2154 also sets forth a new member surcharge to address a potential gap in the CIGA statute to address and avoid unfair competition issues. Additionally, AB 2154 clarifies CIGA's obligation for cyber security insurance in the event of an insolvency of such coverage.

CIGA was created by legislation in 1969 as an association of insurers that makes payments to policyholders of property/casualty, workers' compensation and "miscellaneous" insurers when a member insurance company becomes insolvent and is unable to do so. It is a statutory entity that depends on the establishing legislation for its existence and for a definition of the scope of its powers, duties and protections. All states have an insurance guarantee association, and most, including CIGA, are based on the National Association of Insurance Commissioners Model Act of 1969.

CIGA is funded by premium surcharges upon applicable lines of insurance. CIGA issues no policies, collects no premiums, makes no profits, and assumes no contractual obligations to insureds. Generally speaking, CIGA accepts the assets and liabilities of companies and makes payments from the assets, earnings on investments, and assessments levied on member insurance companies. Since its inception, CIGA has never failed to pay a claim.

CIGA is unique as a regulated entity, even among California's hybrid state/private entities such as the California Earthquake Authority and the State Compensation Insurance Fund, because by statute it is established by insurance companies as an involuntary association as a condition of those companies transacting insurance business in California, much like the FAIR Plan. The purpose of CIGA is to pay "covered claims" of member companies that have failed. CIGA's total liability for any single claim is $500,000, other than claims for workers' compensation, which are not limited. CIGA does not have to pay a claim if other insurance is available to pay the claim.

CIGA maintains three separate funds that guarantee different lines of insurance: property/casualty, workers' compensation, and "other." The funds are assessed and maintained separately, with an assessment on property/casualty insurance providing the resources to pay claims of insolvent property/casualty insurers and assessments on workers' compensation insurance providing the resources to pay claims of insolvent workers' compensation claims, and so on for "other" claims.

CIGA only levies the assessment to cover its claims and costs, and so has not always levied the maximum allowable assessment. If one of the funds is under-funded, CIGA can levy an additional assessment up to the maximum to replenish it. CIGA also relies on distributions from insolvent estates and investment income. The Conservation and Liquidation Office of the CDI actually controls and liquidates the insolvent insurers' estates, and determines when or if CIGA receives any distributions from the estate. CIGA cannot count on any such proceeds until actually received. Estate recoveries usually occur many years after CIGA has paid claimants and often represent only a fraction of what it has paid for the covered claims. The rest is paid by assessments on member insurers.

As a result of a crisis in the workers' compensation market in the late 1990s and early 2000s, and the insolvency of 27 workers' compensation insurers, most of CIGA's claims volume have been workers' compensation claims—claims that have no cap. Workers' compensation is a "long tail" line, meaning the ultimate payment on individual claims is not known for a long time after the policy is issued, possibly decades. Injured workers have a right to up to lifetime medical benefits to remediate a workplace related injury. Some workers with severe injuries may be entitled to a lifetime pension. CIGA did issue bonds to pay workers' compensation claims after the wave of insolvencies, but does not currently have any outstanding bonds for this purpose.

CIGA to date has never had to request CDI to issue bonds to pay natural disaster claims. At the same time, although insolvencies among property/casualty insurers are rare, increasing wildfire losses, climate change, and the ever-present earthquake threat could change that quickly and lead to the need for CIGA to respond quickly to pay covered claims of insurers other than the workers' compensation category.

Last year, the Legislature approved yet another extension of CIGA's workers' compensation bonding authority to 2026. There is no sunset date on the natural disaster bonding authority. This bill seeks to streamline and consolidate CIGA's bonding authority into one bond issuer—the IEDB, while maintaining the separate issuance and repayment mechanisms for the three separate categories of insurance covered by CIGA, and eliminates the need for periodic legislative review of the sunset.

CIGA currently has no authority to require new insurers or insurers writing a new line of business to collect a bond repayment assessment in its first year of writing coverage in one of the three categories because the assessment amount is based on the previous year's written premium. According to CIGA, this creates an unfair

competition issue because the new insurer, by not having to include the surcharge in its premiums, has a competitive price advantage over established insurers in that line of business. This bill would require new insurers and those writing in a new line of business to collect the relevant assessment on its policies and remit within 60 days of the end of the calendar year.

Cyber insurance is a relatively new line of insurance, and current statutes are silent on the issue of whether the insolvency of an insurer writing such policies would be considered covered claims for purposes of CIGA. In addition, it is not clear in which category cyber insurance would fall. CIGA notes this is not a problem unique to California, and believes clarification is needed to remove any ambiguities as to coverage and the amount of the coverage cap. This bill expressly adds cyber insurance as a defined covered claim, includes it in the "other" category of claims, and sets a maximum cap of $1 million for any claim, up to the policy limits.

Related/Prior Legislation

AB 1541 (Committee on Insurance, Chapter 305, Statutes of 2021) extended for three years CIGA's authority to issue bonds not to exceed $1.5 Billion in order to cover workers compensation claims obligations.

AB 822 (Cooley, Chapter 85, Statutes of 2015) provided that the laws governing CIGA do not require a final determination of a claim in an insolvent insurer's liquidation proceeding before a covered claim may be submitted to CIGA.

AB 2710 (Cooley, Chapter 137, Statutes of 2016) simplified the methodology used by CIGA to calculate assessments on member insurers.

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

SUPPORT: (Verified 7/28/22)

California Insurance Guarantee Association (source)

OPPOSITION: (Verified 7/28/22)

None received

ARGUMENTS IN SUPPORT: CIGA writes in favor of the three changes as follows:

(1) CIGA Bonding Authority. CIGA believes it would be more efficient going forward to combine these two provisions into one. They both have the same end goal (i.e., provide funds to CIGA to pay covered claims) but they go about it in very different ways. Since CIGA has a track record for issuing workers compensation bonds, CIGA believes it makes sense to fold the natural disaster bonds into the sections that deal with the workers' compensation bonds. With this change, in the future when CIGA needs bridge funding for any purpose, it has one statute, one set of procedures and a track record that should make such funding relatively quick and less costly.

(2) Cyber Coverage by CIGA. CIGA believes that if a carrier were to go insolvent that wrote cyber policies there would be a question as to whether such policies would be considered covered claims as the current statutes read. In addition, there are issues as to whether the benefits provided under such policies are even insurance, as often future credit monitoring for customers whose personal information has been breached is one measure of damages. Under current law, CIGA covers specific lines of insurance identified in Section 1063. It is not clear which line, if any, cyber insurance claims would fall. Finally, it is not clear how CIGA's $500,000 cap per covered claim would apply in such situations. This is not just a California problem. All guaranty associations are facing similar issues. CIGA believes clarification in California is needed to remove any ambiguities as to coverage and the cap.

(3) New Member Surcharge. There is a potential gap in the CIGA statutes that should be addressed out of concerns for fairness when CIGA access its member insurers in respond to an insurer insolvency. When a company becomes licensed to write business in California and it writes a line of business where a surcharge is being applied in its first and second year of writing, that company should be collecting a surcharge even though it had not received an assessment from CIGA. The new company would not have received an assessment from CIGA because the assessment is based on the previous year's writings which in the case of a new insurer there

were none. The surcharge needs to be collected anyway to avoid an unfair competition issue. Any surcharges collected needs to be remitted to CIGA to be used to pay future insolvencies. CIGA proposes the statute be amended to make it clear that any new company in California must collect a surcharge (assuming a surcharge has been approved by CIGA) for this first two years of business and remit such surcharges collected to CIGA.

ASSEMBLY FLOOR: 65-0, 5/12/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Cooley, Cooper, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Villapudua, Voepel, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Boerner Horvath, Choi, Cunningham, Davies, Gray, Grayson, Kiley, Lackey, Lee, Quirk-Silva, Blanca Rubio, Valladares, Ward

Prepared by: Brian Flemmer / INS. / (916) 651-4110
8/3/22 14:32:43

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

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THIRD READING

Bill No: AB 2159
Author: Bryan (D), et al.
Amended: 3/16/22 in Assembly
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-2, 6/14/22
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Stern, Wieckowski, Wiener
NOES: Borgeas, Jones

SENATE HUMAN SERVICES COMMITTEE: 4-0, 6/27/22
AYES: Hurtado, Cortese, Kamlager, Pan
NO VOTE RECORDED: Jones

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-12, 5/25/22 - See last page for vote

SUBJECT: Reunification services

SOURCE: Dependency Legal Services
Los Angeles Dependency Lawyers, Inc.

DIGEST: This bill prohibits a dependency court from denying family reunification services to a parent or guardian who is in custody before conviction and requires the court, in determining the appropriate reunification services for the parent or guardian in custody, to consider the particular barriers to an incarcerated, institutionalized, detained, or deported parent's or guardian's access to those court-mandated services and ability to maintain contact with the child and document that information in the child's care plan.

ANALYSIS:

Existing law:

1) Provides that a child may become a dependent of the juvenile court and be removed from their parents or guardian on the basis of abuse or neglect, as specified. (Welf. & Inst. Code, § 300.)

2) Provides that the purpose of the juvenile court and the dependency system is to provide the maximum safety and protection for children who are currently being physically, sexually, or emotionally abused, being neglected, or being exploited, and to ensure the safety, protection, and physical and emotional well-being of children who are at risk of that harm. This safety, protection, and physical and emotional well-being may include provision of a full array of social and health services to help the child and family and to prevent the reabuse of children. (Welf. & Inst. Code, § 300.2.)

3) Requires, at an initial hearing following the removal of a child from their parent's custody:[1]

   a) The social worker to report on, among other things, the available services and the referral methods to those services that could facilitate the return of the child the custody of their parent. (Welf. & Inst. Code, § 319(b).)

   b) The court to make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from their home, and whether there are available services that would prevent the need for further detention. Services to be considered are case management, counseling, emergency shelter care, emergency in-home caretakers, out-of-home respite care, teaching and demonstrating homemakers, parenting training, transportation, and any other child welfare services authorized by the State Department of Social Services (DSS). (Welf. & Inst. Code, § 319(f)(1).)

   c) The court, if it determines that the child can be returned to the custody of their parent through the provision of the services in 3)(b), to place the child with their parent and order that the services be provided. (Welf. & Inst. Code, § 319(f)(3).)

4) Requires, at a dispositional hearing held after the child has been removed from the parent's custody, the court to order the social worker to provide child

[1] Going forward this analysis uses "parent" to refer to a parent, parents, guardian, or Indian custodian.

welfare to the child and the child's mother and statutorily presumed father or guardians. In advance of the hearing, the social worker must prepare a report that discusses whether reunification services shall be provided.

a) The services ordered may include family reunification services, which shall be provided for up to 12 months, or six months if the child was under three years of age when removed from the custody of their parent.

b) The duration of the services may be extended for 18 months if the court finds that there is a substantial probability that the child will be returned to the physical custody of the parent within that extended time period or that reasonable services were not provided; or for 24 months if the court determines that it is in the child's best interest to have the time period extended and there is a substantial probability that the child will be returned to physical custody of the parent within that period, or that reasonable services were not provided to the parent. (Welf. & Inst. Code, § 361.5(a).)

5) Provides that the court need not provide reunification services to a parent pursuant to 3) when the court finds, by clear and convincing evidence, that specified conditions exist, including:

a) The parent is suffering from a mental disability that renders the parent incapable of utilizing reunification services.

b) The parent caused the death of another child through abuse or neglect.

c) The parent has been convicted of a violent felony.

d) The parent has advised the court that they are not interested in receiving reunification services or having the child returned to or placed in their custody. (Welf. & Inst. Code, § 361.5(b).)

6) Prohibits a court from ordering reunification services for a parent in specified situations, including the situations in 5)(a), (b), and (c), unless the court finds, by clear and convincing evidence, that reunification is in the child's best interest. (Welf. & Inst. Code, § 361.5(c).)

7) Requires a court, where a parent is incarcerated, institutionalized, or detained by the United States Department of Homeland Security, or has been deported to the parent's or guardian's country of origin, to order reasonable reunification services unless the court determines, by clear and convincing evidence, that those services would be detrimental to the child. The court, in determining detriment, should consider:

a) The age of the child.

b) The degree of parent-child bonding.

c) The length of the sentence.

d) The length and nature of the treatment.

e) The nature of the crime or illness.

f) The degree of detriment if services are not offered.

g) If a child is 10 years of age or older, the child's attitude toward reunification services, the likelihood of the parent's discharge within the specified time periods for reunification services, and any other appropriate factors. (Welf. & Inst. Code, § 361.5(e)(1).)

8) Requires the court, in determining the content of reasonable reunification services for a parent in 7), to consider the particular barriers to an incarcerated, institutionalized, detained, or deported parent's access to those court-mandated services and ability to maintain contact with the child, and to document this information in the child's case plan. Any reunification services provided are subject to the applicable time limitations imposed in 4), above. (Welf. & Inst. Code, § 361.5(e)(1).)

This bill:

1) Clarifies that the provision permitting a court to deny reunification services for a parent who is incarcerated, institutionalized, or detained by the United States Department of Homeland Security, or has been deported to the parent's or guardian's country of origin does not apply to permit a court to deny reunification services to a parent who is in custody prior to conviction.

2) Provides that, in determining the appropriate reunification services for a parent who is in custody prior to conviction, the court must consider the particular barriers to an incarcerated, institutionalized, detained, or deported parent's or guardian's access to those court-mandated services and their ability to maintain contact with the child, and shall document this information in the child's case plan.

3) Provides that reunification services provided pursuant to 2) are subject to existing statutory time limits for reunification services.

4) Provides that the limitation in 1) does not prevent a court from denying reunification services if the parent falls under other existing statutory bases for denying services.

Comments

Author's comment. Currently, there are parents that are bypassed from eligibility to begin the family reunification process solely for the reason of being incarcerated pre-trial. These parents have not been convicted of a crime. But today, they are bypassed from even beginning the reunification with their children even before they have their day in court.

AB 2159 will amend the Welfare and Institution Code Section 361.5(e) to clearly state that parents who are incarcerated pre-trial shall not be bypassed solely for the reason of incarceration and shall instead be given the same rights to reunify with their children as parents who were able to afford bail.

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

SUPPORT: (Verified 7/28/22)

Dependency Legal Services (co-source)
Los Angeles Dependency Lawyers, Inc. (co-siyrce)
ACLU California Action
All of Us or None
Alliance for Children's Rights
California Teachers Association
Californians for Safety and Justice
Californians United for a Responsible Budget
Children's Advocacy Institute at the University of San Diego School of Law
Children's Law Center of California
Communities United for Restorative Youth Justice
East Bay Family Defenders
Ella Baker Center for Human Rights
Felony Murder Elimination Project
Fresno Barrios Unidos
Hillsides
iFoster
Legal Services for Prisoners with Children
National Association of Social Workers – California Chapter
Root & Rebound

OPPOSITION: (Verified 7/28/22)

None received

ARGUMENTS IN SUPPORT: According to Dependency Legal Services and Los Angeles Dependency Lawyers, Inc., the sponsors of this bill:

> Under current case law, parents who are incarcerated *prior* to conviction and sentencing can also be considered under this bypass provision. (*In re Edgar O. v. Superior Court (*2000) 84 Cal.App.4th 13.) These parents may be denied reunification, and face the prospect of losing their children forever, because of charges that are ultimately dismissed. This provision is also unfairly applied based on socio-economic status, as it can be used target parents who are awaiting trial and simply do not have the financial means to afford bail. Because of the fast-paced nature of dependency proceedings, a parent in custody for a short period of time pending trial may face life-altering consequences like the termination of their parental rights.
>
> Not only does this offend the basic sense of fairness, it also highlights the inequality of the child welfare system. As Justice Liu noted in his concurring [statement in the denial of the petition for review] in *In re Joshua S.*, conditioning reunification services on whether a parent has the financial means to pay for bail raises serious constitutional issues. (*In re Joshua S.* (Sept 29, 2001) S269868, 5.) Only parents unable to afford bail are forced to face the possibility of permanently losing their children prior to conviction. Parents facing the same criminal charges, but financially secure enough to afford bail, are not subject to this bypass provision. Furthermore, this bypass provision disproportionately affects children of color. Not only are Black, Indigenous and People of Color overrepresented in the child welfare system, 11.4 percent of African American children and 3.5 percent of Hispanic children have an incarcerated parent (as opposed to 1.8 percent of white children). Consequently, failure to amend WIC 361.5(e) would only further fracture these families.
>
> This bill will amend Welfare and Institutions Code Section 361.5(e) to clarify that only parents in custody after conviction and sentencing can be eligible for bypass under this specific provision. This amendment does not change the statutory times that incarcerated parents have to reunify, or limit any other bypass provision. Moreover, nothing in this amendment prevents this bypass from applying after conviction and sentencing.

ASSEMBLY FLOOR: 61-12, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Davies, Mike Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Choi, Megan Dahle, Flora, Fong, Kiley, Mathis, Nguyen, Seyarto, Smith, Voepel, Waldron
NO VOTE RECORDED: Berman, Chen, Lackey, O'Donnell, Patterson

Prepared by: Allison Meredith / JUD. / (916) 651-4113
8/3/22 14:32:44

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

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THIRD READING

Bill No: AB 2160
Author: Bennett (D)
Amended: 5/5/22 in Assembly
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 7-2, 6/14/22
AYES: Stern, Allen, Eggman, Hertzberg, Hueso, Laird, Limón
NOES: Jones, Grove

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 51-13, 5/12/22 - See last page for vote

SUBJECT: Coastal resources: coastal development permits: fees

SOURCE: Author

DIGEST: This bill amends the Coastal Act to authorize a city or county to waive or reduce coastal development permit fees for public access or habitat restoration projects, as specified.

ANALYSIS: Existing law, pursuant to the California Coastal Act of 1976 (Coastal Act) ((Public Resources Code (PRC) §§30000 *et seq*.):

1) Establishes the California Coastal Commission (commission) in the California Natural Resources Agency.

2) Includes legislative findings and declarations that the basic goals of the state for the coastal zone include:

   a) Protect, maintain, and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources, and

   b) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources

conservation principles and constitutionally protected rights of private property owners, among other things. (PRC §30001.5)

3) Provides for the planning and regulation of development within the coastal zone, as defined.

   a) A person planning to perform or undertake any development in the coastal zone is required to obtain a coastal development permit (CDP) from the commission or local government enforcing a certified local coastal program (LCP). (PRC §30600)

      i) Development means, among other things, the placement or erection of any solid material or structure on land or in water. Structure means building, road, pipe, flume, conduit, and electrical power transmission and distribution lines, among other things. (PRC §30106)

      ii) The coastal zone means the coastal land and waters of California, and includes the lands that extend inland generally 1,000 yards from the mean high tide line, as specified, with various exceptions including the San Francisco Bay. (PRC §30103)

4) Prohibits the commission from exercising its review authority over any new development within the area to which the certified LCP, or any portion thereof, applies. (PRC §30519)

5) Requires that the standard of review used by the commission for the appeal of certain local jurisdiction-issued CDPs is the applicable certified LCP, as provided. (PRC §30603)

6) Requires a local government, if it has a certified LCP, to recover any costs incurred from fees charged to permit applicants. Authorizes local governments to elect not to charge fees for CDPs. (PRC §30600.6)

7) Directs the commission to give additional consideration to non-profit organizations undertaking public access or restoration projects when considering a request for a fee waiver. (PRC §30620)

8) Provides, further, that government entities cannot be required to pay filing fees for the performance of any official services. (Government Code §6103) The commission interprets this provision to mean that it cannot assess CDP application fees from public entities.

This bill amends the Coastal Act to authorize a city or county to waive or reduce coastal development permit fees for public access or habitat restoration projects, as specified. Specifically, this bill:

1) Authorizes a city or county to waive or reduce a CDP fee for a public access or habitat restoration project at the request of the applicant.

2) Authorizes the applicant, if the city or county denies the fee waiver or reduction request, to submit the CDP application directly to the commission.

3) Provides that these changes shall not be construed to impact, address, or change a local coastal plan or program.

4) Defines relevant terms including applicant, habitat restoration project, and public access project, as provided.

Background

The commission was established by voter initiative in 1972. The Legislature later made the commission permanent through the adoption of the Coastal Act. The commission plans for and regulates the use of land and water in the coastal zone (which excludes the San Francisco Bay).

The commission is an independent, quasi-judicial state agency, and its mission statement states that it "is committed to protecting and enhancing California's coast and ocean for present and future generations." The commission does so "through careful planning and regulation of environmentally sustainable development, rigorous use of science, strong public participation, education, and effective intergovernmental coordination."

Development activities in the coastal zone generally require a CDP issued by the commission or by a local government with an LCP certified by the commission. Coastal Act policies are the standards the commission uses to determine the permissibility of proposed developments subject to its jurisdiction.

Comments

1) *This proposed permit fee waiver is applicable in very limited circumstances*. Only public agencies or nonprofits interested in undertaking projects where the primary purpose is public access, as defined, or the only purpose is habitat restoration are eligible. Providing for public access and habitat restoration or protection are fundamental goals of the Coastal Act. The commission appears

to already not charge public entities for permit fees in at least certain circumstances.

The commission's analysis of this bill notes that projects that will meet the proposed criteria are a "very small percentage of project applications." They also note that "Because these types of projects provide public benefits that are in line with state priorities, as a matter of public policy, it is reasonable for the state to incentivize them by encouraging reasonable cost savings [to the applicant] where feasible."

2) *The permit fee waiver should help to facilitate qualifying projects*. Helping to facilitate public access and habitat restoration are consistent with existing statutory Coastal Act policies. Reduced or no permit fees will be one less barrier to qualifying projects receiving CDP permits.

   In some jurisdictions, local CDP fees can exceed those required by the commission. This bill does not force local governments to provide relief, but authorizes an applicant to instead seek a CDP permit from the commission who may grant a fee waiver. In addition, while some local jurisdictions may provide fee waivers for certain projects in particular instances, this bill would make the fee waiver policy uniform statewide for qualifying projects.

3) *The permit fee waiver is consistent with Newsom Administration policy*. Facilitating public access and habitat restoration projects in the coastal zone is consistent with the goals of Newsom Administration initiatives led by the California Natural Resources Agency. These initiatives include *Cutting Green Tape*, *Access for All*, and *30x30*. *Cutting Green Tape* seeks to "increase the pace and scale of ecological restoration and stewardship by amending and streamlining various government processes", and *Access for All* seeks to "expand all Californians' access to parks, open space, nature, and cultural amenities." Conserving thirty percent each of the state's lands and coastal waters by 2030 is the goal of *30x30*.

   According to the Assembly Natural Resources Committee's bill analysis, the final *Cutting Green Tape* report explicitly recommends that the commission "explore and utilize efficiencies within their authorities to advance small- and large-scale restoration that are consistent with an/or complementary to existing and planned efficiencies authorized by [other state agencies]."

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

SUPPORT: (Verified 8/7/22)

California Coastal Commission
California Coastal Protection Network
Central Coast Alliance United for a Sustainable Economy
Environmental Action Committee of West Marin
Environmental Center of San Diego
Midpeninsula Regional Open Space District
Surfrider Foundation
Sustainable Conservation
The Wildlands Conservancy
Tolowa Dunes Stewards

OPPOSITION: (Verified 8/7/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "Nonprofits perform a wide assortment of habitat restoration and public access work in communities across California. However, high Coastal Development Permitting (CDP) fees can present a financial barrier to performing meaningful work in a community. This bill eases financial hurdles to allow for restoration and public access projects to be completed."

The Environmental Center of San Diego adds "While a few thousand dollars may not seem like a significant cost, it can be a barrier to small non-profits who rely on individuals donations."

ASSEMBLY FLOOR: 51-13, 5/12/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Villapudua, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Megan Dahle, Flora, Fong, Gallagher, Mathis, Patterson, Seyarto, Smith, Voepel, Waldron

NO VOTE RECORDED: Boerner Horvath, Cunningham, Davies, Gray, Grayson, Kiley, Lackey, Lee, Mayes, Nguyen, Quirk-Silva, Blanca Rubio, Valladares, Ward

Prepared by: Katharine Moore / N.R. & W. / (916) 651-4116
8/10/22 14:24:51

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

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THIRD READING

Bill No: AB 2163
Author: Blanca Rubio (D)
Introduced: 2/15/22
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 6-0, 6/1/22
AYES: Wieckowski, Bates, Cortese, Dahle, Gonzalez, Skinner
NO VOTE RECORDED: Stern

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 67-0, 5/9/22 - See last page for vote

SUBJECT: San Gabriel Basin Water Quality Authority Act

SOURCE: San Gabriel Basin Water Quality Authority

DIGEST: This bill extends the sunset from July 1, 2030, to July 1, 2050 for the San Gabriel Basin Water Quality Authority (Authority).

ANALYSIS: Existing law, pursuant to the San Gabriel Basin Water Quality Authority Act (Act) (Russell, Chapter 776, Statutes of 1992 (Water Code Appendix, §134-101, et seq.)):

1) Requires the Authority to develop and adopt a basinwide groundwater quality management and remediation plan that includes certain components, such as characterization of Basin contamination, development and implementation of a comprehensive Basin cleanup plan, a financing plan, and a public information and participation plan.

2) Establishes election procedures for electing members to the Authority.

3) Requires the Authority to provide a status report to the State Water Resources Control Board (State Water Board) and the Los Angeles Regional Water Quality Control Board every six months on activities undertaken pursuant to the

Basin groundwater quality management and remediation plan. Requires the status report to include certain information, such as an overview of contamination, coordination with other agencies, funding from potentially responsible parties and other sources, status of certain plans, and project activities information.

4) Sunsets the Act on July 1, 2030.

This bill extends the sunset from July 1, 2030, to July 1, 2050 for the Authority.

Background

1) *The San Gabriel Valley*. The San Gabriel Valley is a suburban, largely-developed portion of Los Angeles County containing more than one million residents and covering more than 170 square miles.

   The San Gabriel Valley is also a distinct watershed shaped by local mountains, rivers, streams and other geological formations. A major, natural source of water for the Valley are the San Gabriel River and streams, ponds, lakes, dams, and reservoirs connected to it that are located either in the San Gabriel Mountains or the Valley itself. Beneath the Valley is the San Gabriel Basin, the primary source of water for the San Gabriel Valley's water supply system.

2) *The San Gabriel Valley Basin Superfund site*. According to the January 22, 2019, *Section 406 San Gabriel Basin Groundwater Quality Management and Remediation Plan*, the San Gabriel Valley's groundwater basin "has the dubious distinction of being one of the most contaminated in the nation." The Basin's groundwater is contaminated from ground disposal—dating back to World War II— of volatile organic compounds (VOCs) used primarily as solvents in industrial and commercial activities.

   The seriousness of the groundwater contamination problem became evident when high concentrations of VOCs were discovered in Azusa in 1979 near a major industrial complex. That led the United States Environmental Protection Agency (US EPA) to place four portions of the basin on the National Priorities List in 1984 under authority of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), also known as the federal Superfund program. These areas are referred to as operable units under CERCLA. Currently, there are six active operable (treatment) units within the San Gabriel Valley Basin: Baldwin Park, El Monte, South El Monte, Puente Valley, Area 3, and Whittier Narrows.

Finding that there was no existing local entity with all of the necessary authority and jurisdiction to coordinate an effective cleanup program, the Legislature created the San Gabriel Basin Water Quality Authority Act in 1992 (Russell, Chapter 776, Statutes of 1992) to develop, finance, and implement groundwater treatment programs in the San Gabriel Basin. Pursuant to the Act, the Authority is under the direction and leadership of a seven-member board. The board is comprised of one member from each of the overlying municipal water districts, one from a city with prescriptive water pumping rights, one from a city without prescriptive water pumping rights, and two members representing water producers in the San Gabriel Basin.

The mission of the Authority is to coordinate, plan, and implement groundwater quality management programs to efficiently remediate groundwater contamination, address the problem of the migration of contaminated groundwater within the San Gabriel Basin, protect and promote the beneficial use of groundwater supplies, and assist in preventing future contamination.

3) *Cleanup status*. Groundwater continues to be an important source of drinking water to residents and businesses in the San Gabriel Valley. Local water utilities continue to pump water from clean areas, and, in locations affected by the pollution, have installed water treatment equipment to remove pollutants.

   The Authority implements the cleanup under a Cooperative Agreement with the US EPA. The agreement funds groundwater extraction and treatment systems operated by the City of Monterey Park, San Gabriel Valley Water Company, and Golden State Water Company.

   After the pollution was discovered in 1979, the US EPA's Superfund program estimated that it would cost $800 million over 30 years to remove all of the contaminants from the Basin. Since the inception of the Authority in 1993, its sponsored projects have led to the removal of nearly 45 tons of contaminants from the San Gabriel Valley Basin; more than 50 percent of the total contaminants have been removed from the basin since their discovery in 1979. On the 25th anniversary of the creation of the Authority in 2018, the US EPA said cleanup has cost the US EPA, the water agencies, and the parties responsible for the contamination about $500 million so far. Authority assessments to accomplish cleanup of the San Gabriel Basin have averaged $7.25 per household per year.

4) *Long-term cleanup.* AB 2163 recognizes the reality that the remaining contamination of the groundwater in the San Gabriel Basin will take decades to cleanup and therefore extends the existence of the Authority until 2050.

Comments

Purpose of Bill. According to the author, "For years, the San Gabriel Valley has grappled with pollution of its ground water as a result of decades of poor chemical disposal practices. The severity of this pollution on the Basin's environment and population is so severe it is deemed a federal superfund site. In 1992, the State established the San Gabriel Basin Water Quality Authority (WQA) to oversee and provide funding for the clean up of the Basin. While the necessity and success of the WQA's efforts have been well established and its repeal has been extended 5 times previously, there is still work to be done in the basin that is expected to continue for decades to come. Ensuring the WQA can forecast projects and contract effectively in the future as needed is critical for the success of its mission and the constituents of the San Gabriel Valley."

Related/Prior Legislation

SB 413 (Rubio, Chapter 370, Statutes of 2019) required the Authority to annually update and incorporate a status report on activities related to its basin-wide groundwater quality management and remediation plan to the State Water Board and the Los Angeles Regional Water Quality Control Board (LA Regional Water Board).

SB 429 (Hernández, Chapter 214, Statutes of 2013) extended the sunset date on the Act from July 1, 2017, to July 1, 2030.

AB 1010 (Hernández, Chapter 404, Statutes of 2007) extended the sunset date on the Act from July 1, 2010, to July 1, 2017. Required the Authority, commencing April 1, 2008, and on at least a quarterly basis thereafter, to update its Internet Web site with information regarding its activities undertaken pursuant to the basin-wide groundwater quality management and remediation plan. Required the Authority to submit by March 31, 2008, and every six months thereafter, a status report on its activities undertaken pursuant to the plan to the State Water Board and the LA Regional Water Board.

SB 334 (Romero, Chapter 192, Statutes of 2003) extended the sunset date on the Act from July 1, 2005, to July 1, 2010. Deleted a consultation requirement relating to the status report. Authorizes the Authority to impose an annual pumping right assessment in an amount that does not exceed $10 per acre-foot.

AB 2544 (Calderon, Chapter 905, Statutes of 2000) extended the sunset date on the Act from July 1, 2002, to July 1, 2005. Required the appointment to the board of

the Authority of two additional producer members and their alternates, pursuant to specified procedures, and prescribes their terms of office.

AB 2173 (Margett, Chapter 281, Statutes of 1996) extended the sunset date on the Act from January 1, 1998, to July 1, 2002. Decreased the authorized pumping right assessment from $35 per acre-foot to $20 per acre-foot, and authorized the Authority to adopt, by resolution, rules and regulations for the collection of pumping right assessments.

SB 1679 (Russell, Chapter 776, Statutes of 1992) enacted the Act.

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

SUPPORT: (Verified 6/20/22)

San Gabriel Basin Water Quality Authority (source)
California Groundwater Association
California Water Association
City of Baldwin Park
City of Covina
City of El Monte
City of Glendora
City of Industry
City of La Puente
City of South El Monte
San Gabriel Valley Municipal Water District
San Gabriel Valley Water Association
Three Valleys Municipal Water District
Upper San Gabriel Valley Municipal Water District

OPPOSITION: (Verified 6/20/22)

None received

ASSEMBLY FLOOR: 67-0, 5/9/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-

Norris, Quirk, Ramos, Reyes, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Villapudua, Voepel, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Boerner Horvath, Cunningham, Flora, Gray, Grayson, Lackey, Medina, Quirk-Silva, Luz Rivas, Valladares, Ward

Prepared by: Gabrielle Meindl / E.Q. / (916) 651-4108
6/22/22 14:49:29

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

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THIRD READING

Bill No: AB 2164
Author: Lee (D), et al.
Amended: 5/19/22 in Assembly
Vote: 27

SENATE GOVERNMENTAL ORG. COMMITTEE: 14-0, 6/14/22
AYES: Dodd, Nielsen, Allen, Becker, Borgeas, Bradford, Hertzberg, Hueso, Jones, Kamlager, Melendez, Portantino, Roth, Wilk
NO VOTE RECORDED: Glazer

SENATE JUDICIARY COMMITTEE: 10-0, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, Jones, McGuire, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 69-0, 5/25/22 - See last page for vote

SUBJECT: Disability access: certified access specialist program: funding

SOURCE: City of San Jose

DIGEST: This bill removes the sunset on the additional fee of $4 for a business license issued by a city, county, or city and county, that's currently scheduled to expire on January 1, 2024, making the fee permanent. The fee is used for specified purposes related to disability access, including providing financial assistance to small businesses for construction of physical accessibility improvements.

ANALYSIS:

Existing law:

1) Provides, under the American Disabilities Act (ADA), that no individual shall be discriminated against on the basis of disability in the full and equal

enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases, or leases to, or operates a place of public accommodation.

2) Provides, pursuant to the Unruh Civil Rights Act, that all persons, regardless of sex, race, color, religion, ancestry, national origin, disability or medical condition, are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments.

3) Provides, pursuant to the Disabled Persons Act, that individuals with disabilities or medical conditions have the same right as the general public to the full and free use of streets, highways, sidewalks, public buildings, medical facilities, including hospitals, clinics and physicians' offices, public facilities and other public places.

4) Establishes the California Commission on Disability Access (CCDA), and generally makes the CCDA responsible for monitoring disability access compliance in California.

5) Requires the CCDA to use its funding, as appropriate, to provide information about preventing or minimizing compliance problems among California businesses, and recommending programs to enable persons with disabilities to obtain full and equal access to public facilities.

6) Requires, the Division of the State Architect (DSA) to establish the Certified Access Specialist (CASp) Program and develop the specified criteria to have a person qualify as a CASp.

7) Requires, on or after January 1, 2018, through December 31, 2023, any applicant for a local business license or equivalent instrument or permit, and any applicant for the renewal of a business license or equivalent instrument or permit, to pay an additional fee of $4 for that license, instrument, or permit, which shall be collected by the city, county, or city and county that issued the license, instrument, or permit.

8) Provides that on and after January 1, 2024, the following shall apply:

    a) Any applicant for a local business license or equivalent instrument or permit, and any applicant for the renewal of a business license or equivalent instrument or permit, shall pay an additional fee of $1 for that license, instrument, or permit, which shall be collected by the city, county, or city and county that issued the license, instrument, or permit.

b) In any city, county, or city and county that does not issue a business license or an equivalent instrument or permit, an applicant for a building permit shall pay an additional fee of $1 for that building permit, which the city, county, or city and county that issued the building permit shall collect.

9) Requires the city, county, or city and county that collects the fees described above and retained by city, county, or city and county shall be the following amounts:

   a) On and after January 1, 2018, through December 31, 2023, inclusive, 90 percent.

   b) On and after January 1, 2024, 70 percent.

10) Provides that any remaining amount of the fees collected and not retained by the city, county, or city and county described above shall be transmitted on a quarterly basis to the DSA for deposit in the DSA's Disability Access and Education Revolving Fund.

11) Requires each city, county, or city and county to make an annual report, commencing March 1, 2014, to the DSA of the total fees collected in the previous calendar year and of its distribution, including the moneys spent on administrative services, the activities undertaken and moneys spent to increase the CASp services, the activities undertaken and moneys spent to fund programs to facilitate accessibility compliance, and the moneys transmitted to DSA.

This bill:

1) Removes the sunset on the additional fee of $4 for a business license, instrument, or permit, or building permit issued by a city, county, or city and county, currently scheduled to expire on January 1, 2024, making the fee permanent.

2) Requires that a city, county, or city and county that collects the fee described above, to deposit those funds in a local "Accessibility Compliance Fund" and allows the funds to be used to provide financial assistance to small businesses for construction of physical accessibility improvements.

3) Allows funds collected in the DSA Disability Access and Education Revolving Fund to be used for the purpose of providing financial assistance to small businesses for constructions of physical accessibility improvements.

4) Requires the annual report now submitted by each city, county, or city and county to the State Architect regarding the total fees they collect and distribute in the previous calendar year to also include the total amount of financial assistance provided to small businesses for construction of physical accessibility improvements and the number of small businesses that obtained financial assistance for construction of physical accessibility improvements.

5) Defines a "small business" to mean a business that has employed 50 or fewer employees on average over the past three years, or for the years it has been in existence if less than three years, as evidence by wage report forms filed with the Employment Development Department.

Background

Purpose of the Bill. According to the author's office, "accessibility of businesses remains a major concern despite existing legal protections and government assistance programs. It can be difficult for businesses to understand accessibility requirements and raise funds to make physical improvements. This is especially true for small business owners, those with limited English proficiency, and those who are struggling financially. AB 2164 supports local jurisdictions with sustained funding to improve accessibility in their regions by: (1) removing the January 1, 2024 fee sunset, enabling local governments to collect the $4.00 business license fee indefinitely; and (2) clarifying local jurisdictions' ability to use these funds for small business accessibility related grants."

CASp Program. The CASp Program was created by SB 262 (Kuehl, Chapter 872, Statutes of 2003) and is designed to ensure that individuals participating in the CASp Program are knowledgeable of state and federal accessibility laws and regulations and possess the expertise to promote access to facilities for persons with disabilities. The CASp Program was created with the intent of offering business and facility owners a resource consisting of individuals with the appropriate knowledge demonstrated through examination.

CASp promotes access for persons with disabilities by promoting facility compliance with accessibility standards. Certification is granted to those who have established eligibility and have passed an examination based on knowledge and application of various state and federal accessibility codes, standards, and regulations. The CASp Program regulations describe the criteria for eligibility, examination, and certification.

Services rendered by a CASp may include the review of facility plans and specification for compliance with state and federal accessibility laws, standards,

codes, and regulations; investigation of a facility for compliance with state and federal accessibility laws, standards, codes, and regulations; conducting accessibility research, prepare accessibility reports, and/or conducting accessibility inspections; and issue inspection reports and disability access inspection certificates. The program benefits the disabled community by increasing accessibility around the state. At the same time, the program assists businesses to avoid costly lawsuits by helping to ensure that the businesses are compliant with accessibility requirements.

The CASp Program is funded through a fee on local business licenses, permits, or equivalent instruments. Until recently, the law required anyone taking out or renewing a local business license, permit, or equivalent instrument, to pay a one additional dollar fee for the license or permit. The city, county, or city and county, until recently, would retain 70 percent of the resulting revenue, which could be used primarily to train and retain certified access specialists in that jurisdiction. The remaining 30 percent of the revenue would go to the DSA for deposit into the Disability Access and Education Revolving Fund. These laws were originally set to expire on December 31, 2018.

In 2017, AB 1379 (Thurmond, Chapter 667, Statutes of 2017) increased CASp funding by requiring, on January 1, 2018, and through December 31, 2023, any applicant for a local business license or equivalent instrument or permit, and any applicant for the renewal of a business license or equivalent instrument or permit, to pay an additional fee of $4 for that license, instrument, or permit, in order to fund CASp services by the city, county, or city and county that issued the license, instrument, or permit. At the same time, the bill allowed local jurisdictions to retain a larger percentage of the revenue – 90 percent -- generated by the fees for CASp training and disability access purposes. Finally, where the local jurisdiction did not charge for business licenses, AB 1379 imposed a fee on building permits. After five years, the fees were scheduled to revert back to the pre-AB 1379 amount of $1 and the local rate of retention would return to the pre-AB 1379 amount of 70 percent. The goal of AB 1379 was to increase the availability of CASp services and ultimately improve overall business compliance with state and federal construction-related accessibility standards.

This bill makes permanent the temporary additional funds that were generated by the $4 business license fee in AB 1379 that is scheduled to expire in 2024. These funds generated by the fees could increase the availability of CASp services as the fees authorized by AB 1379 did. These funds could also be used to provide financial assistance to small businesses for construction-related accessibility improvements.

Related/Prior Legislation

AB 1379 (Thurmond, Chapter 667, Statutes of 2017) increased, until December 31, 2023, funding for the CASp Program in order to increase availability of CASp services and improve compliance with state and federal construction-related accessibility standards.

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

SUPPORT: (Verified 8/8/22)

City of San Jose (source)
Association of Regional Center Agencies
Brea Chamber of Commerce
California Building Industry Association
California Business Properties Association
California Chamber of Commerce
California Restaurant Association
Carlsbad Chamber of Commerce
CAWA - Representing the Automotive Parts Industry
Corona Chamber of Commerce
Danville Area Chamber of Commerce
El Dorado County Chamber of Commerce
El Dorado Hills Chamber of Commerce
Elk Grove Chamber of Commerce
Family Business Association of California
Folsom Chamber of Commerce
Fountain Valley Chamber of Commerce
Fremont Chamber of Commerce
Fresno Chamber of Commerce
Gilroy Chamber of Commerce
Greater Conejo Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Imperial Valley Regional Chamber of Commerce
La Canada Flintridge Chamber of Commerce
Laguna Niguel Chamber of Commerce
Long Beach Area Chamber of Commerce
Mission Viejo Chamber of Commerce
National Federation of Independent Business
Newport Beach Chamber of Commerce
Official Police Garages of Los Angeles

Rancho Cordova Area Chamber of Commerce
Roseville Area Chamber of Commerce
San Jose Chamber of Commerce
Santa Ana Chamber of Commerce
Santa Clarita Valley Chamber of Commerce
Santa Maria Valley Chamber of Commerce
Simi Valley Chamber of Commerce
Tulare Chamber of Commerce
United Chamber Advocacy Network
Valley Industry and Commerce Association
West Ventura County Business Alliance
Yuba Sutter Chamber of Commerce

OPPOSITION: (Verified 8/8/222)

None received

ARGUMENTS IN SUPPORT: According to the City of San Jose, "for Californians with disabilities, barrier-free access to businesses and other facilities is a constant concern. Federal, state, and local governments provide some resources to help businesses comply with these accessibility requirements and reduce barriers for patrons with disabilities. State also requires local jurisdictions to collect a dedicated fee of $4.00 for businesses licenses and business permit renewals to fund programs improving barrier-free access to businesses. Under current law, this fee will drop to $1.00 after December 31, 2023. AB 2164 supports local jurisdictions by sustaining funding to improve accessibility in their regions. The bill removes the January 1, 2024 fee sunset, enabling local governments to collect the $4.00 fee indefinitely. Additionally, AB 2164 would also clarify the ability for local jurisdictions to use these funds for grants so small businesses to fund accessibility-related certification, inspection, design, construction, and permitting fees."

ASSEMBLY FLOOR: 69-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert

Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Berman, Bigelow, Chen, Gallagher, Kiley, Lackey, O'Donnell, Seyarto, Smith

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
8/10/22 14:19:16

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

SENATE RULES COMMITTEE AB 2167
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2167
Author: Kalra (D), et al.
Amended: 5/19/22 in Assembly
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 6/28/22
AYES: Bradford, Kamlager, Skinner, Wiener
NOES: Ochoa Bogh

ASSEMBLY FLOOR: 42-23, 5/26/22 - See last page for vote

SUBJECT: Crimes: alternatives to incarceration

SOURCE: Friends Committee on Legislation of California
Initiate Justice
National Association of Social Workers, California Chapter

DIGEST: This bill requires a court presiding over a criminal matter to consider alternatives to incarceration, including, without limitation, collaborative justice court programs, diversion, restorative justice, and probation.

ANALYSIS:

Existing law:

1) Provides that the purpose of sentencing is public safety achieved through punishment, rehabilitation, and restorative justice. (Pen. Code, § 1170, subd. (a)(1).)

2) Declares the Legislature's commitment to reducing recidivism among criminal offenders. (Pen. Code, § 3450, subd. (b)(1).)

This bill:

1) Requires a court presiding over a criminal matter to consider alternatives to incarceration, including, without limitation, collaborative justice court programs, diversion, restorative justice, and probation.

2) Provides that the court has the discretion to determine the appropriate sentence according to relevant statutes and the sentencing rules of the Judicial Council.

3) Provides that it is the intent of the Legislature that the disposition of any criminal case use the least restrictive means available.

4) Includes uncodified findings and declarations.

Background

The Committee on Revision of the Penal Code was established to study and recommend statutory reforms to the Penal Code relating to, among other things, alternatives to incarceration. (Gov. Code, § 8290.5, subd. (a)(3).) In its 2021 Annual Report, the Committee recommended "[a]dd[ing] a statement to the Penal Code that the disposition of any criminal case shall use the least restrictive means possible, including but not limited to diversion, restorative justice, probation, or incarceration." (Committee on the Revision of the Penal Code, 2021 Annual Report and Recommendations (Dec. 2021), p. 20 <http://www.clrc.ca.gov/CRPC/Pub/Reports/CRPC_AR2021.pdf .) The report indicated that "California can safely reduce the number of people behind bars by modifying the Penal Code to explicitly encourage more restraint in the use of incarceration. While the Penal Code has numerous sections that require judges to impose incarceration, it contains few statements limiting or discouraging its use." (*Ibid*.) The Committee noted that the recommendation "can reduce our state's reliance on incarceration while leaving judges with the option to incarcerate when necessary to protect public safety." (*Id*. at p. 24.) This bill seeks to implement the Committee's recommendation.

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

SUPPORT: (Verified 6/30/22)

Friends Committee on Legislation of California (co-source)
Initiate Justice (co-source)
National Association of Social Workers, California Chapter (co-source)
California Attorneys for Criminal Justice
California Catholic Conference

California Public Defenders Association
Ella Baker Center for Human Rights
Essie Justice Group
Fresno Barrios Unidos
Los Angeles County District Attorney's Office
National Association of Social Workers, California Chapter
Smart Justice California

OPPOSITION: (Verified 6/30/22)

None received

ASSEMBLY FLOOR: 42-23, 5/26/22
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Carrillo, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Nazarian, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Rendon
NOES: Bigelow, Chen, Choi, Cooley, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Irwin, Kiley, Lackey, Mathis, Nguyen, Patterson, Petrie-Norris, Salas, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Arambula, Berman, Calderon, Cervantes, Cooper, Gray, Mayes, Muratsuchi, O'Donnell, Ramos, Rodriguez, Blanca Rubio, Wood

Prepared by: Stephanie Jordan / PUB. S. /
7/28/22 10:35:20

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

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

THIRD READING

Bill No: AB 2178
Author: Bloom (D)
Amended: 6/14/22 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 13-0, 6/20/22
AYES: Roth, Melendez, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Archuleta

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 65-0, 5/12/22 (Consent) - See last page for vote

SUBJECT: Physicians and surgeons: special faculty permits: academic medical center

SOURCE: Cedars-Sinai

DIGEST: This bill revises the definition of academic medical center (AMC) by eliminating certain existing requirements for a facility to be eligible to apply for academically eminent international physicians and surgeons to obtain a Special Faculty Permit (SFP) to practice medicine within the AMC and its affiliated facilities without obtaining full licensure from the Medical Board of California (MBC).

ANALYSIS:

Existing law:

1) Establishes the Medical Practice Act which provides for the licensing and regulation of physicians and surgeons by the MBC. (Business and Professions Code (BPC) § 2000 et seq.)

2) States that protection of the public shall be the highest priority for the Board in exercising its licensing, regulatory, and disciplinary functions. (BPC § 2001.1)

3) Establishes a SFP authorizing the holder of the permit to practice medicine within a medical school and any affiliated institution or an AMC and any affiliated institution in which the permitholder is providing instruction as part of the medical school's or academic medical center's educational program and for which the medical school or academic medical center has assumed direct responsibility. (BPC § 2168 (a))

4) Defines an AMC as a facility licensed by the State of California, the facility conducts both internal and external peer review for the purpose of conferral of academic appointments on an ongoing basis, the facility conducts clinical and basic research for the purpose of advancing patient care, the facility trains a minimum of 250 residents and postdoctoral fellows on an annual basis, the facility has more than 100 research students or postdoctoral researchers annually, the facility has foreign medical graduates in clinical research, the facility offers clinical observership training, and the facility is accredited by the Western Association of Schools and Colleges and the Accreditation Council for Graduate Medical Education. (BPC § 2168 (a) (2))

5) Enumerates the eligibility requirements to apply for an SFP. Specifically, eligible candidates must meet the following criteria:

   a) Be considered "academically eminent." To be considered academically eminent, the candidate must hold a full-time appointment as a professor at a California medical school or AMC. A candidate may also be considered academically eminent if they are clearly outstanding in a specific field of medicine or surgery and has been offered a full-time academic appointment by the dean of a California medical school or dean or chief medical officer of an AMC;

   b) Possess a current valid license to practice medicine issued by another state, country, or other jurisdiction;

   c) Must not have committed a crime that would otherwise disqualify the person from obtaining licensure as a physician or surgeon;

   d) Must not have held the specified positions in a medical school for a period of two years of more preceding the application. MBC may waive this requirement; and

e) Pay the fees prescribed for application and for initial licensure as a physician and surgeon. (BPC § 2168.1(a))

6) Requires MBC to establish a review committee comprised of two members of MBC, one representative from each of the medical schools in California, and one individual to represent AMCs. Requires this committee to make recommendations to MBC regarding the applicants applying for an SFP. Limits applications to no more than 5 from AMCs annually (BPC § 2168.1(c))

7) Specifies that an application for an SFP must be made on a form prescribed by MBC, and shall include any information that MBC may prescribe to establish an applicant's eligibility for a permit. This information must include, but is not limited to, the following:

   a) A statement from the dean of the medical school or dean or chief medical officer of the AMC at which the applicant will be employed, describing the applicant's qualifications and justifying the dean's determination that the applicant satisfies the requirements of academically eminent.

   b) A statement by the dean of the medical school or dean or chief medical officer of the AMC listing every affiliated institution in which the applicant will be providing instruction as part of the medical school's educational program and justifying any clinical activities at each of the institutions listed by the dean. (BPC § 2168.2)

8) States that an SFP may be denied, suspended, or revoked for any violation that would be grounds for denial, suspension, or revocation of a physician and surgeon's certificate. (BPC § 2168.3)

9) Authorizes a health care practitioner licensed in another state or territory to provide services to California patients if the health care is provided only during a state of emergency that overwhelms the response capabilities of California health care practitioners and only upon the request of the Director of the Emergency Medical Services Authority (EMSA). The EMSA Director shall be the medical control and shall designate the licensure and specialty health care practitioners required for the specific emergency and shall designate the areas to which they may be deployed. Health care practitioners must provide, upon request, a valid copy of a professional license and a photograph identification issued by the state in which the practitioner holds licensure before being deployed by the director. Health care practitioners deployed pursuant to this authority shall provide the appropriate California licensing authority with verification of licensure upon request. Specifies that health care practitioners

providing health care pursuant to this chapter shall have immunity from liability for services rendered. (BPC § 900)

This bill revises the definition of "academic medical center" as follows:

1) For the requirement that the facility trains a minimum of 250 residents and postdoctoral fellows on an annual basis commencing each January 1, deletes the term "postdoctoral."

2) For the requirement that the facility has foreign medical graduates in clinical research, deletes the term "clinical", allowing AMCs to qualify for the SFP program if they have foreign medical graduates in any kind of research, not just research involving actual patients.

3) For the requirement that the facility offers clinical observership training, changes "observership training" to "observer experiences."

Background

BPC Section 2168 authorizes MBC to issue a SFP to a person who meets specific eligibility requirements, including that they:

- Are clearly outstanding in a specific field of medicine or surgery
- Are offered a full-time academic appointment at the level of full professor, or
- A great need exists and the individual has been offered a full-time academic appointment at the level of associate professor.

This SFP authorizes the holder to practice medicine only within the facilities of the applicable medical school and any formally-affiliated institutions. AB 2273 (Bloom, Chapter 280, Statutes of 2020) added AMCs as eligible sponsors to allow an academically eminent international physician to obtain a SFP and gain authority to practice medicine in the AMC and its affiliated institutions.

MBC has Special Faculty Permit Review Committee (SFPRC) that reviews SFP applications and makes recommendations to the MBC about whether the individual should be approved. The review committee consists of one representative from each of the eleven medical schools in California, two MBC members, and one AMC representative. MBC reports that a SFP must be renewed every two years. At the time of the SFP holder's renewal, the SFP holder must have the dean certify that the permit holder continues to meet the eligibility criteria, that the individual is still employed solely at the sponsoring institution, that the individual continues to

possess a current medical license in another state or country, and that the individual is not subject to having the SFP denied. The SFP holder is required to comply with the same CME requirements as licensed physicians and surgeons. SFP holders are listed on MBC's website with licensed physicians to ensure that members of the public can verify an SFP holder's current status and public record. The complaint process is the same for an SFP holder as it is for any complaint MBC receives for a licensed physician.

According to MBC, in 2016, it surveyed nine of the ten medical schools in California asking for input as to whether the SFP is still needed. The survey results were presented at the May 2016 Licensing Committee meeting and at the September 2016 SFPRC Meeting. The SFPRC Members determined there were no statutory changes needed for the SFP.

In addition to the SFP, MBC provides other limited exemptions for individuals to practice as a physician and surgeon in California, including: an international physician or surgeon authorized to participate in a visiting fellowship at a sponsoring medical school or AMC; an international physician or surgeon who is licensed in their country can be offered a faculty position for one year, subject to renewal two times before a licensing plan is required renewed twice to teach at a medical school or AMC; and a medical student enrolled in an international medical school recognized by MBC may practice medicine in a MBC-approved clinical training program.

Given the expansion of exemptions and SFP authority to AMCs through AB 2273, concerns were raised as to whether AMCs were defined appropriately to ensure that quality, given that physicians would be allowed to practice without being fully licensed. AB 2273 defined AMC as an entity that meets all of the following:

- The facility conducts both internal and external peer review of the faculty for the purpose of conferral of academic appointments on an ongoing basis of clinical and basic research for the purpose of advancing patient care;

- The facility trains a minimum of 250 residents and postdoctoral fellows on an annual basis commencing each January 1; and,

- The facility has more than 100 research students and postdoctoral researchers annually and foreign medical graduates in clinical research, offers clinical observership training, and has an intern and resident-to-bed ratio meeting the federal Centers for Medicare and Medicaid Services definition as a major teaching hospital and conducts research in an amount of $100 million or more annually.

SB 806 (Roth, Chapter 649, Statutes of 2021) added a measure of facility quality by requiring AMCs sponsoring SFP holders to be accredited by the Western Association of Schools and Colleges Accreditation Council for Graduate Medical Education. The bill also eliminated the requirement that an AMC have an intern and resident-to-bed ratio meeting the federal Centers for Medicare and Medicaid Services definition as a major teaching hospital and that it conducts research in an amount of $100 million or more annually.

Comments

The author provides the following as justification for the amendments to current requirements AMCs must meet in order to qualify to apply for SFPs:

- Deleting the term "postdoctoral" in the current requirement for an AMC to train a minimum of 250 residents and postdoctoral fellows on an annual basis is necessary because in medical schools or centers, "fellows" is used to describe clinical fellows, while "postdoctoral fellows" is used to describe research trainees.

- Deleting the term "clinical" in the current requirement for an AMC to have foreign medical graduates in "clinical research" is necessary because "individuals without a California medical license cannot engage in research that requires them to be licensed MDs. They may contribute in ways that do not require MD/license, but may not interact with patients."

- Changing the term "observership training" to "observership experiences" because "observership training is a component of the curriculum of all Accreditation Council for Graduate Medical Education (ACGME) accredited residencies and fellowships, thus academic medical centers offer these experiences if they are ACGME accredited. ACGME accreditation is required in existing law. Observation Experiences are in addition to Observerships; they provide experiences for individuals to observe care/treatment, or other practices at an academic medical center."

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

SUPPORT: (Verified 8/3/22)

Cedars-Sinai (source)
California Hospital Association
California State Association of Psychiatrists

OPPOSITION: (Verified 8/3/22)

None received

ARGUMENTS IN SUPPORT: In sponsoring the bill, Cedars-Sinai writes that this bill "further clarifies the language defining an [AMC] by accurately reflecting the types of trainees and learning experiences offered at these institutions."

The California Hospital Association states that "AB 2178 does not change the requirements and standards for these applicant institutions; rather, it merely changes the terminology to align with the terms used by academic medical centers."

According to the California State Association of Psychiatrists, "The current language of the definition does not align with academic medical terms nor does it accurately reflect the types of trainees supported, and experiences offered, at these institutions. Existing law defines clinical fellows as postdoctoral fellows, requires foreign medical graduates to be engaged in clinical research, and does not accurately address observer experiences. AB 2178 clarifies the definition of an academic medical center by accurately reflecting the types of trainees and learning experiences at these institutions."

ASSEMBLY FLOOR: 65-0, 5/12/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Salas, Santiago, Seyarto, Smith, Stone, Ting, Villapudua, Voepel, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Boerner Horvath, Cunningham, Davies, Gray, Grayson, Kiley, Lackey, Lee, Quirk-Silva, Rodriguez, Blanca Rubio, Valladares, Ward

Prepared by: Sarah Mason / B., P. & E.D. /
8/3/22 14:32:45

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

SENATE RULES COMMITTEE AB 2193
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2193
Author: Gabriel (D)
Amended: 6/23/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-0, 6/21/22
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, McGuire, Stern, Wiener
NO VOTE RECORDED: Borgeas, Jones

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 64-0, 4/21/22 - See last page for vote

SUBJECT: Civil representation: immigration status

SOURCE: Author

DIGEST: This bill prohibits programs providing legal services through grants from the Sargent Shriver Civil Counsel Act (Shriver Act) from discriminating on the basis of citizenship or immigration status. This bill requires applicants for Shriver Act grants to explain how they will meet this requirement and directs the Judicial Council to (1) encourage current grantees to explore additional options for providing services where the lead legal aid agency of the program cannot serve everyone due to other funding restrictions; and (2) give additional consideration to future Shriver Act applications that would newly provide legal services without regard to citizenship or immigration status.

ANALYSIS: Existing federal law guarantees a right to counsel in criminal proceedings (*Gideon v. Wainwright* (1963) 372 U.S. 335), but not generally in civil matters. (*Lassiter v. Dep't of Soc. Servs.* (1981) 452 U.S. 18).

Existing state law:

1) Authorizes the Judicial Council to develop one or more pilot projects to test the concept of "Civil Gideon" by providing legal representation for persons at or below 200 percent of the federal poverty level who require legal services in civil matters involving housing, domestic violence and civil harassment restraining orders, probate conservatorships, guardianships of the person, elder abuse, or actions by a parent to obtain sole legal or physical custody of a child. (Gov. Code § 68651(b)(1).)

2) Provides that each pilot project shall be a partnership between a court, a qualified legal services project that serves as lead agency for case assessment and direction, and other legal services providers in the community that provide services for the project. (Gov. Code § 68651(b)(4).)

3) Directs, in recognition of the fact that not all indigent parties, even those with meritorious cases, can be provided counsel, the lead legal aid agency on the project to be responsible for providing procedures, personnel, training, and case management and administration practices that reflect best practices to ensure unrepresented parties have meaningful access to justice and guard against the involuntary waiver of rights. (Gov. Code § 68651(b)(4).)

4) Establishes criteria for the Judicial Council to use in selecting pilot projects for funding. (Gov. Code § 68651(b)(5).)

5) Establishes guidelines for applications for funding. (Gov. Code § 68651(b)(6-10).)

6) Prohibits legal services agencies from serving undocumented individuals, with specified exceptions, if the legal services agency receives funding from LSC. (45 C.F.R. Part 1626.)

This bill:

1) Requires Shriver Civil Counsel Act pilot programs to provide legal services without discriminating between clients on the basis of citizenship or immigration status.

2) Provides that applications for funding for a Shriver Act program include information about how the program proposes to serve people seeking services without respect to their citizenship or immigration status.

3) Directs the Judicial Council to do the following with respect to Shriver Act grants:

    a) encourage current grantees to explore ways to provide services without regard to citizenship or immigration status; and
    b) give additional consideration to future programs that propose to newly provide legal services in a region without regard to citizenship or immigration status.

Comments

Brief background on the Shriver Act. In 2009, California enacted the Sargent Shriver Civil Counsel Act, so named in honor of then-California First Lady Maria Shriver's father, who was a major proponent of legal aid. (AB 590, Feuer, Chapter 457, Statutes of 2009.) AB 590 passed both houses of the Legislature on a bipartisan basis and was signed by Governor Schwarzenegger on October 11, 2009.

Pursuant to the Shriver Act, legal aid agencies in partnership with their local county courts must present proposals for grant funding to the Judicial Council. The proposals must focus on at least one of the civil matters identified as having such profound impact on litigants' lives that legal counsel should be appointed: housing-related matters, domestic violence and civil harassment restraining orders, probate conservatorships, guardianships of the person, elder abuse, or actions by a parent to obtain sole legal or physical custody of a child. In addition, the proposed programs are supposed to involve implementation of court procedures, personnel, training, and case management and administration methods that reflect best practices to ensure unrepresented parties in those cases have meaningful access to justice, and to guard against the involuntary waiver of those rights or their disposition by default. As the Act puts it:

> These pilot projects should be designed to address the substantial inequities in timely and effective access to justice that often give rise to an undue risk of erroneous decision because of the nature and complexity of the law and the proceeding or disparities between the parties in education, sophistication, language proficiency, legal representation, access to self-help, and alternative dispute resolution services. (Gov. Code § 68651(b).)

A special Judicial Council committee then reviews the project proposals and selects which projects will receive funding. The money for the Shriver Act grants derives from a $25 increase in various court filing fees.

The Shriver Act is not meant to serve merely as an expansion of legal aid services. The Legislature initially designed the Shriver Act as a test of the theory behind the concept known as Civil Gideon: whether the provision of legal counsel in life-critical civil matters would improve outcomes for low-income litigants and whether or not such legal representation might also achieve certain efficiencies for the courts. Accordingly, data collection and evaluation requirements form an integral part of the Project's enacting legislation. (Gov. Code § 68651(c).) An independent, outside research agency oversees this research and conducts regular evaluations of all of the programs. Thus far, the outcomes of these evaluations have been largely positive.[1]

Attempting to ensure that Shriver Act services are available to all eligible Californians regardless of citizenship or immigration status. The purpose behind this bill is straightforward: it is intended to ensure that legal services provided using Shriver Act funds are available to all eligible Californians regardless of their citizenship and immigration status. As the author emphasizes, the issue is not just one of fairness and consistency with California values. It is also a matter of making sure that state resources are being used efficiently. Because they lack formal legal status in the country, undocumented immigrants live at perpetual risk of arrest, separation from their families, detention, and deportation. Unscrupulous employers, landlords, and businesses can -- and often do -- target undocumented individuals and families for abuse, knowing that the fear of adverse immigration consequences makes it less likely that their victims will try to hold them accountable. As a result, undocumented individuals are often among those who are most in need of competent legal services.

In theory, this bill should help to ensure that undocumented Californians can access those services. In practice, however, guaranteeing equal access to Shriver Act services is easier said than done.

The difficulty has to do with how government funding for legal aid works more broadly. At the federal level, the government distributes legal aid funding through

[1] For a detailed discussion of some of the evaluation results, *see* Sen. Com. on Judiciary, Analysis of Assem. Bill No. 330 (2019-2020 Reg. Sess.) as amended May 9, 2019 at pp. 6-8. For the most recent evaluation, *see* Jarvis *et al*, *Report to the California State Legislature for the Sargent Shriver Civil Counsel Act Evaluation* (Jun. 2020) NPC Research, available at: **https://www.courts.ca.gov/documents/Shriver-Legislative-Report_June-30-2020.pdf** (as of Jun. 5, 2022).

the Legal Services Corporation (LSC). Over time, the federal government has placed restrictions on what LSC-funded legal aid programs can and cannot do.

Of particular relevance to this bill, in 1980 LSC prohibited its recipients from using LSC money to serve most undocumented clients. This led to a split among legal aid agencies. Some refused to take any further LSC money and endured massive cutbacks as a result. Others, though typically opposed to LSC's policy, continued to accept LSC's money. Then, in 1996, the federal government further tightened its rules. From that point forward, LSC not only prohibited the use of LSC funds to serve undocumented clients, it also forbid recipients of its funding from serving undocumented clients even using money from other sources. (45 C.F.R. Part 1626.) Despite a number of campaigns to overturn this rule, it remains in place today.

How LSC restrictions impact the availability of Shriver Act services. The impact of LSC's restrictions on Shriver Act projects varies depending on how the Shriver Act project is structured and where it is located. The Shriver Act itself requires each project to be designed around a central intake hub known as the lead legal services agency. Additional legal aid agencies or other relevant service providers operate around that hub as partners on the project. If the lead agency for a Shriver Act project is an LSC-funded institution – as is the case for several of the projects – then that lead agency cannot serve most undocumented individuals seeking services. That is not such a big deal, though, so long as one of the partner legal services providers is non-LSC funded. In that case, the LSC-funded lead agency can just direct any undocumented individuals seeking services to that non-LSC funded partner.

The real problem arises when there are no non-LSC legal services providers involved in the project at all. In that scenario there are simply no services available to most undocumented individuals who come seeking services from that project. What makes this scenario particularly vexing is that it is not randomly distributed. There are plenty of well-respected, non-LSC legal services providers in Los Angeles and the Bay Area. In many parts of the state, however, the LSC-funded program is the only legal aid provider around. In such places, there are no other legal aid providers who serve the undocumented community, so there is no one that can be brought in as partners on a Shriver Act project. Yet it is likely that these parts of the state – mostly rural and agricultural – are where legal services for undocumented individuals are most needed.

This bill is designed to encourage the existing Shriver Act programs to explore additional avenues for ensuring undocumented individuals can access Shriver Act services and to foment the development of legal services that are not contingent on citizenship or immigration status in regions where no such services currently exist.

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

SUPPORT: (Verified 6/23/22)

California Catholic Conference
California Immigrant Policy Center
California Rural Legal Assistance Foundation, Inc.
Central Valley Immigrant Integration Collaborative
Centro Legal de la Raza
Council on American-Islamic Relations, California
Immigrant Legal Resource Center
National Association of Social Workers, California Chapter
Neighborhood Legal Services of Los Angeles County
Public Law Center

OPPOSITION: (Verified 6/23/22)

None received

ARGUMENTS IN SUPPORT: According to the author:

> AB 2193 […] strengthens the Shriver Program by helping to ensure that all Californians, regardless of their immigration status, are eligible for legal assistance provided under the Shriver Program. Unfortunately, many legal services organizations are currently unable to provide representation to undocumented Californians because of conditions attached to federal funding. This legislation will help to address that injustice by requiring these organizations to refer immigrants for services elsewhere if they are unable to formally provide them. This requirement is both moral and deeply practical, especially at a time when our undocumented neighbors—who are among the most vulnerable Californians—are being denied relief provided to other Californians and are therefore more likely to be in need of the type of services provided under the Shriver Program.

In support, California Rural Legal Assistance writes:

> Although CRLA is not a recipient of Shriver funds, we understand how immigration funding restrictions can deny critical services to immigrant residents because for many years, we have been restricted in that manner by the Legal Services Corporation (LSC) that restricts LSC Programs from assisting applicants who are not legally in the country. In California, more than 50% of the farmworker population is ineligible for our services for that reason. In summary, AB 2193 seeks to correct the problem of legal aid funders also restricting Shriver funds because of citizenship/immigration status and we support that effort.

In support, Centro Legal de la Raza writes:

> Centro Legal de la Raza believes that it is important that people seeking legal representation are indeed connected to the resources they seek, and believe this legislation will help make those fruitful connections. While our organization does not maintain that more legal aid will solve the underlying issues that may prompt Californians to seek services from lead agencies in the first place, we do believe that this bill will help address the negative, disproportionate impact that the current lack of access of justice places on the immigrant community in terms of quality of life.

ASSEMBLY FLOOR: 64-0, 4/21/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Carrillo, Cervantes, Chen, Choi, Cunningham, Megan Dahle, Daly, Davies, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wilson, Wood, Rendon

NO VOTE RECORDED: Bennett, Bigelow, Calderon, Cooley, Cooper, Flora, Gray, Kiley, McCarty, Nguyen, Seyarto, Smith, Wicks

Prepared by: Timothy Griffiths / JUD. / (916) 651-4113
8/3/22 14:32:46

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

SENATE RULES COMMITTEE AB 2194
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2194
Author: Ward (D) and Lee (D), et al.
Amended: 8/8/22 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 8-0, 6/6/22
AYES: Roth, Archuleta, Becker, Dodd, Leyva, Min, Newman, Ochoa Bogh
NO VOTE RECORDED: Melendez, Bates, Eggman, Hurtado, Jones, Pan

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 63-0, 5/16/22 - See last page for vote

SUBJECT: Pharmacists and pharmacy technicians: continuing education: cultural competency

SOURCE: California Pharmacists Association
Equality California

DIGEST: This bill requires a pharmacy technician (PT) and pharmacist, as part of the pharmacist's 30 hours of mandatory continuing education (CE), to submit proof of completion of at least one hour of participation in a cultural competency course in order for the PT or pharmacist's license to be renewed.

Senate Floor Amendments of 8/8/22 delay implementation until January 1, 2024.

ANALYSIS:

Existing law:

1) Establishes the Board of Pharmacy (Board) to administer and enforce the Pharmacy Law, which licenses and regulates pharmacists and PTs, among other licensees. (Business and Professions Code (BPC) § 4001 (a))

2) Authorizes a pharmacist to do all of the following, among other permissible activities, as part of their scope of practice:

   a) Provide consultation, training, and education to patients about drug therapy, disease management, and disease prevention.

   b) Provide professional information, including clinical or pharmacological information, advice, or consultation to other health care professionals, and participate in multidisciplinary review of patient progress, including appropriate access to medical records.

   c) Order and interpret tests for the purpose of monitoring and managing the efficacy and toxicity of drug therapies in coordination with the patient's primary care provider or diagnosing prescriber.

   d) Administer immunizations pursuant to a protocol with a prescriber.

   e) Furnish emergency contraception drug therapy, self-administered hormonal contraceptives, naloxone hydrochloride, HIV preexposure and postexposure prophylaxis, and nicotine replacement products, under certain conditions.

   f) Administer drugs and biological products that have been ordered by a prescriber. (BPC § 4052)

3) Authorizes a pharmacist to seek recognition as an advanced practice pharmacist (APP) if they meet certain education and training requirements. (BPC § 4210)

4) Requires a pharmacist to complete 30 hours of approved CE courses every two years in order to have their license renewed. (BPC § 4231)

5) Defines a PT as an individual who assists a pharmacist in a pharmacy in the performance of his or her related duties, which shall include packaging, manipulative, repetitive, or other nondiscretionary tasks only while assisting, and while under the direct supervision and control of, a pharmacist. Clarifies that a PT can only perform the above tasks with a pharmacist on duty. Prohibits a PT from performing any act requiring the exercise of professional judgment by a pharmacist. (BPC §§ 4038, 4115 (a-c))

This bill:

1) Prohibits the Board from renewing a pharmacist or PT license unless the applicant submits proof satisfactory to the Board that they successfully

completed at least one hour of participation in a cultural competency course during the two years preceding the application for renewal.

2) Specifies that cultural competency course means a cultural competency and humility course that:

   a) Focuses on patients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, or queer, or who question their sexual orientation or gender identity and expression;

   b) Is approved from an accreditation agency approved by the Board;

   c) Covers recognized health disparities faced by Black, Indigenous, and people of color; and

   d) Contains elements demonstrating how sexual identity is directly impacted through intersectionality.

Background

Pharmacists provide patient care with a goal of optimizing medication therapy and promoting health, wellness, and disease prevention. Pharmacists complete a four year post-graduate doctoral training program that includes extensive training in human anatomy and physiology, recognition and treatment of diseases and conditions, pharmacology, optimal medication use, as well as experience in direct patient care in multiple health care settings through clinical rotations. In 2013, the Governor signed SB 493 (Hernandez, Chapter 469, Statutes of 2013), which expanded the scope of practice of pharmacists and also established APP recognition.

The law creating registration for PTs was enacted in 1991 (AB 1244, Polanco, Chapter 841, Statutes of 1991), in part to free up pharmacists to perform additional duties that they had been trained for and were being required to perform (e.g., patient counseling). The rationale for AB 1244 was that having a PT perform non-discretionary duties that do not require a pharmacist's professional training or judgment would enable the pharmacist to provide more services to a larger number of patients. The Board's regulations (Title 16, Division 17, Article 11, Section 1793.2) define "nondiscretionary tasks" as: removing the drug or drugs from stock; counting, pouring or mixing pharmaceuticals; placing the product into a container; affixing the label or labels to a container and; packaging and repackaging.

Pharmacists are the Board's only licensee category that is required to complete CE as a condition of renewal, specifically 30 units of CE every two years for pharmacists and 10 units of CE every two years for Advanced Practice Pharmacists (APP). The subject matter is required to be "pertinent to the socioeconomic and legal aspects of health care, the properties and actions of drugs and dosage forms and the etiology, and characteristics and therapeutics of the disease state."

The renewal application requires a pharmacist to self-certify under penalty of perjury the number of CE hours completed during the renewal period and the Board is currently designing its applications for APP application and renewal. Two entities are approve CE providers and courses: the Accreditation Council for Pharmacy Education and the California Pharmacists Association. CE providers are not audited. Statute does allow the Board to accept CE approved by other healing arts boards if it meets standards of relevance to pharmacy practice. Pharmacists are also eligible to receive CE credit for attending meetings of the Board or its committees. Credit is also awarded for successfully passing the examination administered by the Commission for Certification in Geriatric Pharmacy.

Currently, there are few CE course requirements that pharmacists must take as part of their 30 hours within the Pharmacy Law. Board regulations specify that at least two of the 30 CE hours for a pharmacist license renewal consist of participation in law and ethics courses provided by the Board. Pharmacists who furnish self-administered hormonal contraceptives in accordance with standardized procedures or protocols must complete a training program on emergency contraception that consists of at least one hour of approved CE on this drug therapy. Pharmacists who engage in furnishing prescription nicotine replacement products must complete CE specifically on smoking cessation therapy. Pharmacists who initiate or administer vaccinations must complete one hour in CE focused on immunizations and vaccines. Pharmacists who furnish opioid antagonists must complete a training program on their use that consists of at least one hour of approved CE.

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

SUPPORT: (Verified 8/8/22)

California Pharmacists Association (co-source)
Equality California (co-source)
APLA Health
California Retailers Association
Desert AIDS Project
Los Angeles Gay & Lesbian Chamber of Commerce
Los Angeles LGBT Center

OPPOSITION: (Verified 8/8/22)

None received

ARGUMENTS IN SUPPORT: The California Pharmacists Association (CPhA) notes, "CPhA is committed to ensuring that pharmacists and pharmacy technicians are able to provide culturally competent care to members of the LGBTQ+ community. California has been a leader in addressing the issue of health equity by eliminating disparities. It is well documented that when healthcare providers understand the community for whom they are providing care, health outcomes improve. According to Drug Topics, 'Patients visit a pharmacy an average 35 times per year compared to just four visits to see medical providers.' This provides an opportunity for pharmacists to counsel patients on various health issues and doing so with cultural humility significantly increases the possibility of positive health outcomes."

Equality California, along with the Desert AIDS Project and the Los Angeles LGBT Center, notes, "AB 2194 is the next step in addressing the role that pharmacists play in closing health gaps for marginalized communities in California. Pharmacists and technicians provide critical services, particularly for patients who may not feel safe consulting a physician…. Ensuring that pharmacists and technicians have a strong foundation in how to provide affirming and inclusive care to LGBTQ+ patients will expand access to care and help to reduce the disparities in health and well-being that LGBTQ+ people continue to face."

Supporters also state that this bill will ensure that pharmacists have a strong foundation to provide culturally competent care to the LGBT community, furthering California's commitment to provide accessible and quality care to this community.

ASSEMBLY FLOOR: 63-0, 5/16/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Nguyen, O'Donnell, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Bigelow, Cunningham, Megan Dahle, Kiley, Low, Muratsuchi, Nazarian, Patterson, Quirk-Silva, Blanca Rubio, Seyarto, Smith, Ting, Voepel, Waldron

Prepared by: Sarah Mason / B., P. & E.D. /
8/10/22 14:57:20

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

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

THIRD READING

Bill No: AB 2195
Author: Jones-Sawyer (D), et al.
Introduced: 2/15/22
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 6/21/22
AYES: Bradford, Kamlager, Skinner, Wiener
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 43-24, 5/23/22 - See last page for vote

SUBJECT: Crimes: nuisance

SOURCE: Drug Policy Alliance
Immigrant Resource Center
Initiate Justice

DIGEST: This bill allows a defendant to accept a plea agreement for committing a public nuisance, if the negotiated disposition includes the dismissal of one or more charges that allege unlawfully cultivating, manufacturing, transporting, giving away, selling, or possession or use of a drug, or possession or use of drug paraphernalia.

ANALYSIS:

Existing law:

1) Provides that every person who maintains or commits any public nuisance is guilty of a misdemeanor. (Pen. Code, § 372.)

2) Defines "public nuisance" as anything which is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property,

so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway. (Pen. Code, § 370.)

3) Defines "nuisance" as anything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway. Defines "public nuisance" as one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal. (Civ. Code, §§ 3479, 3480.)

4) Defines "drug" as a substance recognized as a drug in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; substances (other than food) intended to affect the structure or any function of the body of man or animals; and substances intended for use as a component of any of these substances. (Health & Saf. Code, § 11014.)

This bill:

1) Allows a defendant to accept a plea agreement for committing a public nuisance, if the negotiated disposition includes the dismissal of one or more charges that allege unlawfully cultivating, manufacturing, transporting, giving away, selling, or possession or use of a drug, or possession or use of drug paraphernalia.

2) Provides that, if the dismissed drug charge is an infraction, then the conviction for committing a public nuisance is an infraction, punishable by a fine not to exceed $250.

3) Provides that, if the dismissed drug charge is a misdemeanor, then the conviction for committing a public nuisance is a misdemeanor, punishable by a

fine of not to exceed $1,000, or imprisonment in a county jail for not more than one year, or both, or as an infraction punishable by a fine not to exceed $250.

4) Provides that, if the dismissed drug charge is a felony, then the conviction for committing a public nuisance is a felony, punishable by a period of 16 months, or two or three years, or by imprisonment in a county jail for not more than one year.

Background

There are numerous collateral consequences for criminal convictions. For non-U.S. citizens, the federal immigration consequences of a drug conviction are severe. For example, upon a drug conviction, a non-citizen may become automatically deportable and inadmissible, and the conviction may subject the defendant to mandatory immigration detention, without bond. (8 U.S.C. § 1227(a)(2)(B); 8 U.S.C. § 1182(a)(2)(A)(i)(II); 8 U.S.C. § 1226(c)(1).) However, a defendant can avoid negative immigration consequences of a drug conviction by accepting a plea to a non-drug offense. (Immigrant Legal Resource Center, *Controlled Substances* (Jan. 2019), p. 13 <https://www.ilrc.org/sites/default/files/resources/chart-note_08-controlled_substances.pdf [as of Jun. 14, 2022].)

AB 2195 creates an alternate plea scheme for defendants charged with drug offenses. Specifically, this bill gives the prosecution the discretion to offer a defendant a negotiated disposition, on a case by case basis, whereby the defendant can plead to a charge of committing a public nuisance, in lieu of a drug charge. Generally, a conviction for maintaining or committing public nuisance will not result in harmful immigration consequences such as mandatory immigration detention. Under the provisions of the bill, the public nuisance conviction would carry the same criminal penalty as the "dropped" drug charge, without triggering the collateral consequences for non-citizens.

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

SUPPORT: (Verified 8/1/22)

Drug Policy Alliance (co-source)
Immigrant Resource Center (co-source)
Initiate Justice (co-source)
A New Path
Alliance San Diego
California Attorneys for Criminal Justice

California Immigrant Policy Center
California Public Defenders Association
California for Safety and Justice
Californians United for a Responsible Budget
Coalition for Humane Immigrant Rights
Courage California
Ella Baker Center for Human Rights
End Hep C SF
Fresno Barrios Unidos
Friends Committee on Legislation of California
Los Angeles County District Attorney's Office
National Association of Social Workers, California Chapter
Riverside County Public Defender's Office
Root & Rebound
Rubicon Programs
San Francisco Public Defender
Showing up for Racial Justice Bay Area
Smart Justice California
South Bay People Power
White People 4 Black Lives
Young Women's Freedom Center

OPPOSITION: (Verified 8/1/22)

None received

ASSEMBLY FLOOR: 43-24, 5/23/22
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Bloom, Bryan, Calderon, Carrillo, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, McCarty, Medina, Mullin, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Mathis, Mayes, Muratsuchi, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron

NO VOTE RECORDED: Arambula, Berman, Boerner Horvath, Mia Bonta, Lackey, Maienschein, O'Donnell, Ramos, Rodriguez, Blanca Rubio, Salas

Prepared by: Stephanie Jordan / PUB. S. /
8/3/22 14:32:47

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

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

THIRD READING

Bill No: AB 2196
Author: Maienschein (D)
Amended: 4/6/22 in Assembly
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 14-0, 6/27/22
AYES: Roth, Melendez, Archuleta, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 64-0, 5/5/22 - See last page for vote

SUBJECT: Barbering and cosmetology

SOURCE: Board of Barbering and Cosmetology

DIGEST: This bill makes various technical and clarifying changes to the Barbering and Cosmetology Act (BBC Act) administered by the Board of Barbering and Cosmetology (BBC). Clarifies that a person who is participating in a paid externship program through an approved school is exempt from the provision generally prohibiting compensation for services provided without a license. Conforms language regarding externship and apprenticeship programs for barbering to provisions recently amended for cosmetology. Codifies the BBC's curriculum for electrolysis courses to conform that statute to similar provisions establishing the curricula for courses in other licensed services.

ANALYSIS: Existing law establishes the BBC, until January 1, 2027, responsible for administering the Act and regulating specified practices through the licensure of barbers, cosmetologists, hairstylists, electrologists, manicurists, and estheticians and oversight of establishments.

This bill:

1) Modifies the definition of hairstyling, for purposes of a hairstyling license, to include extending the hair of any person using both electrical and nonelectrical devices, and removing massaging, cleaning, or stimulating the scalp, face, and neck.

2) Updates the scope of practice for hairstyling to strike references to skincare services.

3) Specifies that a person applying as an apprentice in barbering must complete preapprentice training for the length of time established by the board, instead of the minimum of 39 hours, in a facility approved by the board prior to serving the general public. Also, specifies that preapprentice training for cosmetology, skin care, nail care, or electrology must be administered by the board.

4) Places the required curriculum for an electrolysis course into statute. Specifically, states that the course consists of technical and practical instruction in the following areas: (1) 100 hours in health and safety; (2) 100 hours in disinfection and sanitation; and (3) 400 hours in electrolysis, thermolysis, blend or dual modality, and electricity.

5) Reduces the percentage of the minimum required coursework that must be completed (from 60% to 25%) before a barbering student can work as an extern in an establishment participating in the educational program, and repeals the requirement that an externship be unpaid.

6) Increases the amount of clock work hour credit an extern in barbering may receive toward graduation credit (from 8 to 25 hours per week and from 10 to 25% of the total clock hours for completion of the course).

7) Makes other technical changes, including correcting a cross reference.

Background

BBC is responsible for licensing and regulating barbers, cosmetologists, hairstylists, estheticians, electrologists, manicurists, apprentices and establishments. BBC is an autonomous regulatory entity supported by licensing fees, with full policy and enforcement authority over the practices of hair, skin and nail care, and electrolysis in the state. The Act provides exemptions for: those involved in the health care field who, within their own scope of practice, may

perform particular procedures which would constitute the practice of barbering or cosmetology; commissioned officers in the military service, or their attendants, when engaged in the actual performance of their official duties; persons employed in the movie, television, theatrical, or radio business; persons selling or demonstrating certain products. BBC is one of the largest boards in the country, with over 615,000 licensees. Annually, BBC issues approximately 261,000 licenses (initial and renewal licenses). Each profession has its own scope of practice, entry-level requirements, and professional settings, with some overlap in areas.

BPC Section 7362 states that a school that is approved by BBC is one that is first approved by BBC and subsequently approved by the Bureau for Private Postsecondary Education (BPPE) or is a public school in this state, and provides a course of instruction approved by BBC. BPC Section 7332 provides authority for an apprenticeship pathway to licensure. The BBC Apprenticeship Program is a training program approved by the Division of Apprenticeship Standards (DAS) and BBC that allows a trainee, an apprentice, to earn a wage while studying to become a cosmetologist, barber or electrologist under the guidance and supervision of a trainer in an establishment licensed by BBC. The BBC externship program allows a student who is enrolled in a cosmetology school to perform services in a licensed salon under the direct and immediate supervision of a designated licensee.

Last year, SB 803 (Roth, Chapter 648, Statutes of 2021) continued the operations of the BBC until January 1, 2027 and made various technical changes, statutory improvements, and policy reforms to the Act based on the joint sunset review oversight of BBC by the Senate Committee on Business, Professions, and Economic Development and Assembly Committee on Business and Professions.

Comments

In order to assist BBC in its oversight of schools and promotion of student success, and to narrow pathways for fraud, moving forward, discussions have focused on whether BBC should establish a mechanism for schools to report student enrollment information to BBC that BBC can verify when students take the required licensing examination.

BBC supports this bill and has requested additional amendments to fully implement SB 803, including technical changes related to the hairstylist license application and examination fee.

The Professional Beauty Federation of California requests that the bill increase the number of training hours for a cosmetology license from 1,000 to 1,200 and that schools be required to provide BBC student enrollment dates within 45 days of a student's enrollment at a school out of concern that fraudulent schools may arise due to the newly created hairstylist license.

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

SUPPORT: (Verified 8/3/22)

Board of Barbering and Cosmetology (source)
Bellus Academy
John Paul Mitchell Systems

OPPOSITION: (Verified 8/3/22)

None received

ARGUMENTS IN SUPPORT: Bellus Academy and John Paul Mitchell Systems support this bill and note that they have "graduated thousands of students focused on launching their dream career in the cosmetology industry and take great pride in providing the necessary education and support to our students."

ASSEMBLY FLOOR: 64-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Friedman, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Gallagher, Cristina Garcia, Gipson, Levine, Medina, Villapudua, Waldron

Prepared by: Sarah Mason / B., P. & E.D. /
8/3/22 14:32:48

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

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THIRD READING

Bill No: AB 2205
Author: Carrillo (D)
Amended: 3/24/22 in Assembly
Vote: 21

SENATE HEALTH COMMITTEE: 7-2, 6/8/22
AYES: Pan, Eggman, Gonzalez, Leyva, Limón, Rubio, Wiener
NOES: Melendez, Grove
NO VOTE RECORDED: Hurtado, Roth

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 57-17, 5/25/22 - See last page for vote

SUBJECT: California Health Benefit Exchange: abortion services coverage reporting

SOURCE: Planned Parenthood Affiliates of California

DIGEST: This bill requires, beginning on July 1, 2023, and annually thereafter, a health plan and health insurer providing a qualified health plan through Covered California to report to the Department of Managed Health Care director or Insurance Commissioner the total amount of funds maintained in a segregated account pursuant to federal law. This bill requires this annual report to contain the ending balance of the account and the total dollar amount of claims paid during the reporting year.

ANALYSIS:

Existing law:

1) Establishes Covered California as an independent entity in state government not affiliated with any state agency or department, governed by a five-member board. Requires Covered California to establish and use a competitive process to select Qualified Health Plans (QHPs) and other contractors to make available

health insurance coverage authorized under the federal Patient Protection and Affordable Care Act (ACA). [GOV §100500 -100522]

2) Establishes the Department of Managed Health Care (DMHC) to regulate health plans under the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act) and the California Department of Insurance (CDI) to regulate health and other insurance. [HSC §1340, et seq. and INS §106, et seq.]

3) Establishes a $1 premium subsidy program in Covered California to subsidize the $1 per month premium required for the cost of providing abortion services, for which federal funding is prohibited.

This bill:

1) Requires, beginning on July 1, 2023, and annually thereafter, a health plan and health insurer providing a QHP through Covered California to report to the DMHC director or Insurance Commissioner the total amount of funds maintained in a segregated account pursuant to federal law. Requires this annual report to contain the ending balance of the account and the total dollar amount of claims paid during the reporting year.

2) Defines, a "QHP" to have the same meaning as defined in the ACA.

Comments

According to the author, CDI has estimated that insurers alone have collected several million dollars in the separate abortion premium payments over the past decade, but there is not currently a reporting requirement that would allow the regulator to understand how much has been collected or what portion of the funds have been used to provide abortion services. As we prepare for the Supreme Court to overturn *Roe v. Wade,* and seek to support abortion patients in California, it is our duty to ensure that we identify available existing state dollars and resources. This bill will simply require transparency and disclosure from the health plans and insurers to the CDI and DMHC to ensure regulators and policymakers are aware of the amount of funds being collected as we consider options available for payment of abortion services.

Hyde Amendment. Since 1976, Congress has included language restricting federal funds from being used to cover certain abortions, commonly known as the Hyde Amendment, based on the sponsor of the original version of the Labor, Health and Human Services, Education and Related Agencies appropriations legislation. While the specific language has varied from year to year, a version of the Hyde Amendment has been in place continuously. It is not permanent federal law, but

applies only to the extent reenacted by Congress, with or without amendments, in appropriations legislation. The Hyde Amendment permits federal funds to be used for abortion services only in the limited cases of rape, incest, or if a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed. Any QHP that covers abortion services in instances beyond those limited circumstances is considered to be a QHP that covers non-Hyde abortion services. A QHP issuer that offer coverage for non-Hyde abortion services may not use federal premium tax credits (including advance payments of the premium tax credit) or cost-sharing reductions to pay for non-Hyde abortion services. Section 1303 of the ACA requires issuers to charge and collect at least $1 per enrollee per month for coverage of such abortion services, deposit the collected funds into a separate account, maintain the segregation of the funds, and use only those funds to pay for such abortions. Failure to adhere to these requirements could result in decertification or civil monetary penalties.

CMS rules. Under the Trump Administration, the Centers for Medicare and Medicaid Services (CMS) issued a final rule in December of 2019 to align federal regulations with statutory requirements by requiring QHPs to send a separate bill to consumers for the portion of the consumer's premium attributable to coverage of certain non-Hyde abortion services, and to instruct consumers to separately pay for that portion of their premium. QHPs sending paper bills are permitted to send the separate paper bill in the same mailing as the bill for the rest of the enrollee's premium. QHPs sending bills electronically are required to send the separate bill in a separate email or electronic communication. QHPs must instruct the policy holder to pay the separate bill in a separate transaction. However, if the policy holder fails to pay the separate bill in a separate transaction, the QHP may not terminate the policy holder's coverage on that basis, provided the amount due is otherwise paid. The Biden Administration amended the regulations on September 17, 2021, on the separate abortion billing requirements to go back to pre-2016 flexibility. Specifically, instead of having to send a separate bill and instruct policy holders to pay it in a separate transaction as previously required, QHP issuers may now, send the policy holder a single monthly invoice or bill that separately itemizes the premium amount for coverage of such abortion services; send the policy holder a separate monthly bill for these services; or send the policy holder a notice at or soon after the time of enrollment that the monthly invoice or bill will include a separate charge for such services and specify the charge. However, QHP issuers covering such abortion services are still expected to comply with all statutory requirements, such as collecting separate payments for an amount equal to the greater of $1 or the actuarial value of coverage of abortion services for

which federal funds are prohibited, continuing to ensure that no federal funding is used to pay for coverage of such abortion services, submitting a segregation plan to the relevant state insurance regulator, and continuing to segregate funds for coverage of such abortion services collected from policy holders into a separate account that is to be used to pay for such abortion services.

DMHC. The Knox Keene Act requires the provision of basic health care services, and the California Constitution prohibits health plans from discriminating against women who choose to terminate a pregnancy. Thus, all health plans must treat maternity services and legal abortion neutrally. Exclusions and limitations are also incompatible with both the California Reproductive Privacy Act and multiple California judicial decisions that have unambiguously established under the California Constitution that every pregnant woman has the fundamental right to choose to either bear a child or to have a legal abortion. A health plan is not required to cover abortions that would be unlawful under existing law.

Roe v. Wade. The U.S. Supreme Court recognized the constitutional right to abortion in 1973 in *Roe v. Wade*, and until recently, subsequent decisions have reaffirmed that right. The Court has held that a state cannot ban abortion before viability (the point at which a fetus can survive outside the uterus), and that any restriction on abortion after viability must contain exceptions to protect the life and health of the pregnant person. Any pre-viability abortion restriction cannot create an "undue burden" by placing a substantial obstacle in the path of a person seeking an abortion. In 2021, the State of Texas enacted a civilly enforced abortion restriction that prohibited any person from performing, or aiding and abetting, a person in obtaining an abortion after the detection of a "fetal heartbeat." That law prohibited state enforcement, and instead allows third parties to file lawsuits to enforce the law, regardless of the plaintiff's relationship to the defendant. The Texas law does not require the plaintiff to live in the state or suffer any actual harm. On December 1, 2021, the U.S. Supreme Court heard oral arguments in *Dobbs v. Jackson Women's Health Organization*, a case regarding a Mississippi law that would ban abortion after 15 weeks of pregnancy. This case is a direct challenge to *Roe v. Wade*. The U.S. Supreme Court struck down *Roe v. Wade* on June 24, 2022.

Governor's Budget proposal. The May Revision includes General Fund expenditure authority of $57 million to support safe and accessible reproductive health care, for a total of $125 million including investments included in the January budget, including the following components:

1) Funding for Uncompensated Reproductive Health Care Services – $40 million, available over six years, for grants to reproductive health care providers to support care for low- and moderate-income individuals without health coverage for abortion care services;

2) California Reproductive Justice and Freedom Fund – $15 million one-time for grants to community-based reproductive health, rights, and justice organizations to support medically accurate and culturally competent outreach and education on sexual health and reproductive health issues;

3) Comprehensive Reproductive Rights Website – $1 million one-time to support a website providing accurate and updated information to the public on the right to abortion care under state law, information about reproductive health care providers, and options for coverage of reproductive health services; and,

4) Research on Unmet Reproductive Health Care Needs – $1 million one-time to support research to evaluate the unmet need for access to reproductive health services

Related/Prior Legislation

SB 1142 (Caballero, 2022) requires the California Health and Human Services Agency, or a designated entity, to establish a website where the public can access specified information about abortion services. In addition, the bill establishes the Abortion Practical Support Fund (Fund) for the purpose of providing grants to nonprofit entities for abortion supportive services and to public research institutions for research to support equitable access to abortion. Requires the Commission on the Status of Women and Girls to administer the Fund and to provide grants to increase access to abortion services. The bill is in the Assembly Appropriations Committee.

SB 1245 (Kamlager, 2022) establishes the Los Angeles (LA) County Abortion Access Safe Haven Pilot Program for the purpose of expanding and improving access to the full spectrum of sexual and reproductive health care, including abortion, in LA County. The bill is in the Assembly Appropriations Committee.

AB 1666 (Bauer-Kahan, Chapter 42, Statutes of 2022) prohibited the enforcement of out-of-state fetal heartbeat abortion restriction laws in California.

AB 2134 (Weber, 2022) establishes the California Reproductive Health Equity Program (Program) to ensure abortion and contraception services are affordable for and accessible to all patients; permits Medi-Cal providers to apply for grant funding to provide abortion and contraception at no cost to certain uninsured or

underinsured individuals; requires health plans and insurers that provide coverage to employees of a religious employer that does not include coverage for abortion and contraception to provide an enrollee or insured with written information on the excluded benefits and services and that the abortion and contraception benefits and services may be available at no cost through the Program; requires an employer that provides health coverage that does not include coverage for abortion and contraception to annually provide the same information in writing to its employees; and, requires the Department of Industrial Relations to impose an annual fee on those employers, excluding religious employers, and to deposit revenues annually into the California Reproductive Health Equity Fund. The bill is in the Senate Appropriations Committee.

AB 2320 (C. Garcia, 2022) requires, until January 1, 2028, the Department of Health Care Access and Information, to establish and administer a pilot program to direct funds to licensed primary care clinics that provide reproductive health care services in five counties that agree to participate. The bill is in the Senate Appropriations Committee.

SB 245 (Gonzalez, Chapter 11, Statutes of 2022) prohibited cost-sharing, restrictions, delays, prior authorization and annual or lifetime limits on all abortion services, including follow-up services.

AB 133 (Committee on Budget, Chapter 143, Statutes of 2021) established a $1 premium subsidy program in Covered California to subsidize the $1 per month premium required for the cost of providing abortion services, for which federal funding is prohibited.

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

SUPPORT: (Verified 6/21/22)

Planned Parenthood Affiliates of California (source)
California Insurance Commissioner Ricardo Lara
California Nurse Midwives Association
NARAL Pro-choice California
National Health Law Program

OPPOSITION: (Verified 6/21/22)

None received

ARGUMENTS IN SUPPORT: Planned Parenthood Affiliates of California is the sponsor of this bill and writes that it will require transparency from health insurers

and health plans regarding the collection of segregated payments specific to abortion premiums. Under current law, health insurers and plans are required to collect a $1 per enrollee per month premium specifically for abortion services. There is currently no requirement that health insurers and plans report how much is collected by them from enrollees or how the funds have been used. Should the Supreme Court uphold Mississippi's ban, thereby overturning Roe, people in over half of the states in the country – over 36 million women and other people who may become pregnant - will lose access to abortion care. It is already happening. According to a report released by the Guttmacher Institute the number of out-of-state patients who would find their nearest abortion provider in California increased from 46,000 to 1.4 million – an increase of nearly 3,000%. California will continue to serve patients seeking abortion services but, as resources become stretched, it is important to determine additional potential funding sources to support all patients seeking the care they need in California.

ASSEMBLY FLOOR: 57-17, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Choi, Cunningham, O'Donnell

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
7/25/22 12:04:51

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

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

THIRD READING

Bill No: AB 2206
Author: Lee (D)
Amended: 6/30/22 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 11-3, 6/14/22
AYES: Gonzalez, Allen, Becker, Cortese, Dodd, Limón, McGuire, Min, Newman, Skinner, Wieckowski
NOES: Bates, Melendez, Wilk
NO VOTE RECORDED: Archuleta, Dahle, Rubio

SENATE JUDICIARY COMMITTEE: 9-1, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, McGuire, Stern, Wieckowski, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 47-15, 5/9/22 - See last page for vote

SUBJECT: Nonattainment basins: employee parking: parking cash-out program

SOURCE: Author

DIGEST: This bill requires commercial landlords that are currently required to offer a parking cash-out program (PCO), to provide any of their tenants who are large employers with information about the cost of any parking provided as part of the lease.

ANALYSIS:

Existing law:

1) Defines a "parking cash-out program" as an employer-funded program under which an employer offers to provide a cash allowance to an employee which is equivalent to the parking subsidy that the employer would otherwise pay to provide the employee with a parking space.

2) Defines a "nonattainment air basin" as an air basin that does not meet specified state ambient air quality standards.

3) Defines "parking subsidy" as the difference between the out-of-pocket amount paid by an employer on a regular basis in order to secure the availability of an employee parking space not owned by the employer and the price, if any, charged to an employee for use of that space.

4) Requires an employer of 50 or more people who is located in a nonattainment air basin and who provides a parking subsidy to its employees to offer those employees a parking cash-out program.

5) Allows a parking cash-out program to include a requirement that an employee participant certifies that the participant will comply with guidelines established by the employer designed to avoid neighborhood parking problems, with a provision that an employee that is not complying with the guidelines will no longer be eligible for the parking cash-out program.

6) Authorizes the California Air Resources Board (CARB) to impose specified civil penalties on an employer for failure to provide a parking cash-out program when required to do so.

7) Authorizes a city, county, or air district to adopt, by ordinance or resolution, a penalty or other mechanism to ensure that employers within its jurisdiction are compliant with the parking cash-out law, so long as specified mechanism for ensuring due process are included.

8) Prohibits a city, county, or air district and CARB from both imposing penalties on an employer for violating parking cash-out program requirements, and specifies that in event of that both entities impose penalties, only the penalty imposed by CARB applies.

This bill:

1) Requires a commercial landlord entering into or renewing a lease for property in a nonattainment air basin on or after January 1, 2023, to provide any tenants who are employers of 50 or more employees with one of the following:

    a) the market-rate parking cost amount as a separate line item in the lease; or
    b) a list of parking costs within 30 days after the lease is entered into or renewed.

2) Specifies that the market-rate parking costs listed in the lease pursuant to (1)(a), above, are to be no less than what the parking would cost an individual unaffiliated with the property on which parking is provided or the employer through a transaction for the closest publicly available parking within one-half mile of the employee's workplace.

3) Requires an employer, upon the request of an employee, to give to that employee the parking cost information received from the lessor.

4) Requires an employer to offer a parking cash-out program even if the employer's lease does not comply with the requirements to list the market-rate parking costs as a separate line item in the lease.

5) Redefines "parking subsidy" to mean the difference between the price, if any, charged to an employee for the use of a parking space made available by an employer to that employee and either of the following:

    a) the market rate of parking available to an employee, as required to be reflected in a lease, or;
    b) the out-of-pocket amount paid by an employer for onsite or offsite employee parking acquired through the marketplace with no special rate offered because of a property lease, for an employee parking space not owned by the employer.

6) Provides that the requirement to list parking costs does not create a right for an employee to access, review, or challenge a lease, or a proposed lease, entered into between an employer and a lessor.

Comments

1) *Purpose*. According to the author, “The parking cash-out program was approved by this very Legislature three decades ago and is still not being implemented properly, which has detrimental environmental impacts. One reason that parking cash-out is not being implemented is due to the difficult nature of calculating the value of employee parking when it is included with the total cost of office rental space. Many owners of commercial real estate “bundle” the cost of parking with the cost of office space into a single lease price. This practice makes it difficult for employers to separate the cost of parking spaces associated with the commercial space that is being leased. Without that information, employers are unable to offer employees cash in lieu of parking subsidies. AB 2206 simply helps facilitate compliance with existing law by requiring parking owners to provide employers subject to parking cash-out with unbundled parking costs."

2) *Parking cash-out programs*. Existing law requires certain employers who provide subsidized parking for their employees to offer a cash allowance in lieu of a parking space. The intent is to reduce vehicle miles traveled (VMTs) and reduce emissions by offering employees the option of "cashing out" their subsidized parking space and incentivizing them to get to work using a more active form of travel or carpooling. However, a limiting factor in the law's reach is the criteria that parking must be leased separately from the building. This condition exempts the majority of businesses from the parking cash-out requirement, reducing the law’s potential impact. If the employer’s savings on leasing fewer spots cannot be calculated and deducted from the lease, the employer is not required to comply with the parking cash-out law. This creates a bundling problem, the problem of bundled commercial real estate leases, which makes it difficult to calculate the cost of parking spaces and therefore the parking cash-out benefit for eligible employees.

   AB 2206 attempts to resolve the bundling issue by providing employers with a short list of options from which they can calculate the amount of any parking cash out payment they are to make to employees electing to take that payment in lieu of parking. Specifically, AB 2206 provides employers with a short menu of options for how to calculate the value of the parking subsidy they are providing. Employers can use: (1) the fair market value of the parking if reflected in the lease; (2) the actual marketplace parking rate paid by the employer for a parking spot off of the property; (3) the fair market value of a parking space located with a quarter mile of the workplace, as evidence by

advertisements or signage; or (4) a formula maximizing the cost of parking at $350 and setting a default floor of $50 for when the cost of parking cannot otherwise be established.

3) *Opposition Removed*. Recent amendments taken in the Senate Judiciary Committee have removed the opposition to the bill.

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

SUPPORT: (Verified 8/8/22)

Bay Area Air Quality Management District
City of Santa Monica
Natural Resources Defense Council
Seamless Bay Area
Sierra Club
Spur
Transbay Coalition

OPPOSITION: (Verified 8/8/22)

None received

ASSEMBLY FLOOR: 47-15, 5/9/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Mullin, Muratsuchi, Nazarian, O'Donnell, Quirk, Ramos, Reyes, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Stone, Ting, Villapudua, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Choi, Megan Dahle, Davies, Fong, Gallagher, Kiley, Mathis, Mayes, Nguyen, Patterson, Seyarto, Smith, Voepel, Waldron
NO VOTE RECORDED: Boerner Horvath, Chen, Cooper, Cunningham, Daly, Flora, Gray, Grayson, Lackey, Medina, Petrie-Norris, Quirk-Silva, Luz Rivas, Salas, Valladares, Ward

Prepared by: Randy Chinn / TRANS. / (916) 651-4121
8/10/22 14:57:19

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

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

THIRD READING

Bill No: AB 2208
Author: Kalra (D), et al.
Amended: 6/30/22 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 4-1, 6/8/22
AYES: Allen, McGuire, Skinner, Wieckowski
NOES: Dahle
NO VOTE RECORDED: Bates, Stern

ASSEMBLY FLOOR: 51-15, 5/9/22 - See last page for vote

SUBJECT: Fluorescent lamps: sale and distribution: prohibition

SOURCE: National Stewardship Action Council

DIGEST: This bill phases out the sale of compact fluorescent lamps and linear fluorescent lamps used for general lighting applications.

Senate Floor Amendments of 6/30/22 add specificity to the types of fluorescent lamps covered by the sale prohibition and exempt fluorescent lamps used by academic and research institutions that are used exclusively for conducting research projects and experiments.

ANALYSIS:

Existing law:

1) Establishes the Lighting Toxics Reduction Act which, starting January 1, 2010, prohibits the manufacture, offer for sale, or sale of general purpose lights in the state that contain levels of hazardous substances that would result in the prohibition of that general purpose light in the European Union pursuant to the Restriction of Hazardous Substances (RoHS) Directive 2002/95/EC. (Health

and Safety Code (HSC) § 25210.9 et seq.)

2) Specifies that mercury-containing fluorescent lamps are exempt from management requirements for hazardous waste and are instead managed as universal waste. (22 California Code of Regulations (CCR) § 66261.9)

3) Defines "universal waste" as any waste listed in 22 CCR § 66261.9. (22 CCR § 66273.9)

4) Specifies regulations that apply to universal waste handlers for mercury-containing lamps. (22 CCR § 66273.33)

This bill:

1) Defines "compact fluorescent lamp (CFL)" as a compact low-pressure, mercury-containing, electric-discharge light source in which a fluorescent coating transforms some of the ultraviolet energy generated by the mercury discharge into visible light, and includes specified characteristics.

2) Defines "linear fluorescent lamp (LFL)" as a low-pressure, mercury-containing, electric-discharge light source in which a fluorescent coating transforms some of the ultraviolet energy generated by the mercury discharge into visible light, and includes specified characteristics.

3) Prohibits, on and after January 1, 2024, the offering for final sale, final sale, or distribution in the state as a new manufactured product of a screw or bayonet base type CFL.

4) Prohibits, on and after January 1, 2025, the offering for final sale, final sale, or distribution in the state of a pin-base type LFL as a new manufactured product.

5) Exemptions from the above provisions include:

   a) A lamp used for image capture and projection, including photocopying, printing, directly or in preprocessing, lithography, film and video projection, and holography;

   b) Specified lamps that have a high proportion of ultraviolet light emission;

   c) Any lamp used in a sunlamp product, as defined;

   d) A lamp used for medical or veterinary diagnosis or treatment, or used in a medical device;

e) A lamp used in pharmaceutical product manufacturing or quality control; and,

f) A lamp used for spectroscopy and photometric applications.

g) A lamp used by academic and research institutions that are used exclusively for conducting research projects and experiments.

Background

1) *Mercury in products.* Mercury is present in many 'everyday' products, including batteries, thermometers and barometers, electric switches and relays, fluorescent and other lamps, dental amalgams, skin-lightening products and other cosmetics, and pharmaceuticals. Mercury can occur or be incorporated in various forms and has different toxicities and bioavailability depending on these. Thus, some products, such as thermometers containing mercury, are considered hazardous waste. Fluorescent lamps, specifically, contain mercury in vaporized form, elevating inhalation risk significantly in the event a lamp breaks. These lamps can break and release mercury at any time during their lifespan, from manufacturing to disposal, which is often done improperly.

2) *Neurotoxicity of mercury.* According to the World Health Organization (WHO), exposure to mercury, even in small amounts, can cause serious health problems and be a particular threat to child development in the womb and early life. All humans are exposed to some level of mercury and the factors that determine whether health effects occur and their severity include the type of mercury to which a person was exposed; the dose; the age or developmental stage; the duration of exposure; and, the exposure route. Fetuses are most susceptible to the toxic effects of mercury. Such exposure most commonly results from the mother's consumption of fish and shellfish containing methylmercury. Methylmercury easily travels in the bloodstream and has the ability to cross the blood-brain barrier. Primarily, mercury exposure at this early stage leads to impaired nervous system development, but may also affect other organ systems. Fetal mercury exposure can lead to impairments in cognition, memory, attention, language skills, and fine motor and visual spatial skills.

   According to the WHO, "[t]here are several ways to prevent adverse health effects, including promoting clean energy, stopping the use of mercury in gold mining, eliminating the mining of mercury and phasing out non-essential mercury-containing products." The California Legislature has taken action to ban or limit several such non-essential products, including mercury thermostats

AB 1369 (Pavley, Chapter 626, Statutes of 2004), mercury relays and switches AB 1415 (Pavley, Chapter 578, Statutes of 2005), and mercury from cosmetic products AB 2762 (Muratsuchi, Chapter 314, Statutes of 2020). AB 2208 would ban mercury-containing compact and linear fluorescent lamps, except in applications that rely on such lamps and no alternatives currently exist.

3) *Mercury in the environment*. Mercury occurs naturally in the earth's crust and can be released into the environment from volcanic eruptions, weathering of rocks, forest fires, and as a result of human activity, the primary source of environmental mercury release. Coal-fired power plants, residential coal burning for heating and cooking, industrial processes, waste incineration, and mining can all release mercury. Once released into the atmosphere, mercury can travel hundreds of miles with the wind and can remain in the air, deposit on soil, or end up in water bodies and sediment. Mercury persists in the environment by cycling between air and soil in different chemical forms. Inorganic elemental mercury has an atmospheric lifetime of up to two years; methylmercury, an organic form of mercury, can persist in soil for decades. Methylmercury in aquatic environments moves up the food chain and biomagnifies, resulting in especially high levels of methylmercury in specific fish and shellfish species, such as swordfish, king mackerel, tilefish, and shark.

4) *Alternatives to fluorescent lamps*. Despite the known health effects of mercury, fluorescent lamps were long hailed as an important energy-saving alternative to incandescent lamps. Incandescent lamps lose 90% of the energy they draw to heat, as they are designed to heat a metal wire filament (e.g., tungsten) to such high temperatures that it starts glowing. Because of the significant loss of energy to dissipated heat, incandescent lamps are expensive over their lifespan and contribute to environmental pollution if the electricity to power them is derived from fossil fuels. According to the Union of Concerned Scientists, 42% of all anthropogenic emissions of mercury in the U.S. are from coal burned for energy generation.

   Light emitting diodes (LEDs) produce light when an electrical current passes through the semiconductor light source. LEDs have a much longer lifespan than incandescent and fluorescent lamps, as they do not 'burn out'. Rather, the brightness of LEDs slowly decreases over time (known as lumen depreciation). Lumen depreciation can be mitigated by designing LEDs with proper heat sinks, as heat is the driving factor for this phenomenon. According to Energy Star, thermal management is the single most important factor for the successful performance of an LED over its lifetime.

5) *Why ban fluorescent lamps now?* While the relative energy efficiency of LEDs has been known, cost was a significant barrier to broad uptake and a ban such as that proposed in AB 2208 would have raised important equity concerns not long ago. The cost of LEDs has dropped significantly, however. Due to energy cost savings, LEDs will be more economical over their lifetime, even if upfront costs may be higher. As policies to phase out fluorescent lamps take effect around the world, LEDs will continue to become more affordable. To align cost considerations with market estimates, the author of this bill bans linear fluorescent lamps starting 2025 to allow for replacement LEDs to further drop in price. The phase-out of mercury-containing lamps in the European Union will also likely reduce the cost of LED lamps and ramp up supply. As the Lighting Toxics Reduction Act AB 1109 (Huffman), Chapter 534, Statutes of 2007 aligned California with some of the EU's regulations, it seems sensible to update California law to reflect advances in technology and continue its alignment with the European single market. The EU has started the phase-out of mercury-containing lamps over several years, beginning with specified compact and linear fluorescent lamps next year.

Comments

1) Purpose of bill. According to the author, "Now that safe, energy-efficient LEDs are widely available, fluorescent lamps are no longer the best lighting option for California. In order to function, fluorescents must contain mercury, a potent toxin with the ability to do serious and permanent neurological damage to anyone who comes in contact with it. The effects are especially severe in children, who can suffer irreparable setbacks in their cognitive development after being exposed to mercury. If a fluorescent lamp breaks, it will release mercury vapor that can easily injure entire families.

"We can no longer sit idly by and let fluorescent lamps poison our communities and harm our environment. By phasing out the sale of fluorescent lamps, AB 2208 will allow better alternatives to light the way to a safer, more energy-efficient future."

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

SUPPORT: (Verified 6/23/22)

National Stewardship Action Council (source)
7th Generation Advisors
Active San Gabriel Valley

American Illumination, Inc.
American Suntanning Association
Appliance Standards Awareness Project
Atrium 916
California Electronic Asset Recovery
California Product Stewardship Council
California Resource Recovery Association
California Teamsters Public Affairs Council
Californians Against Waste
CalPIRG
Center for Environmental Health
City and County of San Francisco Department of the Environment
City of Sacramento
City of Sunnyvale
Clasp
Clean Power Campaign
Clean Water Action
Coalition for Clean Air
County of Santa Clara
Eco-Healthy Child Care
Ecology Center
Environment California
Environmental Working Group
Friends Committee on Legislation of California
Green Science Policy Institute
Greenwaste Recovery
Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force
Made Safe
Mercury Policy Project
National Association of Environmental Medicine
Natural Resources Defense Council
Planet Cents, Inc.
Product Stewardship Institute
Recology
Republic Services Inc.
Responsible Purchasing Network
Rethinkwaste
Safer States
San Francisco Baykeeper

San Francisco Department of the Environment
Santa Clara Valley Water District
Sea Hugger
Sierra Club California
Soltech LLC
Stopwaste
Story of Stuff
Swana California Chapters Legislative Task Force
The Atrium
The Story of Stuff Project
Tri-Ced Community Recycling
Turtle Island Restoration Network
Unisc International
V. John White Associates
Western Placer Waste Management Authority
Waste Management
Women's Voices for the Earth
Zero Waste Sonoma

OPPOSITION: (Verified 6/23/22)

National Electrical Manufacturers Association

ARGUMENTS IN SUPPORT: According to Clean Power Campaign, "We support AB 2208 because:

1) Mercury-free alternatives are readily available, making the sale of CFLS and LFLs unnecessary: Mercury and its compounds are highly toxic to humans and the World Health Organization puts mercury in the top ten most problematic chemicals for public health. Much more energy-efficient, mercury-free light emitting diode (LED) technology can easily and affordably replace fluorescent lamps and are readily available.

2) LED alternatives are better for the environment: LED replacements for fluorescent lamps do not contain any mercury, use approximately half the electricity as fluorescents to produce the same amount of light, and last 2-3 times longer.

3) It will save Californians money: According to estimates from the Appliance Standards Awareness Project (ASAP), by 2030 California residential, commercial, and industrial consumers would save about $1 billion annually on

their utility bills by transitioning from the most common fluorescent lamps to LEDs.

“AB 2208 would not only help protect Californians from the unnecessary threat of mercury exposure from fluorescent lamps, but it is also an important climate protection initiative that would accelerate the transition to a low-carbon economy through increased use of energy-efficient LED lighting solutions."

ARGUMENTS IN OPPOSITION: According to the National Electrical Manufacturer’s Association (NEMA), “NEMA is primarily concerned with how the phase out of fluorescent lamps is structured…Substantively, there are few differences between compact fluorescent lamps (CFL) and linear fluorescent lights. As such, we fail to understand why the measure distinguishes between the two products, the majority of which may only be used in specific light fixtures; 90% +/- are in commercial applications. The commercial aspect is important because businesses are already subject to disposal protocols intended to reduce the spread of mercury. More importantly, if the proposed phase out of fluorescent lamps is too fast for reputable manufactures to meet the LED demand, alternate supply sources may take over, i.e. cheaper alternatives from less known or unknown sources with less concern for quality or reputation, which may result in negative outcomes for users. Manufacturers need additional time to manage the transition and obsolescence of hundreds of millions of installed fluorescent fixtures in California and develop sufficient quantities of replacement LEDs to prevent gaps in availability for consumers.”

ASSEMBLY FLOOR: 51-15, 5/9/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Ramos, Reyes, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Megan Dahle, Davies, Fong, Gallagher, Kiley, Mathis, Nguyen, Patterson, Seyarto, Smith, Voepel, Waldron

NO VOTE RECORDED: Boerner Horvath, Cunningham, Flora, Gray, Grayson, Lackey, Mayes, Medina, Quirk-Silva, Luz Rivas, Valladares, Ward

Prepared by: Gabrielle Meindl / E.Q. / (916) 651-4108
8/3/22 16:14:28

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

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THIRD READING

Bill No: AB 2210
Author: Quirk (D), et al.
Amended: 6/13/22 in Senate
Vote: 27

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-3, 6/20/22
AYES: Roth, Becker, Dodd, Eggman, Leyva, Min, Newman, Ochoa Bogh, Pan
NOES: Melendez, Bates, Hurtado
NO VOTE RECORDED: Archuleta, Jones

SENATE GOVERNMENTAL ORG. COMMITTEE: 9-1, 6/28/22
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Bradford, Hueso, Kamlager, Wilk
NOES: Melendez
NO VOTE RECORDED: Borgeas, Glazer, Jones, Portantino, Rubio

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 59-13, 5/26/22 - See last page for vote

SUBJECT: Cannabis: state temporary event licenses: venues licensed by the Department of Alcoholic Beverage Control: unsold inventory

SOURCE: Author

DIGEST: This bill prohibits the Department of Cannabis Control (DCC) from denying an application for a state temporary event license solely on the basis that there is a license issued pursuant to the Alcoholic Beverage Control Act (ABC Act) for the proposed premises of the event.

ANALYSIS:

Existing law:

1) Enacts the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) to establish a comprehensive system to control and regulate the

cultivation, distribution, transport, storage, manufacturing, processing, and sale of both medicinal cannabis and cannabis products, and adult-use cannabis and cannabis products for adults 21 years of age and over. (Business and Professions Code (BPC) § 26000, et seq.)

2) Expresses that state cannabis laws shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate cannabis businesses. (BPC § 26200(a))

3) Prohibits cannabis licensees from selling alcoholic beverages or tobacco products on their premises. (BPC § 26054)

4) Authorizes the DCC to issue a state temporary event license to a licensee authorizing onsite cannabis sales to, and consumption by, persons 21 years of age or older at a county fair event, district agricultural association event, or at another venue expressly approved by a local jurisdiction for the purpose of holding temporary events of this nature, provided that the activities comply with the following:

   a) Access to the area where cannabis consumption is allowed is restricted to persons 21 years of age or older, cannabis consumption is not visible from any public place or nonage-restricted area, and the sale or consumption of alcohol or tobacco is not allowed on the premises.

   b) All participants who are engaged in the onsite retail sale of cannabis or cannabis products at the event are licensed to engage in that activity.

   c) The activities are otherwise consistent with regulations promulgated and adopted by the DCC governing state temporary event licenses.

   d) A state temporary event license shall only be issued in local jurisdictions that authorize such events.

   e) A licensee who submits an application for a state temporary event license shall, 60 days before the event, provide to the DCC a list of all licensees that will be providing onsite sales of cannabis or cannabis products at the event. (BPC § 26200(e))

5) Provides that the ABC Act, which is administered by ABC, regulates the application, issuance, and suspension of alcoholic beverage licenses. (BPC §§ 23000 et seq.)

6) Prohibits an alcoholic beverage licensee from selling, offering, or providing cannabis or cannabis products at its licensed premises. (BPC § 25621.5)

7) Prohibits a cannabis licensee from selling, offering, or providing a cannabis product that is an alcoholic beverage, as specified. (BPC § 26070.2)

This bill:

1) Prohibits the DCC from denying an application for a state temporary event license solely on the basis that there is a license issued pursuant to the ABC Act for the proposed premises of the event.

2) Provides that all on- and-off sale privileges of alcoholic beverages at the venue shall be suspended the day of the DCC licensed event and shall not resume until 6 a.m. on the day after the event has ended.

3) Provides alcohol consumption on the venue premises shall be strictly prohibited the day of the event and shall not resume until 6 a.m. on the day after the event has ended.

4) Allows a state temporary event licensee, upon completion or cessation of the temporary event, to reconcile unsold inventory of cannabis or cannabis products and return it to the licensee's retail premises, as specified.

5) States all unsold inventory of cannabis or cannabis products from the temporary event shall be noted in track and trace prior to transport and be in its original packaging, as defined.

6) States that the ABC shall not take any disciplinary action against a person licensed pursuant to the Act on the basis of a state temporary event license issued by the DCC to a retail licensee that utilizes the same premises as the person licensed pursuant to the ABC Act.

Background

State Regulation of Cannabis. In 1996, California first legalized cannabis for medical consumption via Proposition 215, also known as the Compassionate Use Act (the Act). Proposition 215 protected qualified patients and primary caregivers from prosecution related to the possession and cultivation of cannabis for medicinal purposes. In 2003, the Legislature authorized the formation of medical marijuana cooperatives—nonprofit organizations that cultivate and distribute marijuana for medical uses to their members through dispensaries.

In 2015, the Legislature passed the Medical Cannabis Regulation and Safety Act (MCRSA). For the first time, MCRSA established a comprehensive, statewide licensing and regulatory framework for the cultivation, manufacture, transportation, testing, distribution, and sale of medicinal cannabis.

Shortly following the passage of MCRSA in November 2016, California voters passed Proposition 64, the "Control, Regulate and Tax Adult Use of Marijuana Act" (Proposition 64), which legalized adult-use cannabis. Less than a year later in June 2017, the California State Legislature passed a budget trailer bill, SB 94 (Senate Committee on Budget and Fiscal Review, Chapter 27, Statutes of 2017), that integrated MCRSA with Prop 64 to create MAUCRSA, the current regulatory structure for both medicinal and adult-use cannabis. Beginning in 2018, Proposition 64 permitted adults 21 years of age or older can legally grow, possess, and use cannabis for nonmedical purposes, with certain restrictions.

Cannabis Events. MAUCRSA allowed for issuance of licenses for state temporary cannabis events at a fair grounds or district agricultural grounds. These licenses allowed for retail or consumption of cannabis at the event, provided that the event is approved by the relevant local jurisdiction. One of the issues behind the drafting of this legislation was that fairgrounds was not always convenient or preferable to hold temporary cannabis events. For example, in the case of Alameda County, the fairgrounds are in Pleasanton, not in the population center of Oakland. As a remedy to these challenges, AB 2020 (Quirk, Chapter 749, Statutes of 2018) was introduced. The bill authorized the Bureau of Cannabis Control, now known as DCC, to issue a temporary state license to provide on-site sales and consumption of cannabis at a temporary event located at a fairground, district agricultural association event, or at another venue expressly approved by a local jurisdiction.

In the same legislative year, AB 2641 (Wood, 2018) attempted to allowed temporary cannabis retailer licenses for cannabis manufacturers and cultivators to sell their own products at temporary cannabis events.

Today, only cannabis event organizers licensed by the DCC are authorized to hold in-person temporary cannabis events. They must be relicensed on an annual basis and are responsible for applying for a temporary cannabis event license for each individual event, maintaining the event space, hiring security, posting required signage, and providing the DCC with a list of participants and a diagram showing the layout of the event and where participants will be set up. Only licensed retailers can sell cannabis goods during an event and must abide by the following:

- The sale and consumption of cannabis must be on-site;
- Use existing and DCC approved packaging;
- Sell and admit only persons over 21 years of age;
- Not provide any free samples;
- Record sales in the Track and Trace system;
- Allow only licensed distributors to transport cannabis goods to and from an event;
- Not allow cannabis consumption to be visible from any public place or nonage-restricted area; and
- Prohibit the sale or consumption of alcohol or tobacco on the premises.

This bill is consistent with the existing framework and intent of temporary event licenses while expanding existing venues to allow for more events. This bill maintains current local approval requirements.

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

SUPPORT: (Verified 8/2/22)

California Cannabis Industry Association
Cal NORML (National Organization for the Reform of Marijuana Laws)

OPPOSITION: (Verified 8/2/22)

None received

ARGUMENTS IN SUPPORT: According to the California Cannabis Industry Association, "AB 2210 follows AB 2020 (Quirk, Chapter 749, Statutes of 2018) which authorized the then Bureau of Cannabis Control (BCC) to issue temporary

cannabis sales and consumption licenses when permitted by the appropriate local government. This hard-fought legislation was carefully negotiated with local governments, law enforcement and public health advocates to address concerns. To that end, AB 2020 included provisions to safeguard against the consumption of cannabis, alcohol and tobacco on the same premises and other important public safety protocols aimed deterring youth access and protecting public health and safety.

"What was not contemplated was how the ABC would interpret the bill's provisions - specifically that any venue with an existing ABC license is not allowed to be used for a temporary cannabis event - even when cannabis and alcohol is sold and consumed in separate and distinct areas within the same venue. This has had the effect of severely limiting where temporary events can occur, as most event venues maintain an active ABC license."

Cal NORML writes, "AB 2210 clarifies that temporary events at ABC licensed premises are permissible provided that alcohol is not served at the same time. This is consistent with the intent of Prop 64 and advances the intent of AB 2020 (Chapter 749, Statutes of 2018) authorizing local governments to grant temporary cannabis event permits. AB 2210 also clarifies that retailers at special events can return their unsold product to inventory, rather than be obliged to wastefully destroy it."

ASSEMBLY FLOOR: 59-13, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Cooley, Cooper, Cunningham, Daly, Flora, Mike Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Stone, Ting, Valladares, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Choi, Megan Dahle, Davies, Fong, Kiley, Nguyen, Patterson, Salas, Seyarto, Smith, Voepel, Waldron
NO VOTE RECORDED: Berman, Boerner Horvath, Irwin, Maienschein, O'Donnell, Villapudua

Prepared by: Alexandria Smith Davis / B., P. & E.D. /
8/3/22 14:34:28

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

SENATE RULES COMMITTEE AB 2221
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2221
Author: Quirk-Silva (D)
Amended: 8/1/22 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 8-0, 6/13/22
AYES: Wiener, Caballero, Cortese, McGuire, Ochoa Bogh, Skinner, Umberg, Wieckowski
NO VOTE RECORDED: Bates

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/29/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 74-0, 5/25/22 - See last page for vote

SUBJECT: Accessory dwelling units

SOURCE: California YIMBY

DIGEST: This bill clarifies and expands requirements for approval of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs).

ANALYSIS:

Existing law:

1) Requires a local agency to ministerially approve, within 60 days, in an area zoned for residential or mixed-use, an application for a building permit to create an ADU and a JADU as follows:

   a) The ADU or JADU that is within a proposed or existing structure, or the same footprint as the existing structure, provided the space has exterior

access from the proposed or existing structure and the side and rear setbacks are sufficient for fire and safety.

b) One detached ADU that is within a proposed or existing structure or the same footprint as the existing structure, along with one JADU, that may be subject to a size limit of 800 square feet, a height limit of 16 feet, and side and rear yard setbacks of four feet.

2) Requires a local agency to ministerially approve, within 60 days, on a lot with a multifamily dwelling:

a) Multiple ADUs within the existing structures that are not used as livable space, if each unit complies with state building standards for dwellings.

b) Two detached ADUs that are subject to a height limit of 16 feet and rear and side yard setbacks of four feet.

This bill:

1) Requires a permitting agency to specifically "approve or deny" an application to serve an ADU or a JADU within the same timeframes.

2) Specifies the requirement for a permitting agency to act on an application means either to return the approved permit application or to return in writing, within the prescribed time period, a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied.

3) Defines "permitting agency" to mean any entity that is involved in the review of an ADU or JADU permit and for which there is no substitute, including, but not limited to, applicable planning departments, building departments, utilities, and special districts.

4) Adds front setbacks to the list of local development standards that local governments cannot impose if they would preclude construction of an attached or detached ADU of at least 800 square feet, that is at least 16 feet in height and that has at least four-foot side and rear yard setbacks.

5) Specifies, in ministerially approving an application for a building permit to create one detached, new construction ADU on a lot with a single-family dwelling in a zone that allows residential use, a local agency must not impose any objective planning standards that conflict with the ability for the ADU to meet the standards listed in 3) above.

6) Clarifies the following:

   a) An ADU can be attached to or located in a detached garage.

   b) Local ADU ordinances do not supersede state ADU laws.

Background

According to the Department of Housing and Community Development (HCD), "ADUs are an innovative, affordable, effective option for adding much needed housing in California." ADUs, also known as accessory apartments, accessory dwellings, mother-in-law units, or granny flats, are additional living spaces on single-family or multifamily lots that have a separate kitchen, bathroom, and exterior access independent of the primary residence. These spaces can either be attached to, or detached from, the primary residence. Local ADU ordinances must meet specified parameters outlined in existing state law.

Local governments may also adopt ordinances for JADUs, which are no more than 500 square feet and are bedrooms in a single-family home that have an entrance into the unit from the main home and an entrance to the outside from the JADU. The JADU must have cooking facilities, including a sink and stove, but is not required to have a bathroom.

The cost of constructing an ADU, however, can still be high. According to the State Treasurer's Office, many lower income homeowners, as well as homeowners who have not yet built up significant equity in their homes, are struggling to obtain loans to construct ADUs.

Comments

1) *Housing Crisis*. California's housing crisis is a half century in the making. Decades of underproduction underscored by exclusionary policies have left housing supply far behind need and costs soaring. California currently has 13 of the 14 least affordable metropolitan areas for homeownership in the nation; it also has the second highest rate of renter households paying more than 30% of their income for housing at 52%. According to the 2022 Statewide Housing Plan, published by HCD, California must plan for more than 2.5 million homes over the next eight-year cycle, and no less than one million of those homes must meet the needs of lower-income households. This represents more than double the housing planned for in the last eight-year cycle. The lack of housing supply is the primary factor underlying California's housing crisis.

During the 1990s, California averaged only 110,000 new housing units per year. During the early 2000s, production increased significantly, reaching a peak of 212,000 units in 2004 before plummeting to historic lows during the recession. Unfortunately, the downward trend continues; the fact is that California has under-produced housing every single year since 1989.

As a result, millions of Californians, who are disproportionately lower income and people of color, must make hard decisions about paying for housing at the expense of food, health care, child care, and transportation—one in three households in the state doesn't earn enough money to meet their basic needs.

2) *Encouraging ADU construction.* According to a UC Berkeley study, *Yes in My Backyard: Mobilizing the Market for Secondary Units*, second units are a means to accommodate future growth and encourage infill development in developed neighborhoods. Despite state law requirements for each city in the state to have a ministerial process for approving second units, local regulations often impede development. In response, several bills, including SB 1069 (Wieckowski, 2016), SB 13 (Wieckowski, 2019) and AB 68 (Ting, 2019), have relaxed multiple requirements for the construction and permitting of ADUs and JADUs.

   According to a 2020 UCLA Working Paper, "state ADU and JADU legislation has created the market-feasible potential for nearly 1.5 million new units." Since 2013, the number of permitted ADUs increased from 799 to 12,813 in 2020, for a total of almost 44,000 ADUs permitted statewide. With localities across the state facing large regional housing needs allocations for the sixth housing element cycle, ADUs and JADUs represent a key tool in the housing production toolbox.

3) *Challenges in Implementing ADU Law*. It has been slightly more than five years since the state made ADUs and JADUs permitted by right. In that time, a substantial amount of knowledge and expertise has been developed by invested parties, such as ADU developers, financiers, and regulators such as local planning and permitting staff, special districts, and utilities, and HCD. Not surprisingly, these parties have been able to identify areas of the law that could benefit from clarification or where existing law does not facilitate the timely permitting of ADUs and JADUs envisioned by the enabling legislation.

   This bill provides multiple measures to address some of the identified tension points. First, it specifies what it means for a permitting agency to "act" on an application. Currently, the law says that a permitting agency must act within 60 days, but does not specify what it means to act. This bill clarifies that to "act,"

a permitting agency must approve the permit or return a full set of comments, within the specified time period, in writing with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant. This change will help reduce the time spent by all sides reviewing and revising applications.

Next, this bill would define "permitting agency" to mean any entity that is involved in the review of an ADU permit and for which there is no substitute, including, but not limited to, applicable planning departments, building departments, utilities, and special districts. In practice, the concept of "permitting agency" has centered on the local agency that receives the ADU building permit, making the local agency responsible for the existing timelines in the law.

However, a building permit for an ADU or JADU often needs approval from additional bodies, including special districts and utilities that have separate governance structures and operations from the local agency. These entities are often not held to the same 60-day timeline as local agencies, which can result in delays for ADU and JADU projects and present a challenge for local governments to manage entities beyond their control. By including special districts and utilities in the definition of permitting agency, this bill would require that these entities meet the timelines specified in the bill.

Finally, this bill clarifies the ways in which a local government can and cannot use objective standards to regulate ADUs. Specifically, the bill says that local governments cannot apply front setback requirements if they would preclude construction of an attached or detached ADU of least 800 square feet that is at least 16 feet in height and has with four-foot side and rear yard setbacks.

4) *Another ADU bill?* Earlier this year, the Senate Housing Committee heard SB 897 (Wieckowski), another bill that makes changes to the law governing ADUs. The primary overlap between this bill and SB 897 are in the provisions relating objective standards, an act by an agency, and allowable ADU footprint. A third bill making changes to ADU law, AB 916 (Salas), is also making its way through the legislature.

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

SUPPORT: (Verified 8/8/22)

California YIMBY (source)
California Association of Realtors

Councilmember Zach Hilton, City of Gilroy
People for Housing - Orange County
Southern California Rental Housing Association
Urban Environmentalists
YIMBY Action

OPPOSITION: (Verified 8/8/22)

City of Pleasanton

ARGUMENTS IN SUPPORT: According to the author, "Before the COVID 19 pandemic, our state was facing the nation's worst housing crisis and in the last two years we have seen several families become housing insecure. Some Californians have had their homes foreclosed on, while others are at a greater risk of homelessness. Homeownership rates in California are the second lowest in the nation. Last year, California broke the $800,000 median home price mark for the first time in history. Accessory dwelling units (ADUs) can play an important role in solving California's complex housing crisis. AB 2221 would make it easier to build ADUs by clarifying elements of existing law."

ARGUMENTS IN OPPOSITION: The City of Pleasanton submitted the only opposition for AB 2221, in which they express concern about the expansion of ADU law, parking, and local control issues.

ASSEMBLY FLOOR: 74-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Boerner Horvath, Nguyen, O'Donnell

Prepared by: Mehgie Tabar / HOUSING / (916) 651-4124
8/10/22 14:24:41

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

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THIRD READING

Bill No: AB 2229
Author: Luz Rivas (D) and Irwin (D)
Amended: 8/4/22 in Senate
Vote: 27 - Urgency

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 5/31/22
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

ASSEMBLY FLOOR: 68-0, 4/18/22 - See last page for vote

SUBJECT: Peace officers: minimum standards: bias evaluation

SOURCE: Author

DIGEST: This bill corrects the inadvertent deletion of the requirement that peace officers be found to be free from any physical, emotional, or mental condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation, that might adversely affect the exercise of the powers of a peace officer.

Senate Floor Amendments of 8/4/22 include technical changes to resolve chaptering issues with Senate Bill 960 (Skinner).

Senate Floor Amendments of 8/2/22 make a technical amendment and add Assemblymember Irwin as a joint author.

ANALYSIS:

Existing law:

1) Requires that each class of public officers or employees declared by law to be peace officers shall meet all of the following minimum standards:

   a) Be a citizen of the United States or a permanent resident who is eligible for and has applied for citizenship, except as specified;

b) Be at least 18 years of age;

c) Be fingerprinted for purposes of search of local, state, and national fingerprint files to disclose a criminal record;

d) Be of good moral character, as determined by a thorough background investigation;

e) Be a high school graduate, pass the General Education Development Test or other high school equivalency test or have attained a two-year, four-year, or advanced degree from an accredited college or university, as specified; and

f) Be found to be free from any physical, emotional or mental condition that might adversely affect the exercise of the powers of a peace officer. (Gov. Code § 1031(a)-(f).)

2) Specifies that physical condition shall be evaluated by a licensed physician and surgeon. (Gov. Code §1031(f)(1).)

3) Specifies that emotional and mental condition shall be evaluated by either a physician and surgeon with specified credentials and experience or a psychologist with specified experience. (Gov. Code §1031(f)(2).)

4) Provides that the physician and surgeon or psychologist responsible for evaluating emotional and mental condition shall have met any applicable education and training procedures set forth by the California Commission on Peace Officers Standards and Training (POST) designed for the conduct of pre-employment psychological screening of peace officers. (Gov. Code §1031(f)(2)(B).)

5) Specifies that the above minimum standards shall not be construed to preclude the adoption of additional higher standards, including age. (Gov. Code §1031(g).)

This bill:

1) Requires that prospective officers' evaluations for physical, emotional and mental fitness including that they be found free of bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation.

2) Provides that the requirement the high school educational requirement imposed on a prospective officer may be satisfied by graduating from a high school accredited by an organization holding full membership in Cognia.

Comments

According to the author, "In 2021, the original drafting version of AB 1096 was based on the old version of Gov't Code Section 1031. As such, AB 1096 unintentionally eliminated the bias requirement that AB 846 created in 2020. Upon further review, it seems AB 1096 was introduced with an outdated version of Govt. Code Section 1031, which did not include the additional language from AB 846. Therefore, AB 1096 inadvertently reverted Govt. Code 1031to the pre-AB 846 version."

Existing law prior to January 2021 provided that every prospective peace officer must undergo an evaluation and "be found to be free from any physical, emotional or mental condition that might adversely affect the exercise of the powers of a peace officer."[1] In September 2020, Governor Newsom signed AB 846 (Burke), which was codified at Chapter 322, Statutes of 2020 and amended that provision to require peace officer evaluations to include a determination that the prospective officer is free from any physical emotional or mental condition, "including bias against race or ethnicity, gender, nationality, religion, disability or sexual orientation." AB 846 went into effect on January 1, 2021.

During the 2021 legislative session, the author of this bill introduced AB 1096 (L. Rivas, Chapter 296, Statutes of 2021), which eliminated the term "alien" from all relevant state codes. According to the Author, "using the outdated term 'alien' to describe a person is dehumanizing. Although it is not an explicit racial slur, it has become a code word for bigotry against immigrant communities. Using terms like "alien" shapes people's opinions and are directly linked to harmful actions." AB 1096 replaced the term "alien" with more inclusive and linguistically neutral legal terms. Among the provisions of law amended by AB 1096 was Government Code §1031 regarding minimum standards for peace officers, which includes evaluation provision discussed above. Unfortunately, however, AB 1096 as drafted and introduced erroneously included the *prior* version of Government Code §1031, as it read prior to the changes enacted by AB 846. Thus, when AB 1096 was chaptered, it inadvertently reverted the provision regarding officer evaluations to its pre-AB 846 language, deleting that measure's bias requirement. This bill merely addresses that error by adding the bias requirement back into Government Code §1031, and does not make any other substantive changes.

[1] Government Code §1031(f), prior to January 1, 2021.

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

SUPPORT: (Verified 8/4/22)

California Attorneys for Criminal Justice
California Public Defenders Association
Los Angeles County District Attorney's Office

OPPOSITION: (Verified 8/4/22)

California Family Council
Real Impact
Riverside County Sheriff's Office

ASSEMBLY FLOOR: 68-0, 4/18/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Choi, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Chen, Cooley, Fong, Gallagher, Kiley, Mayes, Patterson, Seyarto, Smith

Prepared by: Alex Barnett / PUB. S. /
8/10/22 14:57:19

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

SENATE RULES COMMITTEE AB 2256
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2256
Author: Quirk-Silva (D)
Amended: 6/8/22 in Senate
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 11-0, 5/31/22
AYES: Hueso, Dahle, Becker, Dodd, Eggman, Gonzalez, Grove, Hertzberg, McGuire, Min, Rubio
NO VOTE RECORDED: Borgeas, Bradford, Stern

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 68-0, 4/21/22 (Consent) - See last page for vote

SUBJECT: Office of Broadband and Digital Literacy: reports

SOURCE: California State Association of Counties
County of Monterey

DIGEST: This bill expands the membership of the broadband Middle Mile Advisory Committee (MMAC) to include two elected government officials from a city or county, one appointed by the Speaker of the Assembly and one appointed by the Senate Rules Committee.

ANALYSIS:

Existing law:

1) Establishes the Office of Broadband and Digital Literacy within the California Department of Technology (CDT) and requires the office to oversee contracts to construct a state-owned, open-access middle mile broadband network. (Government Code §11549.50 et seq.)

2) Establishes the MMAC to monitor the construction and establishment of the state-owned, open-access middle mile network. Existing law specifies that the MMAC's membership must include the following representatives:

   a) A representative from the California Public Utilities Commission (CPUC).
   b) A representative from CDT.
   c) A representative from the California Department of Transportation.
   d) A representative from the Department of Finance.
   e) A representative from the Government Operations Agency.
   f) Two ex officio members from the Assembly, appointed by the Speaker of the Assembly.
   g) Two ex officio members from the Senate and be appointed by the Senate Committee on Rules. (Government Code §11549.58)

This bill expands the MMAC membership to include two elected government officials from a city or county: one appointed by the Speaker of the Assembly and one appointed by the Senate Rules Committee.

Background

Broadband Infrastructure Package of 2021. As part of the 2021 State Budget, the Legislature approved approximately $6 billion for broadband infrastructure over three fiscal years. The Legislature passed SB 156 (Committee on Budget, Chapter 112, Statutes of 2021) to establish a framework for allocating and implementing this broadband funding. Of the $6 billion total, SB 156 allocated $3.25 billion for the construction of a state-owned, middle mile broadband network. Middle mile lines carry large amounts of data over longer distances to last mile lines that go to consumers' homes. The state-owned, middle mile network is intended to lower barriers to improving and expanding broadband infrastructure in unserved and underserved communities. SB 156 also established the Office of Broadband and Digital Literacy at CDT, which is tasked with overseeing the creation and management of the state-owned middle mile network. This bill also allocated $2 billion for last mile infrastructure and $750 million to create a loan-loss reserve account at the CPUC to help local governments and nonprofits finance additional broadband infrastructure at the local level.

Bill expands membership of the Middle Mile Advisory Committee. In addition to allocating funds for broadband infrastructure, SB 156 also created the MMAC, which is supported by CDT and consists of nine members. These members include four ex-officio members from the Legislature. Under existing law, two of these

four legislative MMAC members are appointed by the Senate Committee on Rules and two legislative members are appointed by the Assembly Speaker. This bill increases the MMAC to 11 members by adding two additional elected government officials from a city or county, appointed by and serving at the pleasure of the Assembly Speaker and Senate Rules Committee.

Council, Committee, or Commission? This bill expands the membership of the MMAC, which is one of three state-level bodies providing an opportunity for stakeholder engagement on state broadband investments. In addition to the MMAC, stakeholders can also submit comments and act as intervener in CPUC proceedings and participate in California Broadband Council meetings. To the extent that MMAC membership could help local governments better engage on planning for middle mile construction, expanding MMAC membership to include local representatives may be beneficial. However, MMAC membership may not enable local governments to better obtain last mile funding since the CPUC administers last mile funding, and the MMAC only monitors construction of the state-owned middle mile network, which is intended to be built in state highway rights of way.

Related/Prior Legislation

SB 156 (Committee on Budget, Chapter 112, Statutes of 2021) implemented broadband infrastructure spending approved in the 2021 Budget Act. The bill established the Office of Broadband and Digital Literacy and required the office to oversee the construction of a state-owned, open-access middle mile broadband network. The bill also established the MMAC and specified its membership.

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

SUPPORT: (Verified 8/9/22)

California State Association of Counties (co-source)
County of Monterey (co-source)

OPPOSITION: (Verified 8/9/22)

None received

ARGUMENTS IN SUPPORT: According to the author:

> During my time on the MMAC I have seen firsthand the level of partnership that is needed between local governments and the administrators of this $3.25 billion

dollar project. For example, local planning and permitting has been identified as a potential obstacle to expeditiously constructing the MMBI project. Having a member of the MMAC with local government experience, as proposed by this bill, can provide valuable insight that could benefit the management of the project.

ASSEMBLY FLOOR: 68-0, 4/21/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Carrillo, Cervantes, Chen, Choi, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Gipson, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wilson, Wood, Rendon
NO VOTE RECORDED: Bennett, Bigelow, Calderon, Cooley, Cooper, Eduardo Garcia, Gray, Blanca Rubio, Wicks

Prepared by: Sarah Smith / E., U. & C. / (916) 651-4107
8/10/22 14:12:35

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

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THIRD READING

Bill No: AB 2270
Author: Seyarto (R)
Introduced: 2/16/22
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 15-0, 6/14/22
AYES: Gonzalez, Bates, Allen, Becker, Cortese, Dahle, Dodd, Limón, McGuire, Melendez, Min, Newman, Skinner, Wieckowski, Wilk
NO VOTE RECORDED: Archuleta, Rubio

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 68-0, 4/21/22 (Consent) - See last page for vote

SUBJECT: Authorized emergency vehicles

SOURCE: Author

DIGEST: This bill requires the owner or operator of a toll facility, upon the request of a local emergency service provider, to enter into an agreement to establish mutually agreed upon terms for use of the toll facility.

ANALYSIS:

Existing law*:*

1) Defines "toll facility" to include a toll road, high-occupancy vehicle lane, toll bridge, or a vehicular crossing for which payment of a toll or other charge is required.

2) Defines "urgent response or call" to mean an incident or circumstance that requires an immediate response to a public safety-related incident, but does not warrant the use of emergency warning lights. Stipulates that "urgent" does not include any personal use, commuting, training, or administrative uses.

3) Exempts an authorized emergency vehicle from any requirement to pay a toll or other charge on a vehicular crossing, toll highway, or high-occupancy toll (HOT) lane, if all of the following conditions are satisfied:

   a) The authorized emergency vehicle is properly displaying an exempt California license plate, and is properly identified or marked as an authorized emergency vehicle, including, but not limited to, displaying an external surface-mounted red warning light, blue warning light, or both, and displaying public agency identification, including, but not limited to, "Fire Department," "Sheriff," or "Police."

   b) The vehicle is being driven while responding to or returning from an urgent or emergency call, engaged in an urgent or emergency response, or engaging in a fire station coverage assignment directly related to an emergency response.

   c) The driver of the vehicle determines that the use of the toll facility shall likely improve the availability or response and arrival time of the authorized emergency vehicle and its delivery of essential public safety services.

4) Clarifies that an authorized emergency vehicle is not exempt from any requirement to pay a toll while traveling in a HOT lane when returning from an urgent or emergency call, or from being engaged in an urgent or emergency response, or from engaging in a fire station coverage assignment directly related to an emergency response.

5) Requires that if the operator of a toll facility elects to send a bill or invoice to the public agency for the use of the toll facility by an authorized emergency vehicle, the fire chief, police chief, county sheriff, head of the public agency, or designee, is authorized to certify in writing that the authorized emergency vehicle was responding to or returning from an emergency call or response and is exempt from the payment of the toll or other charge in accordance with this section. The letter shall be accepted by the toll operator in lieu of payment and is a public document.

6) Requires that, upon information or belief that an authorized emergency vehicle did not meet the conditions to be exempted from liability to pay the toll, the public agency shall make accessible, upon written request, to the toll operator the dispatch records or log books relevant to the time period when the vehicle was in use on the toll facility.

7) Stipulates that these provisions do not prohibit or amend an agreement entered into between a public agency and a toll operator that establishes mutually-agreed upon terms for the use of the facility, and further provides that the provisions do not preclude a toll operator from establishing a policy that meet or exceeds them.

8) Stipulates that the terms of an agreement between a toll operator and public agency do not extend to other public agencies that may use a toll facility in the jurisdiction of the toll operator when assisting the public agency that is subject to the agreement.

This bill requires an owner and operator of a toll facility, upon the request of a local emergency service provider, to enter into an agreement to establish mutually agreed upon terms for the use of the toll facility by the emergency service provider.

Comments

1) *Purpose of this bill*. According to the author, "as currently written AB 2270 will ensure our emergency service departments and agencies the efficiency and maneuverability to better serve their communities and the California public at large. As fire seasons start earlier and stretch longer it is crucial for units to be able to utilize streamlined lanes of travel. The wasteful and costly administrative burden on our emergency service providers for utilizing HOV or Toll lanes when it serves the public interest."

2) *Emergency vehicles use of toll facilities.* The use of toll roads has become a necessity for first responders traveling to emergency situations. As a result of increased wildfires across the state, the COVID-19 pandemic, and staffing shortages, first responders are traveling farther distances in order to respond to life threatening emergencies. As a result of disregard for the posted speed limit during the COVID-19 pandemic, the Transportation Corridor Agencies, who manages the toll facilities in Orange County, partnered with the California Highway Patrol (CHP) to increase the presence of law enforcement officers on toll facilities to encourage drivers to respect posted speed limits, which could lead to more first responders utilizing more toll facilities, such as HOT lanes.

   AB 254 (Jeffries, Chapter 425, Statutes of 2009) created an exemption that allows authorized emergency vehicles to utilize all toll facilities, including HOT lanes, while responding to an incident, in order to decrease travel time. Specifically, authorized emergency vehicles are exempt from tolls on a toll road, HOT lane, toll bridge, toll highway, or vehicular crossing while traveling

to an urgent or emergency call, under certain circumstances. The emergency vehicles must have an exempt California license plate, and be properly identified or marked as an emergency vehicles, including warning lights and public agency identification.

3) *How do tolls work in California?* Toll systems in California rely on a few methods for registering a person's use of a toll facility and payment of the tolls. First, is via a vehicle-mounted toll tag or sticker transponder that is read by antennae and associated electronically to a person's FasTrak account. Second, license plate readers are cameras that are positioned in various entrances and/or exits to the toll lane or bridge to record images of the license plate as a vehicle passes and tolls are assessed electronically to a person's account or to a one-time payment transaction. Additionally, on a handful of toll bridges, if a person has no transponder, the license plate information can be used to send a toll invoice to the registered owner of the vehicle.

4) *How do toll operators implement the emergency vehicle exemption?* Although authorized emergency vehicles are exempt from tolls in some circumstances, current law authorizes the toll operator to charge the authorized emergency vehicle public agency for any vehicles that have entered and used the toll facility. The charge can then be annulled with the written certification from a fire chief, police chief, county sheriff, head of the public agency, or designee, that the authorized emergency vehicle was responding to or returning from an emergency call, and the public agency is exempt from the payment of the toll. This back and forth review can be an administrative burden for both the toll operator and the public agencies.

   Current law also allows for public agencies to enter into agreements, with mutually agreed upon terms, with toll operator; however, contracts can vary across the state. For example, the CHP has successfully implemented an ongoing agreement with toll agencies. Essentially, the agreement allows the public agencies that owns and operates the authorized emergency vehicles to identify the eligible vehicles via license plates. The toll agencies set up a so-called "non-revenue" account with the public agency, free of charge, and register the license plates for plate readers and may issue transponders for use. This way the public agency is not issued a toll invoice for use of the facilities. The public agency can access its account at any time and update authorized vehicles. This type of agreement could be replicated by public agencies across the state.

5) *The author is concerned about the California Department of Forestry and Fire Protection (CAL FIRE).* According to the author, CAL FIRE is responsible for more than 31 million acres of the State's privately-owned wildlands. The Department is an "all-risk" response organization, and provides emergency services within 36 of California's 58 counties through local government contracts.

   CAL FIRE has a fleet of more than 2,800 emergency vehicles that respond to approximately 450,000 emergency calls per year. Since emergency vehicles are currently exempted from paying required tolls when responding to emergency incidents, CAL FIRE vehicles often are exempt. Approximately 97% of all CAL FIRE vehicle toll violations are a direct result of emergency response.

   However, while working agreements exist between individual CAL FIRE Units and toll agencies pertaining to large incidents, CAL FIRE still receives approximately 1,500 toll violations each year. Most of the violations are exempted and the fees waived, but as noted, staff time must be dedicated to resolve the violations.

   AB 2270 requires tolls operators to develop and enter into agreements with emergency services providers upon request of the public agency. However, this bill retains current law that stipulates the agreements must be mutually agreed upon terms. Recent discussions between CAL FIRE and the toll operators have started the process for the potential development of a statewide agreement, such as the one enjoyed by CHP.

Related/Prior Legislation

AB 261 (Seyarto, 2021) would have exempted an authorized emergency vehicle from payment of an HOT toll when returning from an urgent emergency call. *The bill was held in the Assembly Transportation Committee.*

AB 254 (Jeffries, Chapter 425, Statutes of 2009) established the circumstances under which an authorized emergency vehicle is exempt from paying a toll on a tolled facility.

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

SUPPORT: (Verified 6/27/22)

None received

OPPOSITION: (Verified 6/27/22)

None received

ASSEMBLY FLOOR: 68-0, 4/21/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Carrillo, Cervantes, Chen, Choi, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Gipson, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wilson, Wood, Rendon
NO VOTE RECORDED: Bennett, Bigelow, Calderon, Cooley, Cooper, Eduardo Garcia, Gray, Blanca Rubio, Wicks

Prepared by: Melissa White / TRANS. / (916) 651-4121
6/29/22 18:45:42

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

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THIRD READING

Bill No: AB 2271
Author: Gipson (D)
Amended: 5/5/22 in Assembly
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 16-0, 6/28/22
AYES: Newman, Bates, Allen, Archuleta, Becker, Cortese, Dahle, Dodd, Hertzberg, Limón, McGuire, Min, Rubio, Skinner, Wieckowski, Wilk
NO VOTE RECORDED: Melendez

ASSEMBLY FLOOR: 72-0, 5/23/22 - See last page for vote

SUBJECT: Los Angeles County Metropolitan Transportation Authority: contracting: local businesses

SOURCE: Los Angeles County Metropolitan Transportation Authority

DIGEST: This bill expands the Los Angeles County Metropolitan Transportation Authority's (LA Metro)'s ability to facilitate bid preferences to small business enterprises (SBEs), local small business enterprise (LSBEs), and medium business enterprises (MBEs).

ANALYSIS:

Existing law:

1) Allows LA Metro, except as to contracts for professional services involving private architectural, landscape architectural, engineering, environmental, land surveying, or construction management, to do any of the following in facilitating contract awards with SBEs and disabled veteran business enterprises (DVBEs):

   a) Provide for a small business preference in construction, the construction component of a design-build team, the procurement of goods, or the delivery of services. The preference to a small business shall be 5% of the lowest

responsible bidder meeting specifications that provides for small business participation.

b) Establish a subcontracting participation goal for SBEs on contracts financed with nonfederal funds and grant a preference of 5% to the lowest responsible bidders who meet the goal.

c) Require bidders, prior to the time bids are opened, to comply with the SBE and DVBE goals and requirements established by LA Metro on contracts financed with nonfederal funds.

d) In awarding contracts to the lowest responsible bidder, award the contract to the lowest responsible bidder meeting the SBE and DVBE goals.

e) Until January 1, 2024, set aside work for competition among certified SBEs and award a contract to the lowest responsible bidder whenever the expected expenditure required exceeds $5,000 but is less than $3 million, as long as price quotations are obtained by LA Metro from three or more certified SBEs.

2) Allows, until January 1, 2024, LA Metro to set aside work for competition among MBEs for no more than 20 contracts. Allows LA Metro to award each contract to the lowest responsible bidder whenever the expected expenditure required exceeds $3 million but is less than $30 million, as long as LA Metro solicits price quotations from three or more MBEs.

3) Requires LA Metro to submit a report to the Legislature by December 31, 2020 and December 31, 2023, as specified, if they award contracts pursuant to the SBE and MBE set-asides.

4) Defines "medium business enterprise" to mean a company that is not a subsidiary of another company and that has a maximum of 250 employees and a maximum of $250 million in gross annual receipts averaged over three years.

5) Defines “small business enterprise” to mean a business enterprise that is classified as a small business under United States Small Business Administration rules and meets the current SBE size standards found in Part 121 of Title 13 of the Code of Federal Regulations appropriate to the type of work the enterprise seeks to perform. Authorizes LA Metro to establish limits regarding the average annual gross receipts of a small business, as specified, and the personal net worth of the owner.

6) Defines "disabled veteran business enterprise" to have the meaning as defined in California's DVBE Program pursuant to the Military and Veterans Code.

This bill:

1) Defines “local small business enterprise” to mean a business enterprise that is classified as a small business under United States Small Business Administration rules, meets the current small business enterprise size standards found in Part 121 of Title 13 of the Code of Federal Regulations appropriate to the type of work the enterprise seeks to perform, and is headquartered in the County of Los Angeles.

2) Allows LA Metro to provide a LSBE a preference in construction, the construction component of a design-build team, the procurement of goods, or the delivery of services. The preference to a LSBE shall be 5% of the lowest responsible bidder meeting specifications that provides for LSBE participation. Specifies that LA Metro may also offer the preference to a nonlocal business if the bid includes 30% participation by a local small business enterprise.

3) Increases from $3 million to $5 million the maximum dollar amount LA Metro may set aside work for competition among certified SBEs.

4) Increases from $3 million to $5 million the minimum dollar amount LA Metro may set aside work for competition among certified MBEs.

5) Moves the 2024 sunset date on the authority for LA Metro to set aside work for competition among SBEs and MBEs to 2028.

6) Moves the reporting requirements for LA Metro to submit a report to the Legislature by December 31, 2023 and December 31, 2026, as specified, if they award contracts pursuant to the SBE and MBE set-asides. Also requires the report to include the number of employees working at a MBE receiving awards pursuant to this authority.

Comments

1) *Purpose of the bill.* According to the author, “LA Metro continues to pave the way for smaller businesses to have a shot at prime transportation contracts that had historically been out of reach for them. These business entities remain a critical part of the American fabric but, due to a number of barriers, were willing to engage in public works transportation projects yet often were unable

to secure the required bonding, or because they did not have the financial means to meet the demands of financial institutions. These are entities that also employ a large number of California's workers most in need – an overwhelming majority of them being women and people of color. And it is widely known that low-income communities of color have been hit the hardest during the pandemic. Local businesses contribute a great deal of tax dollars to local governments, and they provide long-term benefits for a variety of populations. By boosting contracting opportunities for local businesses in LA, this next step effort would continue to promote a stronger, more inclusive marketplace, to best serve our communities and create more economic opportunities for those most in need."

2) *Who is LA Metro?* LA Metro is a county transportation commission created to fund, plan for, coordinate, build, and operate public transportation systems within Los Angeles County. LA Metro also serves as the regional transportation planning agency for the county and administers the local sales tax levied to fund transportation projects within the county. Metro issues approximately $2 to $5 billion in contracts annually.

3) *Small businesses in contracting in California.* Small business set-asides help small businesses win government contracts by "setting aside" specific government purchases exclusively for participation by SBEs. The contracts are still competitive, but the competition is narrowed to SBEs exclusively.

   The state has had a small business preference within the state's procurement process for more than 30 years, and a DVBE component for more than 15 years. Some cities have programs that grant preference to local or regional small businesses. These may be in lieu of, or in addition to, preferences for small businesses in general. These current programs are governed by a combination of state law and city charter provisions.

4) *LA Metro's SBE, DVBE, and MBE Contracting Authority.* AB 1341 (Price, Chapter 494, Statutes of 2010), authorized LA Metro to facilitate contract awards to small businesses on contracts over $100,000. AB 2440 (Lowenthal, Chapter 703, Statutes of 2012), eliminated the $100,000 limitation on LA Metro's authority to facilitate contract awards to small businesses. In facilitating SBE contracts, LA Metro may provide a bid preference of 5% to the lowest responsible bidder. LA Metro can also establish a subcontracting participation goal for SBEs on certain contracts financed with nonfederal funds and give a preference of 5% to the lowest responsible bidders that meet that goal.

AB 2690 (Ridley-Thomas, Chapter 204, Statutes of 2016), significantly strengthened LA Metro's authority to facilitate contracting with SBEs and DVBEs. AB 2690 expanded the 5% bid preference for SBEs to also include DVBEs, required bidders to meet-- rather than make a good faith effort to meet -- SBE and DVBE goals, and required these goals to carry a numerically expressed objective that bidders must achieve. In awarding contracts to the lowest responsible bidder, LA Metro was allowed to award the contract to the lowest responsible bidder who meets the SBE and DVBE goals.

AB 2690 also allowed LA Metro to set aside contracts for competition by certified SBEs, as long as LA Metro obtains quotes from three or more certified SBEs. These SBEs must perform and exercise responsibility for at least 30% of the total cost of the contract work with their own workforce.

Further, AB 1205 (Jones-Sawyer, Chapter 473, Statutes of 2018), authorized LA Metro to facilitate up to 20 contract awards to MBEs where the expected expenditure exceeds $3,000,000 but is less than $30,000,000 dollars. The authority requires LA Metro to solicit price quotations from at least three SBEs for each contract, and requires LA Metro to report in 2020 and 2023 on MBE contracts issued under the authority created in AB 1205. The bill defined MBE as an enterprise with no more than 250 employees and no more than $250 million in gross annual receipts over three years.

In LA Metro's required report for contracts awarded between January 2019 and December 2020, they state, "small business set-asides allow for small businesses to bid as primes, fostering opportunities to grow and build capacity. In 2014, Metro launched its Small Business Prime Set-Aside program to help small businesses compete for contracts as primes by "setting aside" specific purchases from three thousand dollars ($3,000) to five million dollars ($5,000,000) exclusively for participation by small business concerns. The contracts remain competitive, but the competition is narrowed to small businesses only.

"From program inception through FY2020, Metro has awarded more than $165 million in SBE set-aside awards. This program is vital to increasing small business participation in Metro's contracting and has proven to be successful toward meeting this growth objective."

5) *AB 2271 creates a LSBE preference.* AB 2271 extends LA Metro's authority to set aside contracts to SBEs and MBEs until 2028. This bill also adjusts the SBE and MBE set aside contract amounts to align with the LA Metro's federally approved Small Business Prime Set –Aside Policy, and continues to

require LA Metro to report on these programs in 2023 and 2026, if they issue contracts under the policy.

Additionally, this bill defines a LSBE as a business enterprise that is classified as a small business under federal rules and is headquartered in Los Angeles County. This bill authorizes LA Metro to provide a LSBE bid preference of 5% to the lowest responsible bidder, which is in line with the existing SBE preference. According to a recent memo to the LA Metro Board of Directors, staff state that, "as LA County emerges from the COVID-19 pandemic, it is important to support local small businesses to ensure a clear path to economic recovery. Metro has a vested interest in leveraging, to the greatest extent possible, the millions of dollars we pay to contractors to build, operate, and plan transportation projects for the benefit of LA County small businesses and its residents."

The memo further details the parameters of other agencies' LSBE practices including the San Francisco Bay Area Rapid Transit District (BART), the San Francisco Municipal Transpiration Agency (SFMTA), and Los Angeles World Airports (LAWA). Staff noted that across the board, 5% was the most common bid preference incentive, which is reflected in AB 2271.

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

SUPPORT: (Verified 7/11/22)

Los Angeles County Metropolitan Transportation Authority (source)
Asian American Architects/engineers Association
Los Angeles Latino Chamber of Commerce
Redwood Resources
Tovar Geospatial
Transportation Business Advisory Council

OPPOSITION: (Verified 7/11/22)

None received

ARGUMENTS IN SUPPORT: According to the Transportation Business Advisory Council, "as LA County emerges from the COVID-19 pandemic, supporting local small businesses to ensure a clear path to economic recovery is essential. Metro is investing significant local resources in their transportation system, and want to ensure local small businesses benefit. This program would complement their already existing preference programs including the

Disadvantaged Business Enterprise (DBE), Small Business Enterprise/Disabled Veterans Business Enterprise (SBE/DVBE) programs, and Small Business Prime (Set-Aside) programs, amongst others."

ASSEMBLY FLOOR: 72-0, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Mia Bonta, Mayes, McCarty, O'Donnell, Blanca Rubio

Prepared by: Melissa White / TRANS. / (916) 651-4121
7/28/22 10:38:33

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

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THIRD READING

Bill No: AB 2295
Author: Bloom (D), et al.
Amended: 8/1/22 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/15/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE HOUSING COMMITTEE: 6-1, 6/21/22
AYES: Wiener, Caballero, McGuire, Roth, Skinner, Umberg
NOES: Bates
NO VOTE RECORDED: Cortese, Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 50-19, 5/26/22 - See last page for vote

SUBJECT: Local educational agencies: housing development projects

SOURCE: California School Boards Association
cityLAB-UCLA

DIGEST: This bill deems a housing project, beginning January 1, 2024 and until January 1, 2033, to be an allowable use on property owned by a local educational agency (LEA) if it meets specified affordability criteria and planning standards.

ANALYSIS:

Existing law:

1) Allows, under the California Constitution, cities and counties to "make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws." It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public—including land use authority.

2) Requires cities and counties to develop general plans that include seven (sometimes eight) elements. The land use element must designate the location of various land uses, including education.

3) Requires, general, other local agencies to comply with city and county zoning ordinances, but allows school districts to override local zoning with a 2/3rds vote for classroom uses.

4) Establishes the Teacher Housing Act of 2016, which provides that:

   a) It is state policy to support housing for teachers and school district employees.

   b) School districts and developers in receipt of local or state funds or tax credits designated for affordable rental housing may restrict occupancy to teachers and school district employees on land owned by school districts.

   c) School districts may allow local public employees or other members of the public to occupy housing created through the Teacher Housing Act.

   d) A majority of the units must be rented at an affordable rent to lower income or moderate-income households.

This bill:

1) Deems, beginning January 1, 2024, a housing development project an allowable use on any real property owned by an LEA as of January 1, 2023, and deems it consistent with local development standards, zoning codes or maps, and the general plan, if the project satisfies all of the following:

   a) The housing development consists of at least 10 housing units;

   b) The majority of the units of the housing development are offered at an affordable rent to lower income or moderate-income households, with at least 30 percent of the units affordable to lower income households, for 55 years;

   c) Housing units are offered first to LEA employees, then to local public employees within the jurisdiction of the LEA, and finally to members of the public, as specified.

   d) The residential density for the housing development meets the greater of the following:

e) The residential density allowed on the parcel by the city or county, as applicable; or

f) The applicable density deemed appropriate to accommodate housing for lower income households in that jurisdiction, as specified in existing law for calculating the jurisdiction's regional housing need for lower income households.

g) The height limit for the housing development is the height limit allowed on the parcel by the city or county, or 30 feet, whichever is greater;

h) The property is adjacent to a property that permits residential uses;

i) The property is an infill site, as defined;

j) Development of the subject property is consistent with any urban limit line or urban growth boundary requirements established by local ordinance;

k) The housing development complies with all infrastructure-related requirements, including impact fees that are existing or pending at the time the application is submitted, imposed by a city or county or a special district that provides service to the parcel; and

l) The project meets other local objective zoning standards, objective subdivision standards, and objective design review standards, as defined, that do not preclude the housing development from achieving the residential density or the height permitted by this bill. If a local agency has not adopted objective standards applicable to residential development on the parcel, the housing development is subject to local zoning, parking, design, and other ordinances, local code requirements, and procedures applicable to the processing and permitting of a housing development on the nearest parcel in a multifamily zone that meets or exceeds the density and height provided in the bill.

2) Requires the LEA to maintain ownership of a housing development that meets the requirements of this section for the length of the 55-year affordability requirement, but allows any land used for the development of a project under the bill to be jointly used or jointly occupied by the local educational agency and any other party, consistent with existing law.

3) Provides that any land used for housing under the bill is exempt from the requirements of the Surplus Land Act and specified provisions of law that govern disposal of school properties.

4) Requires, on or before January 31, 2023, the Department of Housing and Community Development to provide written notice to the planning agency of each county and city that this section becomes effective on January 1, 2024.

5) Defines its terms, includes findings and declarations to support its purposes, and sunsets on January 1, 2033.

Background

According to a December 2021 report, *Education Workforce Housing in California: Developing the 21st Century Campus*, by CityLAB at the University of California Los Angeles (cityLAB-UCLA), there are more than 1,000 LEAs in California that collectively own more than 150,000 acres of land. Of that land, there are 7,068 properties with potentially developable land of one acre or more, totaling 75,000 acres statewide. At a density of 30 dwelling units per acre, such properties could contain 2.3 million units of housing—more than enough to house the state's 300,000 teachers and 350,000 other LEA employees.

Since June 2018, eight California LEAs have put a proposition or measure before local voters to fund education workforce housing development, with six of these measures passing. Recent research identified 46 LEAs pursuing housing projects on 83 different sites. However, to date, California is home to just four completed education workforce housing developments by Los Angeles Unified School District and Santa Clara Unified School District.

The cityLAB-UCLA report included numerous recommendations to improve the ability of LEAs to construct workforce housing on their property, including to:

- Increase land use flexibility and streamline approvals process;
- Expand financing tools available; and
- Build the capacity of LEAs to develop housing.

CityLAB-UCLA wants the Legislature to authorize housing as a use on LEA-owned properties.

Comments

1) *Purpose of this bill.* According to the author, "School districts in California own 10,900 properties with over 150,000 acres of land, half of which are potentially suitable for housing. By easing the administrative and bureaucratic hurdles, AB 2295 will help LEAs feasibly construct enough housing to meet the

current demand and help address teaching shortages—ultimately helping keep quality teachers and staff in the classroom."

2) *Home rule.* Cities and counties develop zoning ordinances to control where residential development occurs in their jurisdictions. Under current law, school districts may develop housing on their properties for their employees if allowed by the local zoning. School districts that want to build housing can ask their city or county to make the zoning changes necessary to do so. AB 2295 overrides the local general plan and zoning processes that are the venue ensuring that the needs of the community can be balanced with the needs of the school district by making housing an allowable use on school district properties across the state.

3) *Who is this really for?* While AB 2295 is intended to enable school districts to construct housing for their employees, it merely requires the educational agency to prioritize their employees, after which it can offer units in the development to other local agency employees and the general public. This is inconsistent with the Teacher Housing Act, which requires any programs to construct housing to be restricted to teacher or school district employees, or local public employees subject to applicable laws and regulations. AB 2295 requires 30 percent of the units to be affordable to lower-income households, but nothing in the bill prohibits a developer from approaching a school district that had no intention of constructing housing for its workers purely so that the developer can disregard local zoning. Furthermore, because the project can contain units for the general public, a school district may be incentivized to develop a larger project than is needed to serve their employees.

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

SUPPORT: (Verified 8/10/22)

California School Boards Association (co-source)
cityLAB-UCLA (co-source)
Abode Communities
California Apartment Association
California School Employees Association
City of Glendale
East Bay for Everyone
Los Angeles Unified School District
Meta
Non-Profit Housing Association of Northern California
People Assisting the Homeless

San Francisco Bay Area Planning and Urban Research Association
Southern California Association of Non-Profit Housing
SV@Home Action Fund
Terner Center for Housing Innovation at the University of California, Berkeley

OPPOSITION: (Verified 8/10/22)

California State Pipe Trades Council
City of Chino
City of Santa Clarita
City of Thousand Oaks
Coalition of California Utility Employees
Contra Costa County Board of Supervisors
International Union of Elevator Constructors, Local 8
International Union of Elevator Constructors, Local 18
South Bay Cities Council of Governments
State Building & Construction Trades Council of California
Western States Council Sheet Metal, Air, Rail and Transportation

ASSEMBLY FLOOR: 50-19, 5/26/22
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Salas, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Arambula, Berman, Daly, Gray, Maienschein, Mayes, O'Donnell, Rodriguez, Santiago

Prepared by: Anton Favorini-Csorba / GOV. & F. / (916) 651-4119
8/10/22 14:21:52

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

youSENATE RULES COMMITTEE AB 2301
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2301
Author: Wood (D), et al.
Amended: 8/3/22 in Senate
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 14-0, 6/14/22
AYES: Dodd, Nielsen, Allen, Becker, Borgeas, Bradford, Hertzberg, Hueso, Jones, Kamlager, Melendez, Portantino, Roth, Wilk
NO VOTE RECORDED: Glazer

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 71-0, 5/16/22 - See last page for vote

SUBJECT: Alcoholic beverage sales: beer manufacturers: licensed premises

SOURCE: California Craft Brewers Association

DIGEST: This bill authorizes an on-sale retailer that is also a beer manufacturer to purchase alcoholic beverages from the licensed beer manufacturer, if the premises of production is located within five miles of the licensed on-sale premises.

Senate Floor Amendments of 8/3/22 add chaptering-out language with AB 2307 (Berman).

ANALYSIS:

Existing law:

1) Establishes the Department of Alcoholic Beverage Control (ABC) and grants it exclusive authority to administer the provisions of the ABC Act in accordance with laws enacted by the Legislature.

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

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

4) Creates the beer manufacturer's license, which, among other things, allows a licensee to manufacture, produce, package, and ship unlimited amounts of beer to consumers in California.

5) Creates the small beer manufacturer's license, which is identical to the beer manufacturer's license except that a small beer manufacturer is prohibited from producing more than 60,000 barrels and has smaller licensing fees. Like the beer manufacturer's license, the small beer manufacturer's license allows the licensee to ship unlimited amounts of beer to consumers in California.

6) Authorizes a licensed beer manufacturer and a small beer manufacturer, at the licensed premises of production, to sell to consumers for consumption off the premises beer that is produced and bottled by, or produced and packaged for, that manufacturer. Licensed beer manufacturers may also exercise any of the following privileges:

   a) Sell beer to any person holding a license authorizing the sale of beer.

   b) Sell beer to consumers for consumption on the manufacturer's licensed premises or on premises owned by the manufacturer that are contiguous to the licensed premises and which are operated by and for the manufacturer.

   c) Sell beer, regardless of source, to consumers for consumption at a bona fide public eating place on the manufacturer's licensed premises or at a bona fide public eating place on premises owned by the manufacturer which are contiguous to the licensed premises and which are operated by and for the manufacturer.

This bill authorizes an on-sale retailer that is also a beer manufacturer to purchase alcoholic beverages from the licensed beer manufacturer, if the premises of production is located within five miles of the licensed on-sale premises.

Comments

Purpose of this bill. According to the author's office, "California craft breweries enjoy both self-distribution to retail accounts, and the ability to own retail licenses; however, current law prohibits a brewery from self-distributing to its own retail license unless it is physically contiguous to the brewery property. The result of this current dynamic creates an odd outcome where a brewery can bring its beer to any restaurant in town but if they own the restaurant next door, they must use a distributor who will first take the beer back to a warehouse, often in another city, before bringing the beer back to the restaurant next door. This results in obvious inefficiencies and unnecessary, wasteful transportation costs and GHG emissions."

Tied-house laws. The "tied-house" or "three-tier" system, separates the alcoholic beverage industry into three component parts of the manufacturer (the first tier), wholesaler (the second tier), and retailer (the third tier). The original policy rationale for this body of law was to: (1) promote the state's interest in an orderly market; (2) prohibit the vertical integration and dominance by a single producer in the marketplace; (3) prohibit commercial bribery and protect the public from predatory marketing practices; and, (4) discourage and/or prevent the intemperate use of alcoholic beverages.

Under a strict "three tier" system, manufacturers would not be able to sell alcoholic beverages directly to consumers or to a retailer. Over the years however, the Legislature has expanded the privileges of manufacturers to include, among other things, the ability to sell alcoholic beverages directly to consumers. Some, like beer manufacturers, enjoy not only the ability to sell alcoholic beverages directly to consumers at their licensed premises, but also the ability to ship directly to consumers in California.

ABC issues licenses in California for the legal manufacture and sale of alcoholic beverages. There are more than 80 different types of ABC licenses authorized in California. Each license has its own set of privileges and obligations specific to the category of license involved. The privileges of a license are expressly limited to those conferred by the specific type of license involved for the premises and time period covered by the license.

Alcohol licenses are deemed "on-sale" if the license allows the sale of alcoholic beverages but requires that they are consumed on the premises. Some examples of "on-sale" businesses include bars and restaurants, although restaurants do have some "off-sale" privileges. For example, under existing law, restaurants may sell both wine and beer to customers for "off-sale" consumption and have those drinks delivered. On the other hand, alcohol licenses are deemed "off-sale" if the

business sells alcoholic beverages sold at the establishment but are required to be consumed offsite. Some examples of "off-sale" businesses include liquor stores or grocery stores that sell alcoholic beverages. In addition, some licenses include both "on-sale" and "off-sale" privileges. Some examples are wineries and craft distilleries.

ABC issues licenses to manufacturers of beer, wine, brandy, and spirits. Specifically, a licensed beer manufacturer (Type 01) or small beer manufacturer (Type 23) may sell beer to consumers for consumption on or off the manufacturer's licensed premises. Since 1988, California has permitted a beer manufacturer to have a restaurant that is on or contiguous to the brewery premises to enhance the tour and tasting experience at the brewery. Since the restaurant location is on or next to the brewery, the restaurant is also permitted to buy beer and wine without using an independent wholesaler (not owned by the beer manufacturer).

A beer manufacturer can also self-distribute beer to restaurants owned by the manufacturer so long as the restaurant is on the same premises as the brewery. A California beer manufacturer can also self-distribute beer to other restaurants not owned by the beer manufacturer. However, current law prohibits a beer manufacturer from self-distributing beer to restaurants owned by the manufacturer and not on the premises of the brewery. In essence, a beer manufacturer can distribute beer to local restaurants, but if they own the restaurant, they must use their designated distributor, who must first take the beer back to their warehouse before bringing it back to the restaurant next door.

SB 796 (Committee on Governmental Organization, Chapter 311, Statutes of 2015) extended a tied-house exception to allow a holder of no more than six on-sale licenses, or any officer, director, employee, or agent of the licensee, to hold a beer manufacturer's license (Type 01). Prior to SB 796, this exception was only extended to small beer manufacturers (Type 23). Currently, a beer manufacturer (Type 01 or Type 23), regardless of the number of beer manufacturer licenses that are held by the beer manufacturer are prohibited from exercising (alone or in common) retail privileges at more than six locations. These six retail locations includes any combination of both retail licenses and duplicate licenses for branch offices of beer manufacturers. Retail privileges exercised at the licensed premises of production are not included in the calculation of the six retail locations referenced above.

AB 2301 authorizes an on-sale retailer that is also a beer manufacturer to purchase alcoholic beverages from the licensed beer manufacturer, if the premises of production is located within five miles of the licensed on-sale premises.

Related/Prior Legislation

AB 1734 (Bennett, 2022) allows a the holder of a beer manufacturer's license and a winegrower's license that holds both of those licenses for a single premises to have alcoholic beverages that are authorized under those licenses at the same time anywhere within the premises, and to maintain a designated area where retail sales and consumption authorized under those licenses can occur, subject to specified conditions. (Pending in the Senate Governmental Organization Committee)

AB 2307 (Berman, 2022) increases the number of authorized branch office locations for a licensed beer manufacturer from six to eight and prohibits more than four of these locations from being bona fide eating places, as specified. (Pending on the Senate Floor)

SB 796 (Senate Governmental Organization Committee, Chapter 311, Statutes of 2015), among other things, extended a tied-house exception to allow a holder of no more than six on-sale licenses, or any officer, director, employee, or agent of the license, to hold a beer manufacturer's license.

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

According to the Senate Appropriations Committee, the Department of ABC's activities are funded by regulatory and license fees and generally the department does not receive support from the General Fund. New legislative mandates, although modest in scope, may in totality create new cost pressures and impact the department's operating costs and future budget requests.

SUPPORT: (Verified 8/3/22)

California Craft Brewers Association (source)

OPPOSITION: (Verified 8/3/22)

Alcohol Justice

ARGUMENTS IN SUPPORT: According to the California Craft Brewers Association, "breweries that own a restaurant must use a distributor to deliver their beer. This requires the beer distributor to pick-up the beer from the brewery and then transport the beer to the distributor's warehouse, often in another city, before

delivering the beer back to the brewery-owned restaurant. This results in obvious inefficiencies for both the brewery and distributor. AB 2301 would simply the law to allow a brewery to self-distribute their beer to its own retail license and eliminate wasteful transportation costs and GHG emissions."

ARGUMENTS IN OPPOSITION: According to Alcohol Justice, "while we recognize that this bill is an effort to patch a strange application of the law pertaining to current alcohol manufacturer privileges, the problem originates with standing law's effect of undermining tied-house and three-tier regulations. It is strange for a manufacturer to not be able to deliver their product to their own on-sale license. It is stranger for a manufacturer to be allowed to own an on-sale license in the first place."

ASSEMBLY FLOOR: 71-0, 5/16/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Cunningham, Low, Muratsuchi, Nazarian, Quirk-Silva, Blanca Rubio, Ting

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
8/5/22 13:01:58

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

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

THIRD READING

Bill No: AB 2303
Author: Aguiar-Curry (D), et al.
Amended: 6/21/22 in Senate
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 13-0, 6/28/22
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Bradford, Hueso, Jones, Kamlager, Melendez, Portantino, Rubio, Wilk
NO VOTE RECORDED: Borgeas, Glazer

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 74-0, 5/23/22 - See last page for vote

SUBJECT: Agave spirits: labeling

SOURCE: Author

DIGEST: This bill provides that only agave spirits produced entirely from agaves grown within California, without flavoring or coloring additives, may be labeled with the words "California agave spirits" or any combination of the words "California agave spirits," "California agave," or substantially similar description.

ANALYSIS:

Existing law:

1) Establishes the Department of Alcoholic Beverage Control (ABC) and grants it exclusive authority to administer the provisions of the ABC Act in accordance with laws enacted by the Legislature.

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

3) Establishes the federal Alcohol and Tobacco Tax and Trade Bureau (TBB) and makes the TBB responsible for the promulgation and enforcement of labeling regulations of distilled spirits, wine, and malt beverages pursuant to the Federal Alcohol Administration Act. Alcohol manufacturers must follow specified labeling and advertising requirements to sell their products in the U.S. marketplace.

4) Prescribes various requirements and prohibitions with regard to labeling alcoholic beverages and, with regard to wine, prescribes labeling requirements relating to the area of origin of the grapes used to produce wine.

5) Creates the craft distillers license, Type 74, which, among other things, authorizes the licensee to produce up to 150,000 gallons of distilled spirits per year and sell up to 2.25 gallons of distilled spirits directly to a consumer at the licensee's licensed premises.

6) Creates the distilled spirits manufacturer's license, Type 04, which allows a licensee to manufacture, produce, package, mix, flavor, color, label, and export distilled spirits.

This bill:

1) Provides that only agave spirits produced entirely from agaves grown within California, without flavoring or coloring additives, may be labeled with the words "California agave spirits" or any combination of the words "California agave spirits," "California agave," or substantially similar description.

2) Provides that this bill does not preclude the use of the word "California" to describe the location of the distillery.

3) Authorizes the Department of ABC to seize agave spirits labeled in violation of this bill, regardless of where they are found, and dispose of the dispirits, as specified.

Background

Purpose of this bill. According to the author's office, "the agave spirits industry in California is an emerging industry, involving craft distillers and agave growers throughout the state. California is quickly establishing itself as the producer of the highest quality agave spirits produced in the United States. California agave

distillers and growers are making significant investments and seek to protect the use of the word 'California' from those who, in the future, could take advantage of our reputation for high quality products and cause consumer confusion and unfair competition. Similar labeling standards have been established to protect other California crops, including winegrapes and olive oil. AB 2303 will require that any agave spirits sold in California labeled with the words 'California agave spirits,' in any combination, must be made entirely from agave grown in the state of California and may not contain any flavor or coloring additives."

Agave Spirits. Agave is a perennial succulent, found all over the world, but most notably in the Southwestern United States, Mexico, India, South Africa and tropical South America. An agave plant typically takes eight to 25 years to mature, and is harvested only once. Harvesting the plant is a demanding, physical process done by highly skilled farmers. Worldwide, there are over 200 species of wild and cultivated agave, diverse in size, form, and color. Approximately 40 of them are used in the creation of agave spirits.

An agave spirit can be classified as a distillate produced by the cooking, crushing, fermenting and distilling of agaves. Both blends and 100% agave spirit brands have emerged in the U.S., India, and South America. Just like the grape varietals used for wine, agave spirits can be classified by the species of plant from which they are distilled.

The most famous of all agave spirits is tequila, but before tequila got its name, it was called mezcal. It started off as a "Vino de Mezcal de Tequila." Tequila is a town in the middle of the state of Jalisco. The producers were so confident of the quality of their mezcal that the name of the spirit itself eventually turned into tequila.

Like cognac and champagne, tequila has a recognized Appellation of Origin (AOC) meaning that it is covered by and named after a geographical region. Declared by the Mexican government in 1974, the AOC is in consideration of specific characteristics of tequila due to location, climate, and cultural traditions. Tequila can be made only in the Mexican states of Jalisco, Guanajuato, Michoacán, Nayarit, and Tamaulipas and produced under the regulations dictated by the Tequila Regulatory Council of Mexico. Jalisco is the major area accounting for some 97% of tequila production. Any other distilled beverage made from the blue agave plant in other areas is not legally tequila.

Recent Developments. The Alcohol and Tobacco Tax and Trade Bureau (TTB) of the U.S. Treasury Department published a final rule on April 2, 2020, which

established a new category of spirits called “Agave Spirits,” Agave spirits is now a new Class with 2 defined types listed under it, Tequila and Mezcal. U.S. producers making Agave spirits in this Class will now be able to do so without submitting a formula.

Previously, the standards included a class for tequila but generally did not address Mezcal or the broader category of agave spirits. The new agave spirits class will include any spirits distilled from a fermented mash, of which at least 51% is derived from plant species in the genus agave and up to 49% is derived from sugar. Agave spirits must be distilled at less than 95% alcohol by volume and bottled at or above 40% alcohol by volume. Industry members who have approved labels for “spirits distilled from agave” may choose to change their labels to designate their products as “agave spirits,” but will not be required to do so.

It has been reported that since the TTB established the Agave spirits category, more than 150 labels for domestic agave spirits have been approved throughout the United States. With few exceptions these spirits are made entirely with imported agave syrup from Mexico. Proponents note that California is currently the only state growing agave and producing agave spirits made from agave grown in California.

The intent of this bill is to specify in law that if an agave spirit is labeled as a “California agave spirit,” or a combination of those words, it shall be made from 100% California grown agave, without flavoring and coloring additives. A manufacturer could still make any kind of agave spirit in California, including those with only 51% agave, made from imported syrup, with additives, as long as they meet the TTB's general rules and do not use "California agave spirits" on their label.

Related/Prior Legislation

AB 1617 (Stone, 2022) would have required any wine bottled on or after January 1, 2024, labeled with an American Viticultural Area established pursuant to federal law that is located entirely within the “Santa Cruz Mountains” viticultural area to bear the designation “Santa Cruz Mountains” on the label, as specified. (Never heard in the Senate Governmental Organization Committee).

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

According to the Senate Appropriations Committee, staff notes that the Department of ABC’s activities are funded by regulatory and license fees and

generally the department does not receive support from the General Fund. New legislative mandates, although modest in scope, may in totality create new cost pressures and impact the department's operating costs and future budget requests.

SUPPORT: (Verified 8/1/22)

Agricultural Consulting Service
California Agave Council
California Agave Venture, LLC
California Artisinal Distillers Guild
Coastal Agave and Distilleries, LLC
Hexnova LLC
Jackson Temple Distillery, LLC
Jano Spirits, LLC
J-Slammed, LLC
La Paloma Ranch, LLC
Pasture 42
Raul Chavez Agave Growers
Valle Luna Agave
Ventura Spirits Distillery
Woolf Farming and Processing

OPPOSITION: (Verified 8/1/22)

None received

ARGUMENTS IN SUPPORT: According to the California Agave Council, "as agave spirits continue to gain in popularity throughout the United States and the world, and domestic craft distillers respond to this demand, California is earning a reputation for the highest quality domestically produced agave spirits. Consumers deserve to known the highest standards continue to be met on bottles labeled with the words 'California Agave Spirits,' protecting California's reputation for growing and producing high quality and beverages. Your legislation does that."

ASSEMBLY FLOOR: 74-0, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva,

Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Mia Bonta, O'Donnell, Blanca Rubio

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
8/3/22 14:36:02

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

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

THIRD READING

Bill No: AB 2307
Author: Berman (D), et al.
Amended: 8/2/22 in Senate
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 14-0, 6/14/22
AYES: Dodd, Nielsen, Allen, Becker, Borgeas, Bradford, Hertzberg, Hueso, Jones, Kamlager, Melendez, Portantino, Roth, Wilk
NO VOTE RECORDED: Glazer

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 71-0, 5/16/22 - See last page for vote

SUBJECT: Alcoholic beverages: beer manufacturers: branch offices

SOURCE: California Craft Brewers Association

DIGEST: This bill increases the number of authorized branch office locations for a licensed beer manufacturer, from six to eight, and increases from, two to four, the number of these locations that are authorized to be bona fide public eating places owned by the beer manufacturer, as specified.

Senate Floor Amendments of 8/2/22 add chaptering out language with AB 2301 (Wood).

ANALYSIS:

Existing law:

1) Establishes the Department of Alcoholic Beverage Control (ABC) and grants it exclusive authority to administer the provisions of the ABC Act in accordance with laws enacted by the Legislature.

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

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

4) Creates the beer manufacturer's license, which, among other things, allows a licensee to manufacture, produce, package, and ship unlimited amounts of beer to consumers in California.

5) Creates the small beer manufacturer's license, which is identical to the beer manufacturer's license except that a small beer manufacturer is prohibited from producing more than 60,000 barrels and has smaller licensing fees.

6) Authorizes the Department of ABC to issue a beer manufacturer a duplicate of its original license for a location other than its licensed premises of production or manufacture.

7) Authorizes a licensed beer manufacturer to exercise the privileges under its manufacturer's license at branch offices, subject to certain exceptions and qualifications. In this regard, existing law prohibits a beer manufacturer from selling alcoholic beverages to consumers for consumption on or off the premises, or providing authorized tastings to consumers, at more than six branch office locations, regardless of how many beer manufacturer licenses the beer manufacturer holds, either alone or under common ownership with any other licensed beer manufacturer.

8) Prohibits more than two of these six branch locations from being bona fide public eating places owned and operated by and for the beer manufacturer.

9) Provides a narrow tied-house exception that permits the holder of no more than six on-sale licenses to also own a licensed beer manufacturer holding a license, as specified. This particular tied-house exception provides that the on-sale licensee shall purchase no alcoholic beverages for sale in this state other than from a wholesaler or winegrower licensed, except for any alcoholic beverages manufactured by the licensed beer manufacturer at a single location contiguous or adjacent to the premises of the on-sale licensee.

10) Defines a "bona fide public eating place" to mean a place which is regularly and in a bona fide manner used and kept open for the serving of meals to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for ordinary meals, the kitchen of which must be kept in sanitary condition with the proper amount of refrigeration for keeping of food on said premises and must comply with all the regulations of the local department of health.

This bill:

1) Increases the limit, from six to eight, of authorized branch office locations for a licensed beer manufacturer and increases the corresponding limit, from two to four, on these branch locations being bona fide eating places owned and operated by the beer manufacturer.

2) Provides that a beer manufacturer cannot receive its last two duplicate branch office licenses until the manufacturer has held its sixth duplicate license for at least one year.

3) Repeals the requirement that a branch office location only sell beer and wine purchased from a licensed wholesaler that is not owned by the beer manufacturer.

4) Increases the number of locations to eight at which a beer manufacturers may exercise retail privileges, provided that no more than six of the locations may be on-sale licenses.

Background

Purpose of the bill. According to the author's office, "as breweries have adapted and evolved their business plans, some have already fully utilized their duplicate license allotment. The limit established in 2014 is now a restraint on the growth of the craft beer industry and needs to be revisited. Moreover, now more than ever it is imperative that craft breweries have the ability to expand the reach of their products to maintain and grow their sales, increase jobs and investments in their local communities. Accordingly, AB 2307 would modify the number of duplicate licenses a beer manufacturer may use for tastings and direct-to-consumer sales up to eight licenses and allow food to be served at any four of these locations. In doing so, the bill would support the ability of California's independent craft breweries to grow and prosper in the current global marketplace."

Tied-house Laws. The "tied-house" or "three-tier" system, separates the alcoholic beverage industry into three component parts of the manufacturer (the first tier), wholesaler (the second tier), and retailer (the third tier). The original policy rationale for this body of law was to: (1) promote the state's interest in an orderly market; (2) prohibit the vertical integration and dominance by a single producer in the marketplace; (3) prohibit commercial bribery and protect the public from predatory marketing practices; and, (4) discourage and/or prevent the intemperate use of alcoholic beverages.

Under a strict "three tier" system, manufacturers would not be able to sell alcoholic beverages directly to consumers or to a retailer. Over the years however, the Legislature has expanded the privileges of manufacturers to include, among other things, the ability to sell alcoholic beverages directly to consumers. Some, like beer manufacturers, enjoy not only the ability to sell alcoholic beverages directly to consumers at their licensed premises, but also the ability to ship directly to consumers in California.

ABC issues licenses in California for the legal manufacture and sale of alcoholic beverages. There are more than 80 different types of ABC licenses authorized in California. Each license has its own set of privileges and obligations specific to the category of license involved. The privileges of a license are expressly limited to those conferred by the specific type of license involved for the premises and time period covered by the license.

Alcohol licenses are deemed "on-sale" if the license allows the sale of alcoholic beverages but requires that they are consumed on the premises. Some examples of "on-sale" businesses include bars and restaurants, although restaurants do have some "off-sale" privileges. For example, under existing law, restaurants may sell both wine and beer to customers for "off-sale" consumption and have those drinks delivered. On the other hand, alcohol licenses are deemed "off-sale" if the business sells alcoholic beverages sold at the establishment but are required to be consumed offsite. Some examples of "off-sale" businesses include liquor stores or grocery stores that sell alcoholic beverages. In addition, some licenses include both "on-sale" and "off-sale" privileges. Some examples are wineries and craft distilleries.

ABC issues licenses to manufacturers of beer, wine, brandy, and spirits. Specifically, a licensed beer manufacturer (Type 01) or small beer manufacturer (Type 23) may sell beer to consumers for consumption on or off the manufacturer's licensed premises. Since 1988, California has permitted a beer manufacturer to have a restaurant that is on or contiguous to the brewery premises

to enhance the tour and tasting experience at the brewery. Since the restaurant location is on or next to the brewery, the restaurant is also permitted to buy beer and wine without using an independent wholesaler (not owned by the beer manufacturer).

A beer manufacturer can also self-distribute beer to restaurants owned by the manufacturer so long as the restaurant is on the same premises as the brewery. A California beer manufacturer can also self-distribute beer to other restaurants not owned by the beer manufacturer. However, current law prohibits a beer manufacturer from self-distributing beer to restaurants owned by the manufacturer and not on the premises of the brewery. In essence, a beer manufacturer can distribute beer to local restaurants, but if they own the restaurant, they must use their designated distributor, who must first take the beer back to their warehouse before bringing it back to the restaurant next door.

Duplicate Licenses. California law allows beer manufacturers to establish satellite locations known as "duplicate licenses." These satellite locations are used for self-distribution, warehousing, tastings, and direct-to-consumer sales of their beer. Duplicate licenses have long been used in California as a way to allow beer breweries of all sizes to expand operations to meet customer interest and demand.

Historically, there was no limit on the number of duplicate licenses that a beer manufacturer, Type-01 or Type-23, may hold. However, in 2014, AB 2010 (Gray-Chapter 808, Statutes of 2014) changed the law to limit duplicate licenses primarily used for tastings and sales privileges to a maximum of six duplicate licenses with retail purposes statewide. The bill limited a brewer's ability to serve food to only two out of the six duplicate locations. These bona fide eating establishments may sell wine and beer. There was no limit placed on the number of duplicate licenses issued for the purpose of beer storage.

AB 2010 was developed in concert with the Department of ABC, beer distributors, and craft brewer stakeholders to seek a balance between an infinite number of duplicate licenses and an amount that met the needs of the craft beer industry. At the time, six duplicate licenses per brewery were determined as reasonable, given the market conditions and the number of licensed beer manufacturers. The author's office stated that the bill was intended to update the beer manufacturer's duplicate license by leveling the playing field between duplicate licenses and all other retail licenses.

According to the Department of ABC, there are currently 84 Type-01 licenses (beer manufacturer) and 1,190 Type-23 (small beer manufacturer) for a total of

1,274 total beer manufacturer licenses in the state. It should be noted that these numbers include duplicate licenses as well.

Related/Prior Legislation

AB 1734 (Bennett, 2022) allows a the holder of a beer manufacturer's license and a winegrower's license that holds both of those licenses for a single premises to have alcoholic beverages that are authorized under those licenses at the same time anywhere within the premises, and to maintain a designated area where retail sales and consumption authorized under those licenses can occur, subject to specified conditions. (Pending in the Senate Appropriations Committee)

AB 2301 (Wood, 2022) authorizes an on-sale retailer that is also a beer manufacturer to purchase alcoholic beverages from the licensed beer manufacturer, if the premises of production is located within five miles of the licensed on-sale premises. (Pending on the Senate Floor)

SB 796 (Committee on Governmental Organization, Chapter 311, Statutes of 2015) among other things, extended a tied-house exception to allow a holder of no more than six on-sale licenses, or any officer, director, employee, or agent of the license, to hold a beer manufacturer's license.

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

According to the Senate Appropriations Committee, staff notes that the Department of ABC's activities are funded by regulatory and license fees and generally the department does not receive support from the General Fund. New legislative mandates, although modest in scope, may in totality create new cost pressures and impact the department's operating costs and future budget requests.

SUPPORT: (Verified 8/3/22)

California Craft Brewers Association (source)

OPPOSITION: (Verified 8/3/22)

Alcohol Justice
San Diego County Alcohol Policy Panel

ARGUMENTS IN SUPPORT: According to the California Craft Brewers Association, "in the last eight years, the market has changed dramatically. The number of California craft breweries has doubled, and the number of locally-

owned independent beer distributors has been severely reduce. Many craft brewers continue to work with a distributor, but the consolidation of California's beer distribution network has adversely impacted the craft beer industry, which has relied on the independent beer distributors to help build and represent their brand and meet their distribution needs as a craft brewery. AB 2307 seeks reasonable changes in the statutory limit of six duplicates to accommodate for continue success and growth for these local businesses and the local jobs they provide."

ARGUMENTS IN OPPOSITION: According to Alcohol Justice, "we have concerns that alcohol manufacturer-run restaurants are more likely to be focused on alcohol sales than food sales, more likely to be able to offer alcohol at a lower point (especially when the need for wholesaler is obviated, and again when lar- chain economies of scale kick in as well), and more prone to encourage additional consumption. Given a choice between a large chain of alcohol-branded restaurants and the same number of independent restaurants, we strongly believe the latter creates fewer public health and safety concerns."

ASSEMBLY FLOOR: 71-0, 5/16/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Cunningham, Low, Muratsuchi, Nazarian, Quirk-Silva, Blanca Rubio, Ting

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
8/3/22 14:50:35

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

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

THIRD READING

Bill No: AB 2311
Author: Maienschein (D)
Amended: 6/30/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-0, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, McGuire, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas, Jones

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 52-16, 5/25/22 - See last page for vote

SUBJECT: Motor vehicle conditional sale contracts: guaranteed asset protection waivers

SOURCE: Attorney General Rob Bonta

DIGEST: This bill establishes baseline protections in connection with guaranteed asset protection waivers.

ANALYSIS:

Existing law:

1) Establishes the Automobile Sales Finance Act (or the Rees-Levering Motor Vehicle Sales Finance Act) to regulate the sales of automobiles pursuant to conditional sales contracts. (Civ. Code § 2981 et seq.)

2) Defines "conditional sale contract" as a contract to purchase a motor vehicle primarily for personal, family, or household purposes, with or without accessories, under which the buyer takes possession of the vehicle, but either a) obtains title only upon payment of the purchase price, or b) provides the

seller a lien on the vehicle as security for payment of the purchase price. (Civ. Code § 2981 (a)(1).)

3) Defines "nationally recognized pricing guide" to include, but not be limited to, the Kelley Blue Book, Edmunds, the Black Book, or the National Automobile Dealers' Association Guide. (Veh. Code § 11950 (c)(2).)

4) Defines "guaranteed asset protection" (GAP) insurance, a form of insurance regulated under the Insurance Code. However, exempted from this definition is a debt cancellation agreement contained in a conditional sales contract for the sale of a vehicle. (Ins. Code § 1758.992 (h).)

5) Requires contractual disclosures under the Vehicle Leasing Act regarding guaranteed asset protection (GAP) liability and coverage in connection with automobile leases. (Civ. Code § 2985.8 (j).)

This bill:

1) Defines "guaranteed asset protection waiver" (GAP waiver) as an optional contractual obligation under which the seller of a motor vehicle agrees, for additional payment, to cancel or waive amounts due on a conditional sales contract if the vehicle is subject to a total loss or unrecovered theft.

2) Requires the offer, sale, or provision of a GAP waiver to comply with the Automobile Sales Finance Act in the Civil Code.

3) Requires itemized disclosure, in the conditional sales contract, of the amount charged for a GAP waiver.

4) Declares that a GAP waiver, which may be titled as an addendum, forms part of the conditional sales contract and remains a part of the conditional sales contract when the contract is assigned, sold, or transferred.

5) Forbids a seller from conditioning the terms of a conditional sales contract or an extension of credit on whether the buyer purchases a GAP waiver.

6) Requires, prior to the execution of a conditional sales contract, that the seller provide and obtain the buyer's signature on a written disclosure that includes both a description and the price of any GAP waiver agreement.

7) Requires the terms and conditions of a GAP waiver to be included on a document separate from the conditional sales contract that is signed by the buyer. The document should include the following:
   a) A statement that the GAP waiver is an optional addition to the contract;
   b) A statement that the holder of the sales contract is the contracting party;
   c) The name and mailing address of the seller;
   d) The name and mailing address of any administrator; and
   e) A notice with a heading in at least 12-point bold type and the text in at least 10-point bold type, circumscribed by a line, immediately above the contract signature line detailing the buyer's rights.

8) Requires, if the conditional sales contract is assigned, that within 30 days of assignment the buyer be provided written notice of the assignment and the name and mailing address of the assignee.

9) Prohibits the sale of a GAP waiver if the waiver's price exceeds four percent of the amount financed under the conditional sales contract.

10) Prohibits the sale of a GAP waiver if the amount financed through the conditional sales contract is more than the maximum dollar amount covered by the GAP waiver.

11) Prohibits the sale of a GAP waiver if, on the date of sale, the conditional sales contract's loan-to-value (LTV) ratio exceeds the maximum LTV ratio covered by the GAP waiver, unless the terms of the GAP waiver conspicuously disclose the maximum LTV ratio limitation, including the method by which the limitation is applied, and the buyer is informed in a writing, acknowledged by the buyer, that the amount financed in the buyer's conditional sales contract exceeds the waiver's maximum LTV limitation and therefore the waiver will not cover the total amount owed on the conditional sales contract.

12) Defines LTV ratio as the total amount financed as a percentage of the manufacturer suggested retail price (MSRP) for a new vehicle or the average retail value for a used vehicle, as determined by a nationally recognized pricing guide, which includes the Kelley Blue Book, Edmunds, the Black Book, or the National Automobile Dealers' Association Guide.

13) Prohibits the sale of a GAP waiver if the amount financed is less than 70 percent of the MSRP or average retail value.

14) Clarifies that a GAP waiver terminates upon the earliest of the following:
    a) Cancellation by the buyer;
    b) Payment in full by the buyer of the conditional sales contract;
    c) If the vehicle is repossessed or surrendered, the expiration of any redemption and reinstatement periods under the Automobile Sales Finance Act;
    d) If the vehicle is subject to a total loss or unrecovered theft, after the holder has applied all applicable benefits required under the GAP waiver; or
    e) Any other termination event set forth in the GAP waiver.

15) Entitles the buyer, upon termination of a GAP waiver, to a refund as follows:
    a) If the termination occurs within the first 30 days, a full refund of all GAP waiver charges, plus all finance charges attributable to the GAP waiver;
    b) Thereafter, a refund of any unearned GAP charges, calculated on a pro rata basis, as provided; or
    c) No refund if there has been a total loss or unrecovered theft of the motor vehicle specified in the conditional sales contract and the buyer has or will receive the benefit of the GAP waiver.

16) Requires any refund to be tendered or initiated within 60 business days of the termination date. A refund may be applied as a reduction of the amount owed under the contract unless already paid in full. These refunds are in addition to any other refunds provided for. The holder must maintain records of such refunds for four years, and make them electronically accessible in response to a subpoena or other administrative or judicial request.

17) Authorizes a buyer to cancel a GAP waiver at any time without penalty. Prohibits a cancellation, termination, or similar fee to be charged in connection with the termination.

18) Requires a holder, when communicating an itemized contract balance to the buyer in writing, to individually identify as a credit or refund available to the buyer the unearned portion of GAP waiver charges paid by the buyer as of the date of the communication on a pro rata basis. The holder may alternatively state that a buyer who purchased a GAP waiver is generally entitled to a refund of the unearned portion of the guaranteed asset protection waiver charges on a pro rata basis upon early termination of their contract or cancellation of the waiver, and that the buyer should contact the administrator identified in the GAP waiver, or any other appropriate person designated by the holder, for identification of the amount of such a refund available to the buyer at that time.

19) Authorizes a buyer to recover three times the amount of GAP charges paid for any violation of the above provisions, unless the violation is the result of an accidental or bona fide error of computation.

Background

A GAP waiver is an optional contractual obligation sold to car purchasers. The purpose of these waivers is to protect consumers when there is a total loss of the vehicle or an unrecovered theft. The waiver provides for payment to the consumer of all or some portion of the "gap" between the actual cash value of the vehicle (often determined by insurance companies) and the remaining loan balance exceeding that amount.

However, concerns have arisen that these waivers are largely unregulated, and specifically excluded from laws governing insurance products. This leads to problematic market practices, including where GAP waivers are excessively expensive, of questionable value, are not properly refunded, or not properly explained to consumers.

This bill seeks to address these issues by establishing some baseline consumer protections in connection with the sale of GAP waivers. This bill implements a number of disclosure requirements to institute some transparency in the market. It also provides consumers the right to cancel GAP waivers at any time and details various rights regarding refunds. There are also clear parameters for what can be charged for these waivers to ensure baseline value and prevent excessive pricing.

This bill is sponsored by Attorney General Rob Bonta. It is supported by the Consumer Federation of California.

A GAP in Regulation

GAP waivers are contractual agreements between purchasers of vehicles and creditors. Sold as an add-on product to auto loan contracts, the creditor commits to waive the remainder of the balance on the underlying auto loan that exceeds the market value of the vehicle in the event that the vehicle is a total loss or stolen and unrecovered.

The issue motivating the current bill is that unlike similar products, existing law does not specifically address the rights and responsibilities of the parties to GAP waiver agreements and therefore the market is largely unregulated. The author argues that in the absence of such consumer protections unfair practices in the sale

and administration of GAP waivers enable auto dealers and lenders to take advantage of vulnerable consumers and harm competition. Research supports this contention.[1]

The data analysis came up with the following findings:

- Add-on products are sold at prices far higher than dealer costs. Dealers mark up add-on products more than other similar products are marked up. They mark up add-on products by a far higher percentage than they mark up cars.
- Dealers are inconsistent in the pricing of add-on products, with even individual dealerships charging some consumers many times more than other consumers for the same product with the same dealer cost.
- This inconstant pricing for the same add-ons leads to pricing discrimination, with Hispanics charged higher markups than non-Hispanics.

When excessively priced GAP waivers are purchased, it also increases the LTV ratio of the vehicle. This contributes to increases in negative equity, which hurts the consumer and the market at large.

Reasonable Parameters on GAP Waiver Sales

According to the author, "Despite their name, GAP waivers hardly provide the bare minimum protections for the car buyer. This bill will ensure that car buyers are covered through stricter consumer protection laws, helping them avoid this costly add-on when unnecessary."

This bill seeks to implement basic protections for consumers in connection with the purchase and value of GAP waivers. The first area that is addressed is the pricing of these waivers. The bill places a limit on what can be charged for a waiver at four percent of the amount financed under the sales contract. Creditors are also prevented from selling GAP waivers where the amount financed through the sale contract exceeds a maximum dollar amount covered by the waiver.

GAP waivers also cannot be sold if the amount financed minus the total cost of the GAP waiver, credit insurance, and service contracts is less than 70 percent of the MSRP for a new vehicle or the average retail value for a used vehicle, based on a

[1] John W. Van Alst et al., *Auto Add-Ons Add Up: How Dealer Discretion Drives Excessive, Arbitrary, and Discriminatory Pricing* (October 2017) National Consumer Law Center, **https://www.nclc.org/images/pdf/car_sales/report-auto-add-on.pdf** [as of June 23, 2022].

recognized pricing guide. The final restriction is on GAP waivers offered where the sales contract's LTV ratio at the contracting date exceeds the maximum LTV ratio covered by the GAP waiver. However, such a waiver can be offered if the terms conspicuously disclose the maximum LTV ratio limitation and the buyer is informed that the amount financed exceeds that limitation and therefore the waiver will not cover the total amount owed.

This bill additionally makes clear that GAP waivers cannot be mandated and sets out specific events that terminate them. This includes upon cancellation by the buyer at any time or full payment of the sales contract. No cancellation, termination, or similar fees may be charged. This bill also lays out clear refund requirements based on when termination occurs and the value provided.

This bill also implements a number of disclosure requirements that ensure consumers are made fully aware of their rights. To ensure proper enforcement, a holder is liable to a buyer for three times the amount of any GAP waiver charges paid if they are in violation, outside of accidental or bona fide computational errors.

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

SUPPORT: (Verified 8/2/22)

Attorney General Rob Bonta (source)
Consumer Federation of California

OPPOSITION: (Verified 8/2/22)

None received

ARGUMENTS IN SUPPORT: The Consumer Federation of California asserts:

> AB 2311 will help rectify the lack of consumer protections related to GAP waivers. The bill would require that refunds for unearned, prepaid GAP waiver charges be automatically disbursed when a loan terminates early. The bill ensures that disclosures are made to the consumer, like the fact the waiver is optional, while also capping the amount that these waivers can be sold for.
>
> No consumer should be unfairly saddled with additional debt as a result of unclear or nefarious auto sales tactics. AB 2311 takes an important step towards ensuring that consumers are better informed about these waivers and are not being unfairly taken advantage of.

ASSEMBLY FLOOR: 52-16, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cunningham, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel
NO VOTE RECORDED: Berman, Choi, Cooper, Daly, Gray, Grayson, Mayes, O'Donnell, Quirk-Silva, Rodriguez

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
8/3/22 14:36:03

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

SENATE RULES COMMITTEE
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THIRD READING

Bill No: AB 2315
Author: Arambula (D), et al.
Amended: 6/1/22 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 5-1, 6/15/22
AYES: Leyva, Ochoa Bogh, Cortese, McGuire, Pan
NOES: Dahle
NO VOTE RECORDED: Glazer

SENATE JUDICIARY COMMITTEE: 9-2, 6/21/22
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, McGuire, Stern, Wiener
NOES: Borgeas, Jones

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 56-0, 5/16/22 - See last page for vote

SUBJECT: Community colleges: records: affirmed name and gender identification

SOURCE: Lieutenant Governor Eleni Kounalakis
California LGBTQ Health and Human Services Network
Equality California
Faculty Association of California Community Colleges

DIGEST: This bill requires community colleges to implement a process whereby current students, staff, and faculty may request the updating of any records for that person to include the person's affirmed name, gender, or both name and gender identification.

ANALYSIS:

Existing law:

1) Establishes, through the Donahoe Higher Education Act, the California Community Colleges (CCC) under the administration of the Board of Governors as one of the segments of public postsecondary education. (Education Code § 70900)

2) Requires, as part of the Equity in Higher Education Act, a public postsecondary educational institution (including a campus of the CCC) to update a former student's records to include an updated legal name or gender if the institution receives government-issued documentation from a former student demonstrating that the former student's legal name or gender has been changed. (EC § 66271.4)

3) Requires a public postsecondary educational institution, beginning with the 2023–24 graduating class, to provide an option for a graduating student to request that the diploma to be conferred by the institution to list the student's chosen name. Existing law prohibits an institution from requiring a graduating student to provide legal documentation sufficient to demonstrate a legal name or gender change in order to have the student's chosen name listed on the student's diploma. (EC § 66271.4)

This bill:

1) Requires the governing board of each community college district to implement a system by which current students, staff, and faculty can declare an affirmed name, gender, or both name and gender identification to be used in their records where legal names are not required by law.

2) Requires a community college campus, upon the request of an individual, to update any records for current students, staff, and faculty to include the affirmed name, gender, or both name and gender identification.

3) Provides that the records that are to be updated include, but are not limited to, all of the following:

    a) School-issued email addresses.
    b) Campus identification cards.
    c) Class rosters.
    d) Transcripts.
    e) Diplomas, certificates of completion of courses, or similar records.

4) Requires community college campus systems, beginning with the 2023–24 academic year, to be fully capable of allowing such updates.

5) Prohibits a community college campus from charging a higher fee for correcting, updating, or reissuing a document or record based on the declaration of an affirmed name or gender identification than the fee it charges for correcting, updating, or reissuing that document or record generally.

6) States legislative findings and declarations describing how the use of an individual's name assigned at birth rather than their affirmed name is termed "deadnaming." Specifically, for transgender and gender nonbinary students, being deadnamed by incorrect student records can lead to unwanted outing, bullying, discrimination, violence, and loss of employment opportunities.

Comments

Need for the bill. According to the author, "Not everyone uses their legal name for any number of reasons, with a chosen or affirmed name being more reflective of the individual. For instance, a transgender or a non-binary individual may choose a name more representative of their gender identity. Use of a student's name assigned at birth rather than their chosen or affirmed name is termed "deadnaming." Specifically for transgender and non-binary individuals, being deadnamed by incorrect student records can lead to unwanted outing, bullying, discrimination, violence, and loss of employment opportunities.

"Deadnaming in public college settings is unfortunately a common practice. The 2015 U.S. Transgender Survey – California State Report revealed 63 percent of transgender and gender nonconforming individuals did not have their chosen name or accurate gender on their identification. Research has shown that transgender youth who are able to use their affirmed name in multiple contexts reported fewer depressive symptoms and less suicidal ideation and behavior."

Extends to current students, staff and faculty. Provisions in existing law relating to updating records specifically relate to former students and diplomas for graduating students. This bill essentially extends those provisions to current students, staff, and faculty at CCCs.

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

SUPPORT: (Verified 8/2/22)

Lieutenant Governor Eleni Kounalakis (co-source)
California LGBTQ Health and Human Services Network (co-source)

Equality California (co-source)
Faculty Association of California Community Colleges (co-source)
ACLU California Action
American Federation of State, County, and Municipal Employees
California Community Colleges, Chancellor's Office
California Federation of Teachers AFL-CIO
California School Employees Association
California Teachers Association
Community College League of California
Generation Up

OPPOSITION: (Verified 8/2/22)

None received

ASSEMBLY FLOOR: 56-0, 5/16/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Carrillo, Cervantes, Chen, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, O'Donnell, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Calderon, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Low, Muratsuchi, Nazarian, Nguyen, Patterson, Quirk-Silva, Blanca Rubio, Seyarto, Smith, Ting, Voepel, Waldron

Prepared by: Lynn Lorber / ED. / (916) 651-4105
8/3/22 14:36:03

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

SENATE RULES COMMITTEE AB 2319
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2319
Author: Mia Bonta (D)
Amended: 6/23/22 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/15/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE HOUSING COMMITTEE: 7-0, 6/21/22
AYES: Wiener, Caballero, Cortese, McGuire, Roth, Skinner, Umberg
NO VOTE RECORDED: Bates, Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 64-3, 5/25/22 - See last page for vote

SUBJECT: Surplus land: former military base land

SOURCE: City of Alameda

DIGEST: This bill establishes a new category of exempt surplus land for the former military base Alameda Naval Air Station (Alameda Point).

ANALYSIS:

Existing law:

1) Establishes procedures for disposal of land surplus to the needs of local agencies, under Surplus Land Act, including to:

    a) Require local officials that want to dispose of public property to declare that the land is no longer needed for the agency's use in a public meeting and declare the land either "surplus land" or "exempt surplus land."

b) Designate certain types of land as "exempt surplus land," which doesn't have to meet the requirements of the Surplus Land Act.

c) Require local agencies to follow the procedures laid out in the Act before surplus land can be sold, including to:

   i) Send a written notice of availability to various public agencies and nonprofit groups, referred to as "housing sponsors," notifying them that land is available for the following purposes:

      (1) Low- and moderate-income housing;
      (2) Park and recreation, and open space;
      (3) School facilities; or
      (4) Infill opportunity zones or transit village plans.

   ii) Negotiate in good faith for 90 days with housing sponsors that respond.

d) Allows the local agency to dispose of the property on the private market if agreement isn't reached with a housing sponsor.

e) Requires that, if a property sold as surplus is not sold to a housing sponsor, but housing is developed on it later, 15 percent of the units must be sold or rented at an affordable cost to lower income households.

f) Imposes specified penalties for violations of the Surplus Land Act.

This bill:

1) Establishes a new category of exempt surplus land for Alameda Point, provided that all of the following conditions are met:

   a) The former military base has an aggregate area greater than five acres, is expected to include a mix of residential and nonresidential uses, and is expected to include no fewer than 1,400 residential units upon completion of development or redevelopment of the former military base;

   b) Development of housing affordable to low- and moderate-income households is governed by a settlement agreement entered into prior to September 1, 2020;

   c) Prior to disposition of the surplus land, the agency adopts an written finding of exemption; and

d) The agency includes in its Annual Progress Report to the Department of Housing and Community Development (HCD), the status of development of residential units on the former military base, including the total number of residential units that have been permitted and what percentage of those residential units are affordable to moderate and lower-income households.

2) Provides that violations of the provisions added by the bill are subject to the penalties under the Surplus Land Act, and includes findings and declarations to support its purposes.

Background

The end of the Cold War forced the Department of Defense to adjust to new geopolitical realities. Federal officials closed or realigned nearly three dozen military bases in California. Upon their closure, the Department of Defense along with local agencies designated local reuse authorities to guide the future use of the base. In one case, an entirely new state entity was created to guide the development of Ford Ord. In other cases, like the Mare Island Naval Shipyard in the City of Vallejo, the city took responsibility for repurposing the base. These former bases have become homes to higher education institutions like California State University, Monterey Bay, and others serve important affordable housing purposes, like the Bay Public Works Center on Alameda Island.

The Alameda Naval Air Station (Alameda Point) is among the nearly 30 military bases in California closed by the federal government at the end of the Cold War. In 1996, the Legislature designated the City of Alameda as the "local reuse entity" to manage the conversion of Alameda Point to civilian uses (AB 3129, Lee, 1996). Alameda officials adopted their redevelopment plan on March 2, 1998. The plan calls for mixed-use development that includes up to 2,300 units of housing.

In the spring of 2000, an action commenced in Alameda Superior Court (*Renewed Hope Housing Advocates and Arc Ecology v. City of Alameda*, et al.) challenging the Environmental Impact Report for the reuse of Alameda Point. The parties eventually settled in March of 2001 on multiple matters, including the construction of affordable housing on the base. The agreement stipulated that 25 percent of all newly constructed housing units at Alameda Point must be made permanently affordable, as specified.

This requirement applies to each residential development project at Alameda Point, and the City of Alameda cannot approve any residential development projects on the base that do not comply.

Surplus Land Act and military base reuse. The recent amendments to the Surplus Land Act have come into conflict with local agencies' plans and obligations to redevelop former military bases. Specifically, at Alameda Point, pursuant to the recent changes to the Surplus Land Act, the City of Alameda is obligated to make the former military base available to various entities for possible development of housing, open space, etc. This obligation conflicts with the federally-approved reuse plan and the prior agreement the City had entered into with the Navy to redevelop Alameda Point because the base reuse plan identifies specific uses for properties, including economic development purposes. Accordingly, developing housing where it is not designated in the base reuse plan would be inconsistent with the plan and violate the conditions place on the property as a result of the transfer from the federal government to the City.

In addition, HCD has interpreted the Surplus Land Act to include leases in the definition of disposal. This interpretation has limited the City's ability to lease vacated military buildings for interim uses, an essential component of the reuse plan as well as the City's economic revitalization plan to offset the loss of jobs and tax revenue from the closure of Alameda Point. The interim lease of vacant buildings for economic revitalization helps finance ongoing cleanup and development over the lifetime of the Alameda Point project. An example of the conflict is the inability of the Alameda Point Collaborative (APC) to move forward with a project that will replace dilapidated units now housing homeless people and build an additional 112 units for the homeless.

To address these conflicts, the City of Alameda wants the Legislature to exempt Alameda Point from the Surplus Land Act.

Comments

1) *Purpose of the bill*. According to the author, "AB 2319 will expedite the construction of low-, very low- and moderate-income housing at Alameda Naval Air Station (Alameda Point). These critical projects have been dramatically slowed due to the state's interpretation of how the Surplus Land Act should apply to the project. The construction of low-, very low- and moderate-income units at this former Naval base is particularly beneficial to this community. There is an existing settlement agreement between the City of Alameda and a local nonprofit, Renewed Hope, requiring 25% of all housing units at the former Naval base to be low-, very low- or moderate-income housing, which is higher than the 15% inclusionary zoning requirement in the remainder of the City of Alameda. Due to the unique circumstance the City of

Alameda finds itself, AB 2319 is narrowly tailored to just apply to the former Naval base in Alameda."

2) *Broader changes needed?* AB 2319 is one of a parade of bills attempting to address issues with the Surplus Land Act that have come to light since the enactment of AB 1486. Several of these bills have enacted, or would create, exemptions to the Surplus Land Act to enable the development of worthy causes, including the development of affordable housing on an important transit corridor in the San Diego Area (SB 51, Durazo, 2021), the Metro North Hollywood Joint Development project (AB 175, Committee on Budget, 2021), the Tustin military base (SB 719, Min, 2021), and several economic development projects in the City of Los Angeles (SB 1373, Kamlager, 2021). In the case of Alameda Point, the affordable housing requirements imposed through the settlement agreement actually exceed the requirements of the SLA: at least 16 percent of the units developed on the former base must be affordable to lower-income households under the settlement agreement (plus an additional 9 percent moderate-income housing) rather than 15 percent under the Surplus Land Act. Accordingly, the sponsor of AB 2319 is seeking an exemption not because they oppose affordable housing, but because the Surplus Land Act conflicts with their federally-approved base reuse plan. This conflict has stalled their ability to dispose of the property for development—including development of affordable housing that the Surplus Land Act attempts to encourage. Broader conversations may need to be had concerning the efficacy of the Surplus Land Act in producing affordable housing versus the impacts to local government plans for affordable housing and other development in their jurisdiction.

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

SUPPORT: (Verified 8/2/22)

City of Alameda (source)
Alameda Point Collaborative
Building Futures with Women and Children
Operation Dignity Inc.

OPPOSITION: (Verified 8/2/22)

None received

ASSEMBLY FLOOR: 64-3, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper,

Cunningham, Daly, Davies, Mike Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NOES: Bigelow, Megan Dahle, Mathis

NO VOTE RECORDED: Berman, Chen, Choi, Flora, Fong, Kiley, Nguyen, O'Donnell, Patterson, Smith, Voepel

Prepared by: Anton Favorini-Csorba / GOV. & F. / (916) 651-4119
8/3/22 14:36:04

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

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

THIRD READING

Bill No: AB 2322
Author: Wood (D)
Amended: 4/27/22 in Assembly
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 13-0, 6/28/22
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Bradford, Hueso, Jones, Kamlager, Melendez, Portantino, Rubio, Wilk
NO VOTE RECORDED: Borgeas, Glazer

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 5/25/22 - See last page for vote

SUBJECT: California building standards: fire resistance: occupancy risk categories

SOURCE: Author

DIGEST: This bill requires the State Fire Marshal (SFM) to research and develop, and to propose to the California Building Standards Commission (BSC), mandatory building standards for fire resistance based on occupancy risk categories in very high, high, and moderate California fire severity zones, as specified.

ANALYSIS:

Existing law:

1) Requires the SFM to identify areas in the state as moderate, high, and very high fire hazard severity zones based on specified criteria.

2) Establishes, under the California Building Standards Law, the BSC within the Department of General Services (DGS).

3) Requires the BSC to approve and adopt building standards and to codify those standards in the California Building Standards Code, which is required to be published once every three years.

This bill:

1) Requires the SFM, prior to the next triennial edition of the California Building Standards Code adopted after January 1, 2023, to research and develop, and authorizes the SFM to propose to the BSC, mandatory building standards for fire resistance based on occupancy risk categories in very high, high, and moderate California fire severity zones in state responsibility areas, local responsibility areas, and in land designated as a Wildland Urban Interface (WUI) Fire Area by cities and other local agencies, as specified.

2) Provides that the building standards required by this bill shall apply to nonresidential, critical infrastructure buildings and shall include both of the following:

   a) Fire rating requirements for structures under Risk Category III and IV as per ASCE 7 in addition to ignition-resistant construction.

   b) For Risk Category III and IV structures, require fire ratings of four hours, three hours, and two hours in very high, high, and moderate severity zones, respectively.

3) Specifies that for the purposes of this bill, "ASCE 7" means the Minimum Design Loads and Associated Criteria for Buildings and Other Structures, as adopted by the American Society of Civil Engineers.

4) Requires the BSC to consider for adoption the building standards proposed by the SFM per the above provisions.

Comments

Purpose of the Bill. According to the author's office, "California has implemented measures to minimize or prevent wildfires, but very little has been done to ensure that nonresidential, critical infrastructure in areas that are most susceptible to fire meet standards necessary to withstand prolonged exposure to fire. Our building codes have not kept up with our rapidly changing climate or the reality of California's current wildfire situation. It is well beyond time for the experts at the BSC to update building requirements to ensure that construction materials utilized in fire prone regions of the state advance our collective goal to build more resilient communities. AB 2322 will ensure this work is done by requiring the BSC to

adopt updated building standards on fire resistance that would apply to nonresidential, critical infrastructure in very high, high, and moderate California fire severity zones."

California Wildfires. While fires have always been present in the state, the number of days with extreme fire risk has more than doubled in the last 40 years. This is likely to continue to increase, and one of the impacts of climate change in the state is an increase in the frequency and intensity of wildfires. Wildland fires in the state can be broadly separated into two different types – fuel-driven and wind-driven. In a fuel-driven fire, fire prevention efforts and fuels management, including prescribed burning, may be the most effective methods to reduce the risk and promote healthier and more resilient forests. In wind-driven fire, however, home and community-hardening, including maintaining a defensible space buffer around a home are critical factors. Some of the most catastrophic fires, such as the Camp Fire, can exhibit characteristics of both fire types.

The risk of wildfires is most acute in WUIs, which the United States Department of Agriculture's (USDA) Forest Service defines as areas where "humans and their development meet or intermix with wildland fuel." According to 2010 data from the USDA Forest Service, 11 million people and nearly one-third of California homes are located within a WUI. The number of Californians living in the WUI has grown by 33 percent since 1990.

The California Building Standards Commission. The BSC is a commission within DGS and is charged by law with the responsibility to administer the process of approving and adopting building standards for publication in the California Building Standards Code. To protect the health and safety of people and property, the Building Standards Code regulates the design, construction, quality of materials, use and occupancy, location, and maintenance of all buildings and structures in the state. The California Building Code is compiled of (1) building standards adopted by state agencies without change from national model codes; (2) building standards adopted and adapted from national model codes; and, (3) building standards, authorized by the California Legislature, that address issues and concerns specific to California.

Chapter 7A of the Building Standards Code establishes minimum standards to protect life and property in fire hazard severity zones within state responsibility areas or wildland-urban interface fire areas by increasing the durability of structures to resist and withstand damage from fires. Chapter 7A was added to the code following the BSC's approval of emergency regulations developed by the SFM. Chapter 7A standards took effect on July 1, 2008, and have been updated

periodically since. New buildings constructed in any level of fire hazard severity zone within state responsibility areas, or in very high fire hazard severity zones designated by local agencies, must comply with the Chapter 7A standards. Local agencies may also choose whether additional structures outside those zones must be required to meet the Chapter 7A standards.

Office of the California State Fire Marshal. As noted on the California Department of Forestry and Fire Protection (CalFIRE) website, the SFM supports CalFIRE's mission to protect life and property through fire prevention engineering programs, law and code enforcement, and education. The SFM provides for fire prevention by enforcing fire-related laws in state-owned or operated buildings; investigating arson fires in California; licensing those who inspect and service fire protection systems; approving fireworks as safe and sane for use in California; regulating the use of chemical flame retardants; evaluating building materials against fire safety standards; regulating hazardous liquid pipelines; and tracking incident statistics for local and state government emergency response agencies. The SFM, formerly an independent office, was consolidated with CalFIRE in 1995. The SFM is required to identify areas in the state as very high, high, or moderate fire hazard severity zones based on the severity of fire hazard in those areas.

Related/Prior Legislation

SB 12 (McGuire, 2021) would have established fire hazard planning responsibilities for local governments and would have required cities and counties to make specified findings on fire standards prior to permitting residential development in a very high fire hazard severity zone, as specified. (Failed passage in the Assembly Housing and Community Development Committee)

SB 63 (Stern, Chapter 382, Statutes of 2021) required CalFIRE to identify areas of the state as moderate and high fire hazard severity zones, as specified.

AB 9 (Wood, Chapter 225, Statutes of 2021) established the Regional Forest and Fire Capacity Program in the Department of Conservation, created the director of Community Wildfire Preparedness and Mitigation within the SFM, and transferred and delegated certain duties related to fire safety and wildfire prevention from CalFIRE to the SFM, as specified.

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

SUPPORT: (Verified 8/1/22)

Bratton Masonry
Bricklayers and Allied Craftworkers Local 3

BuildStrong California
CalFIRE Local 2881
California Professional Firefighters
Cal-Tex Masonry
DeKoven Masonry
E&S Masonry
International Masonry Institute
John Jackson Masonry
Mason Contractors Association of California
Masonry Design
Pengilly Masonry
Peninsula Building Materials
PTS Masonry
Spencer Masonry
Stoney Masonry
Townsend & Schmidt Masonry

OPPOSITION: (Verified 8/1/22)

American Wood Council
California Building Industry Association
California Building Officials
California Business Properties Association
California Forestry Association
Humboldt and Mendocino Redwood Companies
Window & Door Manufacturers Association

ARGUMENTS IN SUPPORT: In support of this bill, the Bricklayers and Allied Craftworkers Local 3 (BAC Local 3) write that, "[c]hapters 6 & 7 of the California Building Code (CBC) provide requirements to safeguard against the spread of fire and smoke within a building and the spread of fire from one building to another. The provisions of this chapter are based on fire separation between the building and the occupancy classifications. Furthermore, the preponderance of current fire safety requirements in law/regulation are based on the risk hazardous materials pose to the public in the event of a fire rather than the risk a fire itself may pose to building occupants and the community at large. And these portions of the CBC do not even apply to high, or moderate severity zones in Local Responsibility Areas, therefore significant portions of the state remain significantly more susceptible to destruction caused by fire."

Further, BAC Local 3 states that, "[p]ut simply, California Building Code has not kept up with our rapidly changing climate or the reality of California's current wildfire situation. AB 2322 will ensure that the building materials used to construct critical infrastructure, which are essential community facilities or whose destruction pose a higher degree of risk to human life, health, or welfare, provide reasonable protection against the threat of wildfire. Adopting this bill will make certain that California's Building Standards Commission treats the rapidly increasing threat of wildfires in a similar manner as other natural disasters, including earthquakes, flooding, or extreme wind."

ARGUMENTS IN OPPOSITION: The coalition of opposition collectively write that, "[a]s stated in AB 2322, existing law requires the California Building Standards Commission to approve and adopt building standards and to codify those standards in the California Building Standards Code, which is required to be published once every 3 years. This includes Wildland Urban Interface (WUI) provisions as identified by the Office of the State Fire Marshal, which designates moderate, high, and very high fire hazard severity zones based on specified criteria. Our organizations have concerns with the technical content and implementation of this legislation."

Further, the opposition states that, "California is currently writing a new WUI code using International Code Council's (ICC's) International Wildland Urban Interface Code (IWUIC) as a template. AWC [American Wood Council], along with numerous stakeholders, have been constructively engaged in the California Building Code Chapter 7A process over the past decade. We believe that building codes, including WUI-related building codes and their respective technical requirements, should be developed in accordance with a consensus process such as National Fire Protection Association (NFPA) or ICC with input from technical experts and various stake holders, not by legislation. We are concerned that the implementation of the proposed technical requirements in new building standards will add to confusion with the WUI codes and building standards that already exist."

ASSEMBLY FLOOR: 76-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin,

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

Prepared by: Brian Duke / G.O. / (916) 651-1530
8/3/22 14:36:05

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

SENATE RULES COMMITTEE AB 2326
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2326
Author: Reyes (D) and Cristina Garcia (D), et al.
Amended: 8/8/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 9-0, 6/8/22
AYES: Pan, Melendez, Eggman, Gonzalez, Grove, Leyva, Limón, Rubio, Wiener
NO VOTE RECORDED: Hurtado, Roth

SENATE JUDICIARY COMMITTEE: 11-0, 6/14/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 73-0, 5/25/22 (Consent) - See last page for vote

SUBJECT: Lead poisoning prevention: laboratory reporting

SOURCE: Environmental Working Group

DIGEST: This bill replaces the threshold blood lead level (BLL) that triggers certain reporting requirements for health care providers and laboratories with the most recent federal Centers for Disease Control and Prevention reference level for an elevated BLL, and clarifies the circumstances under which confidential information may be shared with respect to BLLs. This bill requires the changes made by this bill to become operative on July 1, 2023.

Senate Floor Amendments of 8/8/22:

1) Delete the requirement that the analyzing laboratory report the person's sexual orientation, if the information and a reporting mechanism are available.

2) Clarify that confidential information which may be shared by the Department of Public Health with the prior written voluntary consent of the individual to whom the information pertains "or the person authorized to give consent on behalf of the individual, such as a child's parent or guardian."

3) Add co-authors.

ANALYSIS:

Existing law:

1) Establishes the California Department of Public Health (CDPH) and sets forth its powers and duties, including, but not limited to, governance of the Childhood Lead Poisoning Prevention Act. [HSC §124125-124165]

2) Requires a laboratory that performs a blood lead analysis on a specimen of human blood drawn in California to report specified information to CDPH for each analysis on every person tested, including the person's birth date if the analyzing laboratory has that information, or if not, the persons age, and, the person's address, including the ZIP Code, if the analyzing laboratory has that information, or if not, a telephone number by which the person may be contacted. [HSC §124130]

3) Requires information reported to be kept confidential except for the purpose of surveillance, case management, investigation, environmental assessment, environmental remediation, or abatement with the local health department, environmental health agency, as authorized, building departments, and, the Department of Health Care Services (DHCS) for the purposes of determining whether children enrolled in the Medi-Cal program are being screened for lead poisoning and receiving appropriate related services. Permits DHCS to further disclose to the enrollee's managed care plan, who may further disclose the information to the enrollee's health care provider. Requires DHCS to use, disclose and maintain the confidentiality of information in accordance with the federal Health Insurance Portability and Accountability Act of 1996 and other laws applicable to DHCS. [HSC §124130]

4) Requires, if the result of a blood lead analysis is a BLL equal to or greater than 10 micrograms per deciliter (µg/dL), the report required in 2) above to be submitted within three working days of the analysis; and, if a BLL is less than 10 µg/dL, the report to be submitted within 30 calendar days. [HSC §124130]

5) Prohibits a laboratory from being fined or otherwise penalized for failure to provide the patient's birth date, age, address, or telephone number if the result

of the blood level analysis is a BLL less than 25 µg/dL, and if certain circumstances exist, such as the medical provider that obtained the sample sent it to the laboratory and failed to provide the patient's birth date, age, address, or telephone number. [HSC §124130]

6) Requires all records of interviews, written reports, and statements procured by CDPH or by any other person, agency, or organization acting jointly with CDPH, in connection with special morbidity and mortality studies to be confidential insofar as the identity of the individual patient is concerned and to be used solely for the purposes of the study. Prohibits the furnishing of this information to CDPH or its authorized representative, or to any other co-operating individual, agency or organization in any special study, from being subject to any person, hospital, sanitarium, rest home, nursing home, or other organization furnishing this information to any action for damages. Exempts general morbidity and mortality studies customarily and continuously conducted by CDPH that do not involve patient identification. [HSC §100330]

This bill:

1) Requires the reporting of:

   a) Birth date, and telephone number of the tested person;

   b) The telephone number of the provider along with the National Provider Identifier (NPI) of the provider that ordered the analysis;

   c) The Clinical Laboratory Improvement Amendments (CLIA) number and NPI of the analyzing laboratory;

   d) The person's Medi-Cal client identification (CIN) or, for other health plans, the name of the health plan and the medical plan identification number;

   e) The persons sex, race and ethnicity, pregnancy status;

   f) Name, address, telephone number, and CLIA number of the referring laboratory, if any; and,

   g) The testing methodology used for blood lead analysis specified as point of care, inductively coupled plasma mass spectrometry, graphite furnace atomic spectroscopy, or other.

2) Deletes qualifying provisions that the laboratory report certain information "if the analyzing laboratory has that information."

3) Replaces the BLL of equal to or greater than 10 µg/dL threshold for provider reporting, and equal to or greater than 25 µg/dL, for laboratory reporting, with "the most recent federal Centers for Disease Control and Prevention (CDC) reference level for an elevated BLL." Requires timing of reporting to be based on rounding of results to the nearest whole number.

4) Requires all information reported to be confidential, as specified, except that CDPH may share the information as follows:

   a) To the individual to whom the information pertains ;

   b) With the prior written voluntary consent of the individual to whom the information pertains or the person authorized to give consent on behalf of the individual, such as a child's parent or guardian;

   c) When required by state or federal law;

   d) When compelled by an order of the court or an administrative hearing officer, if a protective order that prohibits any further disclosure is secured prior to disclosure;

   e) For the purpose of case management and health care providers treating patients with elevated blood levels or receiving case management services, or a federal, state, or local governmental agency; and

   f) For research, as defined in federal regulations, as may be amended, if the request for information is approved by the Committee for the Protection of Human Subjects (CPHS) for the California Health and Human Services Agency, the requesting entity provides documentation to the department that demonstrates, to the department's satisfaction, that the entity has established the procedures and ability to maintain the confidentiality of the information, and the requesting entity has agreed, in writing, to maintain the confidentiality of the information.

5) Permits health care providers to further disclose the information to a managed health care plan in which a beneficiary who is the subject of the information is enrolled, who may further disclose this information to the beneficiary's health care provider to proactively offer and coordinate care and treatment services and administer payment programs.

6) Prohibits a researcher, or federal, state, or local governmental entity from further disclosing the information and requires researchers and government

entities to maintain the confidentiality of the information in the manner specified, under existing law.

7) Requires, notwithstanding any other law, an authorized disclosure, except to DHCS and to health care providers, to include only the information necessary for the stated purpose of the requested disclosure, be used only for the approved purpose, and not be further disclosed.

8) Requires a laboratory to request, from the health care provider who obtained the blood sample or ordered the test, all information required by this bill, as applicable, unless the provider cannot or will not provide the requested information.

9) Requires the changes made by this bill to become operative on July 1, 2023.

Comments

According to the author, in 2018, 7,141 children in California were found to have elevated BLL. It is incredibly concerning that thousands of children were suffering from lead poisoning but it is especially concerning because we know that lead poisoning does not impact all children equally. Children living in poverty, children enrolled in Medicaid, children living in older housing, and children of color are found to have higher levels of lead exposure. California needs a more robust public health system to prevent these exposures from harming our children. The author points out that this bill will align California's lab reporting requirements with federal BLL standards to reduce time delays in patients receiving follow-up care. It would also require laboratories to report additional information when performing blood lead analysis as well as require CDPH to share management information with health care providers so that more children will receive appropriate intervention for missed tests and elevated BLLs.

January 2020 State Audit. The California State Auditor released an audit ("Childhood Lead Levels – Millions of Children in Medi-Cal Have Not Received Required Testing for Lead Poisoning") which indicates that CDPH has not adequately met its responsibilities to protect children from lead poisoning. Among many findings, the audit indicates that CDPH has not taken steps to advocate for changing a state law that currently makes it optional for laboratories to report certain contact information with test results for children tested for elevated lead levels. This state law does not require the use of a unique identifier that would allow CDPH to effectively match lead tests with existing cases of lead poisoning. The fact that this information is missing from lead tests has contributed to CDPH's

backlog of unprocessed test results and impeded its ability to contact families and monitor lead poisoning cases.

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

SUPPORT: (Verified 8/6/22)

Environmental Working Group (source)
Breast Cancer Prevention Partners
California Coalition of California Welfare Rights Organizations
California Nurses for Environmental Health and Justice
Center for Environmental Health
Children Now
Children's Environmental Health Network
Clean Water Action
Coalition for Economic Survival
Development of Court Skills Elite
Families Advocating for Chemical and Toxics Safety
Friends Committee on Legislation of California
Nontoxic Neighborhoods
Planning and Conservation League
Western Center on Law and Poverty

OPPOSITION: (Verified 8/6/22)

None received

ARGUMENTS IN SUPPORT: A coalition of proponents write that all children can be exposed to lead, but CDPH states that the vast majority (88%) of California's lead-poisoned kids are enrolled in Medi-Cal, the state's health care plan for low-income families. Low-income kids are more apt to be lead-poisoned because they are more likely to live in older housing with lead paint or nearby a general airport with lead emissions. Low-income children are also more likely to be malnourished, which causes them to absorb lead faster. If not stopped, a child's ongoing exposure to lead will continue to harm their nervous system, and cause damage that can last a lifetime. Proponents write that this bill improves the state's Childhood Lead Poisoning Prevention program by remedying a shortcoming identified by the State Auditor in an audit of the program, and by providing the CDPH and practitioners much needed authority to share information with each other concerning children's case management. This bill also updates the state's blood lead reference value to conform to the CDC. A state audit found that an estimated 70% of the state's 12- and 24-month old children who are enrolled in

Medi-Cal do not receive blood lead screenings each year in accordance with federal and state recommendations. The state audit also recommended that various statutory changes occur to help CDPH manage the State's Childhood Lead Poisoning Prevention Program. In addition to the above concern, other statutory shortcomings inhibit the provision of services to lead-exposed children. CDPH does not have the authority to disclose information related to a patient's lead poisoning and care management plan to the child's health provider. Nor can CDPH share surveillance data with federal, state, and local agencies. Such surveillance data provides researchers information needed to address root causes of lead poisoning and exposure in children.

ASSEMBLY FLOOR: 73-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Bloom, Irwin, O'Donnell, Blanca Rubio

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
8/10/22 14:57:22

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

SENATE RULES COMMITTEE AB 2327
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2327
Author: Committee on Environmental Safety and Toxic Materials
Amended: 3/15/22 in Assembly
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-0, 6/8/22
AYES: Allen, Dahle, McGuire, Skinner, Wieckowski
NO VOTE RECORDED: Bates, Stern

ASSEMBLY FLOOR: 68-0, 3/31/22 (Consent) - See last page for vote

SUBJECT: Carpenter-Presley-Tanner Hazardous Substance Account Act: conforming revisions

SOURCE: Author

DIGEST: This bill updates code sections that cross-reference the Carpenter-Presley-Tanner Hazardous Substance Account Act (HSAA) as proposed to be reorganized by AB 2293 (Committee on Environmental Safety and Toxic Materials, 2022).

ANALYSIS: Existing law establishes the HSAA, which is a program to provide for response authority for releases of hazardous substances, including spills and hazardous waste disposal sites that pose a threat to the public health or the environment. (Health and Safety Code § 25300 et seq.)

This bill updates code sections that cross-reference the HSAA as proposed to be reorganized by AB 2293 (Committee on Environmental Safety and Toxic Materials, 2022).

Background

1) *Need for the bill*. In 2018, the Legislature directed the California Law Revision Commission (Commission) to conduct a strictly nonsubstantive clean-up of

Chapter 6.5 (commencing with Section 25100) and Chapter 6.8 (commencing with Section 25300, the HSAA) of Division 20 of the Health and Safety Code, and related provisions, to improve the organization and expression of the law (SCR 91, Roth, Resolution Chapter 158, Statutes of 2018). The Commission decided to proceed with this work in phases, first undertaking work on Chapter 6.8. AB 2293 incorporates the Commission's work on the HSAA and reorganizes the provisions to make them more user-friendly without changing the substance of the law, AB 2327 updates code sections that cross-reference the HSAA.

2) *Carpenter-Presley-Tanner Hazardous Substances Account Act*. State law provides the California Department of Toxic Substances Control (DTSC) with general administrative responsibility for overseeing the state's responses to spills or releases of hazardous substances, and for hazardous waste disposal sites that pose a threat to public health or the environment. DTSC utilizes the HSAA for cleanup of contaminated sites. The HSAA provides DTSC with the authority, procedures, and standards to investigate, remove, and remediate contamination at sites; to issue and enforce a removal or remedial action order to any responsible party; and, to impose administrative or civil penalties for noncompliance with an order. Federal and state law also authorizes DTSC to recover costs and expenses it incurs in carrying out these activities.

3) *History of the Commission's work related to DTSC*. In 2015, the Legislature passed and the Governor signed SB 83 (Committee on Budget and Fiscal Review, Chapter 24, Statutes of 2015), which established within DTSC a three-member Independent Review Panel (IRP) to review and make recommendations regarding improvements to DTSC's permitting, enforcement, public outreach, and fiscal management. Pursuant to SB 83, the IRP was authorized until January 1, 2018. Over the course of its term, the IRP conducted 24 public meetings and released 11 progress and annual reports. On January 8, 2018, the IRP released its final report and recommendations concluding: "The Department has implemented, or is working on, most of the IRP's recommendations and has achieved, or partially achieved, many of the IRP's suggested performance metrics. However, there is more work to be done. In the absence of the IRP, the Governor and the Legislature should consider a DTSC governing board or other structural change to enhance transparency and accountability and regularly monitor the status of the IRP-suggested recommendations and performance metrics, as well as DTSC's ongoing initiatives and decision-making." One of the issues raised by the IRP was that DTSC's statutes were confusing, not organized very well and difficult to understand.

In response to the IRP's work, the Legislature authorized the Commission via (SCR 91, Roth, Resolution Chapter 158, Statutes of 2018) to: study, report on, and prepare recommended legislation to revise Chapter 6.5 (commencing with Section 25100) and Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code, and related provisions, to improve the organization and expression of the law, but not to make any substantive changes to the law. Such revisions may include, but are not limited to, grouping similar provisions together, reducing the length and complexity of sections, eliminating obsolete or redundant provisions, and correcting technical errors.

4) *This bill*. AB 2327 includes changes to cross-references to code sections within Chapter 6.8 using the new codes sections within AB 2293, which incorporates the Commission's work reorganizing the HSAA (Chapter 6.8).

Related/Prior Legislation

AB 2293 (Committee on Environmental Safety and Toxic Materials, 2022) reorganizes the provisions of the HSSA without making any substantive changes to the statute. The bill is pending in the Senate Appropriations Committee.

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

SUPPORT: (Verified 6/10/22)

None received

OPPOSITION: (Verified 6/10/22)

None received

ASSEMBLY FLOOR: 68-0, 3/31/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Gray, Irwin, Medina, Nazarian, Quirk-Silva, Robert Rivas, Rodriguez, Villapudua

Prepared by: Gabrielle Meindl / E.Q. / (916) 651-4108
6/16/22 10:17:12

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

SENATE RULES COMMITTEE AB 2329
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2329
Author: Carrillo (D)
Amended: 6/23/22 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 6-0, 6/15/22
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, McGuire, Pan
NO VOTE RECORDED: Glazer

SENATE JUDICIARY COMMITTEE: 11-0, 6/21/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, McGuire, Stern, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-0, 5/5/22 (Consent) - See last page for vote

SUBJECT: Pupil health: vision examinations: schoolsites

SOURCE: Los Angeles Unified School District

DIGEST: This bill authorizes a local education agency (LEA) and charter schools to enter into a memorandum of understanding (MOU) with a nonprofit vision examination provider, including, but not limited to, a nonprofit mobile vision examination provider; requires notification to parents; and deems that informed medical consent has been given if the parent does not opt-out of the examination in writing.

ANALYSIS:

Existing law:

1) Requires the governing board of any school district to provide for the testing of the sight and hearing of each pupil enrolled in the schools of the district. The test shall be adequate in nature and shall be given only by duly qualified

supervisors of health employed by the district; or by certificated employees of the district or of the county superintendent of schools who possess the qualifications prescribed by the Commission for Teacher Preparation and Licensing; or by contract with an agency duly authorized to perform those services by the county superintendent of schools of the county in which the district is located. (Education Code 49452)

2) States during the kindergarten year or upon first enrollment or entry in a California school district of a pupil at an elementary school, and in grades 2, 5, and 8, the pupil's vision shall be appraised by the school nurse or other authorized person. (Education Code § 49455(a))

3) Specifies that school districts are not precluded from utilizing community-based service providers, including volunteers, individuals completing counseling-related internship programs, and state licensed individuals and agencies to assist in providing pupil personnel services, provided that such individuals and agencies are supervised in their school-based activities by an individual holding a pupil personnel services authorization. (California Code of Regulations, Title 5, Section 80049.1(c))

4) States a parent or guardian having control or charge of any child enrolled in the public schools may file annually with the principal of the school, in which he is enrolled, a statement in writing, signed by the parent or guardian, stating that he will not consent to a physical examination of his child. Thereupon the child shall be exempt from any physical examination, but whenever there is a good reason to believe that the child is suffering from a recognized contagious or infectious disease, he shall be sent home and shall not be permitted to return until the school authorities are satisfied that any contagious or infectious disease does not exist. (EC § 49451)

This bill authorizes a LEA and charter schools to enter into a MOU with a nonprofit vision examination provider, including, but not limited to, a nonprofit mobile vision examination provider; requires notification to parents; and deems that informed medical consent has been given if the parent does not opt-out of the examination in writing. Specifically, this bill:

1) Authorizes a public school maintaining kindergarten or any of grades 1 to 12, inclusive, to enter into an MOU with a nonprofit mobile vision examination provider to provide vision examinations to pupils at the schoolsite of the public school.

2) Clarifies that vision examinations provided by a nonprofit mobile vision examination provider under this section shall be supplemental to, and shall not replace, the vision screenings as specified in current law.

3) Clarifies a vision examination provided by a nonprofit mobile vision examination provider shall be noninvasive and provided exclusively for the purpose of providing vision examinations and eyeglasses.

4) Specifies that a mobile vision examination provider providing vision examination pursuant to this section shall provide reports to parents and guardians as specified.

5) Requires a schoolsite of a public school to have an MOU in place with a nonprofit mobile vision examination provider before a vision examination is provided.

6) Requires a public school to notify parents and guardians of the upcoming provision of vision examinations at the schoolsite.

7) Specifies that a notification to parents and guardians shall include a form in which a parent or guardian may indicate that they do not consent to a vision examination being provided to their child and, upon a parent or guardian completing and submitting that form to the public school, may opt-out of their child receiving a vision examination.

8) Clarifies that notwithstanding the submittal of a written statement exempting a child from any physical examination, a parent or guardian having control or charge of any child enrolled in the public school may consent to a vision examination by submitting a written consent to the examination to the public school.

9) States that no later than March 1, 2023, the California Department of Education (CDE) shall develop and post on appropriate department internet websites a model opt-out form.

10) Clarifies participating licensed health care professionals, including independent contractors of those professionals, shall have immunity from civil and criminal liability, and shall not be subject to disciplinary action by a

licensing board, for providing services that are authorized by this section without parent or guardian consent.

11) Clarifies a participating public schools shall have immunity from civil and criminal liability for providing services that are authorized by this section without parent or guardian consent

12) Specifies a public school, the State of California, or a participating licensed health care professionals, including independent contractors of those professionals, who provide services on the behalf of a mobile vision examination provider may be subject to the following:

    a) A person's liability for damages caused by an act or omission that constitutes gross negligence or willful or wanton misconduct.

    b) A person's culpability for an act that constitutes a crime and is not specifically authorized by the MOU between the school and a nonprofit mobile vision examination provider.

    c) The ability of a licensing board to take disciplinary action against a licensed health care professional for an act not specifically authorized by the MOU between the school and a nonprofit mobile vision examination provider.

    d) The ability of a parent or guardian, having control or charge of a pupil enrolled in the public school stating that they do not consent to a physical examination of their child, thereby exempting the pupil from any physical examination, including, but not limited to, the vision examination unless the parent or guardian have provided written consent to the school.

13) States that vision examination providers providing vision examinations to pupils at a public school are subject to, and shall comply with existing law as specified.

14) Requires any nonprofit mobile vision examination provider, participating licensed health care professional, including independent contractors of these professionals, or other entity providing services to have a background check prior to interacting with any pupils.

Comments

1) *Need for the bill.* According to the author "According to the American Optometric Association, a child trying to cope with untreated vision problems is likely to experience learning difficulties, which lead to disengagement in the classroom, physical education, and extracurricular activities. They may even experience physical symptoms, such as headaches and fatigue. Vision is critical to classroom learning. In fact, up to 80% of the information that a child learns at school is from visual presentations. A 2021 1 study showed that addressing a pupil's vision problem, between third and seventh grade, had an immediate and meaningful positive impact on reading scores. Specifically, this bill would authorize a public school to enter into a memorandum of understanding with a nonprofit mobile vision provider to offer noninvasive vision exams and eyeglasses to students at the school site. It would also provide parents with an opportunity to opt out of their child receiving these vision care services through a form developed by the State Department of Education."

2) *CDE Guidelines (2019).* California public schools are committed to providing equal educational opportunities to all students. The school vision screening program has a vital role in the early identification of serious vision problems that may contribute to academic disparities. A vision screening program meets state requirements when it is provided under the direction of qualified personnel. The major objectives of the vision screening program are to:

    a) Identify students with potential vision deficits through:

        i) Administration of selected vision screening tools.
        ii) Planned procedures of observation.

    b) Notify parents of each student identified as having a possible vision deficit and encourage further examination through a professional comprehensive eye and vision evaluation.

    c) Establish follow-up procedures that will ensure that each identified student receives appropriate follow-up care.

    d) Inform teachers of students who have vision deficits about vision eye care professionals' recommendations and assist them in planning for needed adjustments in the educational program.

3) *Personnel Authorized to Conduct Screening.* Only the following persons shall conduct vision screening:

   a) Duly qualified supervisors of health employed by the school district or county offices of education (COE).

   b) A registered nurse who holds both (1) a license from the appropriate California board or agency; and (2) a health and development credential, a standard designated service credential with a specialization in health, a health services eight credential as a school nurse, or a school nurse services credential.

   c) Certificated school district or county employees who hold a teaching credential and are qualified by training, including satisfactory completion of one six hours of vision screening or an accredited college or university course in vision screening of at least one-semester unit.

   d) Contracting agents who have met the requirements noted above and who have been authorized by the County Superintendent of Schools in which the district is located to perform tests.

Legal Requirements for Periodicity of the School Screening Program.

Grade Level	Distance Vision	Near Vision	Color Vision Deficiency
Transitional Kindergarten/Kindergarten	Required	Required	Not Required
Grade 1	Not Required	Not Required	Required
Grade 2	Required	Required	Required in subsequent years only if not screened in grade 1
Grade 5	Required	Required	See Above
Grade 8	Required	Required	See Above
Special Education	Required	Required	Required

While the education code does not require vision screening of preschool students, the National Expert Panel to the National Center for Children's Vision recommends vision screening for children ages three, four, and five years for eye and visual system disorders. Best practice for this age group is screening at least once (accepted minimum standard) or optimally, annually. Preschoolers at risk for vision disorders and those with noticeable eye abnormalities, i.e., strabismus, and ptosis, should be referred directly to an eye

care professional. Personnel in a school district or COE who may be required or permitted to screen vision shall be qualified to conduct such tests.

4) *Los Angeles County Pilot Program.* In an effort to determine whether children's access to and utilization of, vision care services can be increased by providing vision care services at schools, existing law required the California Department of Health Care Services to establish a pilot program in the County of Los Angeles that enables school districts to allow students enrolled in Medi-Cal managed care plans to receive vision care services at the schoolsite through the use of a mobile vision service provider. The vision care services available under this pilot program were limited to vision examinations and providing eyeglasses and are supplemental to the vision testing required by schools in the Education Code. The pilot program operated for two years from January 1, 2015, to January 1, 2017. The Budget Act of 2018 appropriated $1,000,000 to reimburse a qualifying mobile vision service provider for furnishing mobile vision care services previously covered under the pilot program and not otherwise reimbursable under the Medi-Cal program for dates of service on or after July 1, 2018, through December 31, 2018.

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

SUPPORT: (Verified 8/1/22)

Los Angeles Unified School District (source)
California Federation of Teachers AFL-CIO
National Association of Pediatric Nurse Practitioners

OPPOSITION: (Verified 8/1/22)

None received

ARGUMENTS IN SUPPORT: According to the Sponsor, "On average, pre-pandemic, Los Angeles Unified provided between 13,000 and 16,000 student vision examinations per semester by various district partners. All students are screened at each school and a consent is not required for screening; however, parent consent is required for an eye examination. The goal of AB 2329 is to provide more students access to no-cost vision exams. School districts will need to enter into a memorandum of understanding with a vision examination provider regarding their partnership and scope of the program, and then provide a reasonable amount of time to allow parents to opt-out of the scheduled vision exam. This bill is permissive in nature for school districts that desire to offer these programs, but it is not mandatory. Through AB 2329, Los Angeles Unified seeks

to narrow opportunity gaps and to decrease the burdens of poverty as we continue to focus on addressing the academic, social-emotional, and health needs of every student. AB 2329 achieves this goal, and has the potential of providing opportunities for tens of thousands of students across the state."

ASSEMBLY FLOOR: 61-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Friedman, Gallagher, Cristina Garcia, Gipson, Levine, McCarty, Medina, Villapudua, Waldron, Wicks

Prepared by: Kordell Hampton / ED. / (916) 651-4105
8/3/22 14:36:06

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

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

THIRD READING

Bill No: AB 2334
Author: Wicks (D)
Amended: 8/1/22 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 8-1, 6/13/22
AYES: Wiener, Caballero, Cortese, McGuire, Ochoa Bogh, Skinner, Umberg, Wieckowski
NOES: Bates

SENATE GOVERNANCE & FIN. COMMITTEE: 4-1, 6/29/22
AYES: Caballero, Durazo, Hertzberg, Wiener
NOES: Nielsen

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 49-22, 5/26/22 - See last page for vote

SUBJECT: Density Bonus Law: affordability: incentives or concessions in very low vehicle travel areas: parking standards: definitions

SOURCE: Author

DIGEST: This bill allows a housing development project to receive added height and unlimited density if the project is located in an urbanized very low vehicle travel area, at least 80% of the units are restricted to lower income households, and no more than 20% are for moderate-income households.

ANALYSIS:

Existing law:

1) Requires each city and county to submit an annual progress report (APR), annually by April 1, to the legislative body, the Office of Planning and

Research, and the Department of Housing and Community Development that includes data points and updates on housing plans and approvals.

2) Requires each city and county to adopt an ordinance that specifies how it will implement state Density Bonus Law (DBL). Requires cities and counties to grant a density bonus when an applicant for a housing development of five or more units seeks and agrees to construct a project that will contain at least one of the following:

   a) 10% of the total units of a housing development for lower income households;

   b) 5% of the total units of a housing development for very low-income households;

   c) A senior citizen housing development or mobile home park;

   d) 10% of the units in a CID for moderate-income households;

   e) 10% of the total units for transitional foster youth, disabled veterans, or homeless persons;

   f) 20% of the total units for lower-income students in a student housing development; or

   g) 100% of the units of a housing development for lower-income households, except that 20% of units may be for moderate-income households.

3) Requires a city or county to allow an increase in density on a sliding scale from 20% to 50%, depending on the percentage of units affordable to low- and very low-income households, over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan. Requires the increase in density on a sliding scale for moderate-income for-sale developments from 5% to 50% over the otherwise allowable residential density.

4) Provides that upon the request of a developer, a city or county shall not require a vehicular parking ratio, inclusive of disabled and guest parking, that meets the following ratios:

   a) Zero to one bedroom — one onsite parking space.

b) Two to three bedrooms — one and one-half onsite parking spaces.

c) Four and more bedrooms — two and one-half parking spaces.

5) Provides, notwithstanding (4) above, that a city or county shall not impose a parking ratio higher than 0.5 spaces per unit, nor any parking standards, for a project that is:

a) Located within one-half mile of a major transit stop and the residents have unobstructed access to the transit stop; or

b) A for-rent housing development for individuals who are 62 years or older and the residents have either access to paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

6) Provides, notwithstanding (4) and (5) above, that a city or county shall not impose any minimum parking requirement on a housing development that consists solely of rental units for lower income families and the is either a special needs or a supportive housing development.

7) Provides that the applicant shall receive the following number of incentives or concessions:

a) One incentive or concession for projects that include at least 10% of the total units for moderate-income households, 10% of the total units for lower-income households, or at least 5% for very low-income households.

b) Two incentives or concessions for projects that include at least 20% of the total units for moderate-income households, 17% of the total units for lower income households, or least 10% for very low income households.

c) Three incentives or concessions for projects that include at least 30% of the total units for moderate-income households 24% of the total units for lower-income households, or at least 15% for very low-income households.

d) Four incentives or concessions for projects where 100% of the units of a housing development for lower-income households, except that 20% of units may be for moderate-income households, as well as a height increase up to 33 feet if the project is located within one-half mile of a transit stop.

This bill:

1) Defines "very low vehicle travel area" to mean an urbanized area, as defined by the Census Bureau, where the existing residential development generates vehicle miles traveled (VMT) per capita that is below 85% of either regional or city VMT per capita. "Region" is the entirety of incorporated and unincorporated areas governed by a multicounty or single-county metropolitan planning organization (MPO), or the entirety of the incorporated and unincorporated areas of an individual county that is not part of an MPO.

2) Expands the following provisions, which currently apply to housing developments within one-half mile of a major transit stop that restrict at least 80% of units for lower income households and no more than 20% of units for moderate income households, to developments that are located in an urbanized low vehicle travel area:

   a) A height increase of up to three additional stories, or 33 feet; and

   b) No imposition of maximum controls on density by the local government.

3) Requires the rents for specified units in housing development projects that receives a density bonus to be consistent with the maximum rent levels for lower income households as determined by the California Tax Credit Allocation Committee.

4) Provides that as part of an equity sharing agreement a local government may defer to the recapture provisions of a public funding source.

5) Updates the definition of maximum allowable residential density.

6) Revises the procedure for handling inconsistencies between allowable density between zoning ordinances and general plans to include specific plans and to allow the one with greater density to prevail rather than allowing general plans to prevail.

7) Changes the resident age requirement for a specified development to receive an elimination of parking minimums from the current 62 years of age or older to instead be 55 years or older.

8) Applies the provisions of this bill only to the counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, Sonoma,

Los Angeles, Orange, Riverside, San Bernardino, San Diego, Ventura, Sacramento, and Santa Barbara.

Background

Given California's high land and construction costs for housing, it is extremely difficult for the private market to provide housing units that are affordable to low- and even moderate-income households. Public subsidy is often required to fill the financial gap on affordable units. DBL allows public entities to reduce or even eliminate subsidies for a particular project by allowing a developer to include more total units in a project than would otherwise be allowed by the local zoning ordinance, in exchange for affordable units. Allowing more total units permits the developer to spread the cost of the affordable units more broadly over the market-rate units.

Under existing law, if a developer proposes to construct a housing development with a specified percentage of affordable units, the city or county must provide all of the following benefits: a density bonus; incentives or concessions; waiver of any development standards that prevent the developer from utilizing the density bonus or incentives; and reduced parking standards.

To qualify for benefits under DBL, a proposed housing development must contain a minimum percentage of affordable housing (see #2 under "Existing Law"). If one of these options is met, a developer is entitled to a base increase in density for the project as a whole (referred to as a density bonus) and one regulatory incentive. Under DBL, a developer is entitled to a sliding scale of density bonuses, up to a maximum of 50% of the maximum zoning density and up to four incentives, as specified, depending on the percentage of affordable housing included in the project. At the low end, a developer receives 20% additional density for 5% very low-income units and 20% density for 10% low-income units. The maximum additional density permitted is 50%, in exchange for 15% very low-income units and 24% low-income units. The developer also negotiates additional incentives, reduced parking, and design standard waivers, with the local government. This helps developers reduce costs while enabling a local government to determine what changes make the most sense for that site and community.

Comments

1) *Incentivizing Affordable Infill Housing*. California has taken a number of steps to promote more sustainable urban infill housing including through the use of density bonus law. Specifically, in 2019 the Legislature passed and Governor

Newsom signed into law AB 1763 (Chiu, Chapter 666, Statutes of 2019), a bill that allowed for an enhanced density bonus for certain affordable housing projects located within one-half mile of a major transit stop. AB 1763 gives affordable housing projects the ability to receive unlimited density and a height increase of 33 feet or three stories. To receive this enhanced density bonus at least 80% of the units must be reserved for lower-income households and no more than 20% can be for moderate-income individuals and families.

While AB 1763 made it easier to build dense, affordable housing near transit, many parts of the state lack the level of public transportation service necessary to qualify for the enhanced density bonus the legislation allowed. Within these areas of the state it is still important to promote housing in urbanized areas that allow residents to reduce their reliance on vehicle travel. This bill proposes to expand AB 1763's enhanced density bonus provisions to cover very low vehicle travel areas in urbanized areas where existing residential development generates VMT that is below 85% of either the region or city's per capita VMT.

In the coming months the Governor's Office of Planning and Research (OPR) will be releasing maps that indicate very low VMT areas within certain regions. Specifically, the maps will include regional VMT calculations within MPOs. Additionally, under SB 743 (Steinberg, Chapter 386, Statutes of 2013), guidelines for evaluating transportation impacts under the California Environmental Quality Act (CEQA) were updated to better assess transportation-related environmental impacts of proposed development projects. A number of California cities and counties have already produced maps of VMT in their jurisdiction under SB 743.

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

SUPPORT: (Verified 8/8/22)

Affirmed Housing
All Home
AMCAL
American Planning Association, California Chapter
AMG & Associates, LLC
Bridge Housing Corporation
Brilliant Corners
California Apartment Association
California Association of Local Housing Finance Agencies
California Council for Affordable Housing

California Housing Consortium
California Housing Partnership Corporation
California Rural Legal Assistance Foundation
California YIMBY
Central City Association
Circulate San Diego
CivicWell
Community Corporation of Santa Monica
Community Housingworks
CRP Affordable Housing and Community Development
EAH Housing
Eden Housing
First Community Housing
Housing California
Integrity Housing
John Stewart Co
Jonathan Rose Companies
LA Family Housing
LINC Housing
Mercy Housing
Merritt Community Capital Corporation
MidPen Housing Corporation
Non-profit Housing Association of Northern California
San Francisco Bay Area Planning and Urban Research Association
South Bay YIMBY
South Pasadena Residents for Responsible Growth
Southern California Association of Non-profit Housing
SV@Home Action Fund
Terner Center for Housing Innovation at the University of California, Berkeley
The Pacific Companies
The Two Hundred
Thomas Safran & Associates
Wakeland Housing and Development Corporation
Western Center on Law & Poverty

OPPOSITION: (Verified 8/8/22)

Association of California Cities - Orange County
Catalysts for Local Control
City of Newport Beach
Livable California

ARGUMENTS IN SUPPORT: According to the author, "we have seen firsthand the essential role affordable housing has played during the pandemic, providing shelter, support, and community to some of our state's most vulnerable groups—including seniors and veterans, teachers and firefighters, disabled persons and the far too many working families that cannot afford the rising cost of market rents. With a gap of 1.2 million homes affordable to low income households and roughly 150,000 people experiencing homelessness every day, the state must continue to strengthen policies that increase the number of affordable units being constructed. AB 2334 promotes housing construction by expanding the California's Density Bonus Law creating opportunities for 100% affordable housing developments to earn an enhanced density bonus in areas with low vehicle miles traveled. This bill will address the state's affordability crisis and furthers environmental sustainability goals."

ARGUMENTS IN OPPOSITION: The Association of California Cities - Orange County and the City of Newport Beach are opposed due to the loss of local control. Community groups are opposed to reductions in parking requirements and unrelated housing laws.

ASSEMBLY FLOOR: 49-22, 5/26/22
AYES: Aguiar-Curry, Arambula, Bennett, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Mayes, McCarty, Medina, Mullin, Nazarian, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bauer-Kahan, Bigelow, Boerner Horvath, Chen, Choi, Cooley, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Lackey, Mathis, Muratsuchi, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Irwin, Kiley, Maienschein, O'Donnell, Petrie-Norris, Villapudua

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
8/10/22 14:24:42

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

SENATE RULES COMMITTEE AB 2338
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2338
Author: Gipson (D)
Amended: 6/20/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 10-0, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, Jones, McGuire, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas

ASSEMBLY FLOOR: 63-0, 5/23/22 - See last page for vote

SUBJECT: Health care decisions: decisionmakers and surrogates

SOURCE: California Senior Legislature

DIGEST: This bill clarifies the order of priority of who may make a medical decision for a person who lacks capacity when the person has multiple pre-incapacity instructions (e.g., an advance health care directive and a power of attorney); and sets forth a list of persons who may be contacted for the purpose of making medical decisions for a person who lacks capacity when the person has not set forth instructions or preferences beforehand, provided that the person selected demonstrated special care and concern for the patient and is familiar with the patient's values, to the extent known.

ANALYSIS:

Existing law:

1) Establishes the Health Care Decisions Law (HCDL), which governs a number of procedures by which a person may make advanced plans for health care decisions. (Prob. Code, div. 4.7, §§ 4600 et seq.)

2) Defines the following relevant terms for purposes of the HCDL:

a) An "advanced health care directive" or an "advanced directive" is either an individual health care instruction or a power of attorney for health care. (Prob. Code, § 4605.)

b) "Capacity" is a person's ability to understand the nature and consequences of a decision and to make and communicate a decision, and includes in the case of proposed health care, the ability to understand its significant benefits, risks, and alternatives. (Prob. Code, § 4609.)

c) "Health care" is any care, treatment, service, or procedure to maintain, diagnose, or otherwise affect a patient's physical or mental condition. (Prob. Code, § 4615.)

d) A "health care decision" is a decision made by a patient or the patient's agent, conservator, or surrogate regarding the patient's health care. (Prob. Code, § 4617.)

e) An "individual healthcare instruction" or "individual instruction" is a patient's written or oral direction concerning a health care decision for the patient. (Prob. Code, § 4623.)

f) A "surrogate" is an adult, other than a patient's agent or conservator, authorized to make a health care decision for the patient. (Prob. Code, § 4643.)

3) Permits an adult having capacity to give an individual health care instruction, which may be oral or written and may be limited to take effect only if a specified condition arises. (Prob. Code, § 4670.)

4) Permits any adult having capacity to execute a power of attorney for health care and provides that the power of attorney for health care may authorize the agent to make health care decisions and may include individual health care instructions. (Prob. Code, § 4671(a).)

5) Provides that the principal in a power of attorney for health care may grant authority to make decisions relating to the personal care of the principal, including, but not limited to, determining where the principal will live, providing meals, hiring household employees, providing transportation, handling mail, and arranging recreation and entertainment. (Prob. Code, § 4671(b).)

6) Provides that the authority of an agent under a power of attorney for health care becomes effective only on a determination that the principal lacks

capacity and ceases to be effective on a determination that the principal has recovered capacity, unless provided otherwise. (Prob. Code, § 4682.)

7) Requires an agent under a power of attorney for health care to make health care decisions in accordance with the patient's individual health care instructions and other wishes to the extent known to the agent, or otherwise to make a decision in accordance with the agent's determination of the patient's best interest, which must consider the patient's personal values to the extent known by the agent. (Prob. Code, § 4684.)

8) Provides that, unless the power of attorney states otherwise, the agent designated therein who is known to the health care provider to be reasonably available and willing to make health care decisions has priority over any other person making health care decisions for the patient. (Prob. Code, § 4685.)

9) Authorizes a person to designate an adult as a surrogate to make health care decisions by personally informing the supervising health care provider.

    a) The designation must be promptly recorded in the patient's health care record.

    b) Unless the patient specifies a shorter period, is effective for the shorter of the course of treatment or illness or stay at the institution where the designation was made, or 60 days.

    c) The expiration of a surrogacy period does not affect the designated person's right to make health care decisions for the person under other law or standard of practice. (Prob. Code, § 4711(a)-(c).)

10) Provides that, if a patient has designated a power of attorney for health care and a surrogate, the surrogate takes precedence over the agent holding the power of attorney for the period of the designated surrogacy. (Prob. Code, § 4711(d).)

11) Requires a surrogate designated in 6) to make health care decisions in accordance with the patient's individual health care instructions, if any, and any other wishes known to the surrogate. Otherwise, the surrogate shall make decisions in accordance with the surrogate's determination of the patient's best interest, including a consideration of the patient's personal values to the extent known by the surrogate. (Prob. Code, § 4714.)

12) Provides that a patient having capacity at any time may disqualify another person, including a member of the patient's family, from acting as the patient's

surrogate by a signed writing or by personally informing the supervising health care provider of the disqualification. (Prob. Code, § 4715.)

13) Requires, within 24 hours of the arrival in the emergency department of a general acute care hospital of a patient who is unconscious or otherwise incapable of communication, the hospital to make reasonable efforts to contact the patient's agent, surrogate, or a family member or other person the hospital reasonably believes has the authority to make health care decisions on behalf of a patient. (Prob. Code, § 4717.)

14) Defines "request regarding resuscitative measures" as a written document, signed by either an individual with capacity or a legally recognized health care decision maker and the individual's physician, that directs a health care provider regarding resuscitative measures. It may include one, or both, of the following:

    a) A prehospital "do not resuscitate" form, as specified.

    b) A Physician Orders for Life Sustaining Treatment (POLST), as specified. (Prob. Code, § 4780.)

15) Requires a health care provider to treat an individual subject with their POLST form, subject to specified exceptions including an individual with capacity requesting alternative treatment to that ordered on the form. (Prob. Code, § 4781.2.)

16) Provides that, if an order in an individual's request regarding resuscitative measures directly conflict with their individual health care instruction, the most recent order or instruction governs. (Prob. Code, § 4781.4.)

17) Requires a health care provider or health care institution to comply with an individual health care instruction of the patient and with a reasonable interpretation of that instruction made by a person authorized to make health care decisions for the patient; and to comply with a health care decision for the patient made by a person authorized to make health care decisions for the patient to the same extent as if the decision had been made by the patient while having capacity. (Prob. Code, § 4733.)

18) Authorizes the establishment of a conservatorship or guardianship for persons lacking capacity to make decisions, including health care decisions. (Prob. Code, div. 4, §§ 1400 et seq.)

19) Requires a general acute hospital to make reasonable efforts to accommodate religious and culture practices and concerns, if the patient's existing legally recognized health care decisionmaker, family, or next of kin voices any special religious or cultural practices and concerns with the facility's policies regarding death by irreversible cessation of all functions of the entire brain. (Health & Saf. Code, § 1254.4 (c)(2).)

20) Establishes the California Senior Legislature to, among other things, provide model legislation for older citizens and advocate for the needs of seniors, and gives the California Senior Legislature the full authority to define its program and utilize its funds in any way to carry out its duties. (Welf. & Inst. Code, div. 8.5, ch. 4, §§ 9300 et seq.)

This bill:

1) Clarifies that a patient may designate an adult as a surrogate to make health care decisions by personally informing the supervising health care provide or a designee of the health care facility of the designation.

2) Provides that, if a patient has designated an agent under a power attorney for healthcare, the surrogate takes precedence over the agent notwithstanding the order in 3).

3) Provides that, where a patient lacks capacity to make a health care decision, the following legally recognized decisionmakers may make health care decisions on the patient's behalf in the following descending order of priority:

    a) The patient's surrogate to make health care decisions.

    b) The patient's agent pursuant to an advance health care directive or a power of attorney for health care.

    c) The conservator or guardian of the patient having the authority to make health care decisions.

4) Provides that, if a patient lacks capacity to make health care decisions but does not have a legally recognized health care decisionmaker, a surrogate may be chosen from any of the following persons, provided that the person is an adult who has demonstrated special care and concern for the patient, is familiar with the patient's personal values and beliefs to the extent known, and is reasonably available and willing to serve:

    a) The spouse or domestic partner of the patient.

b) An adult child of the patient.

c) A parent of the patient.

d) An adult sibling of the patient.

e) An adult grandchild of the patient.

f) An adult relative or a close personal friend.

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

SUPPORT: (Verified 6/30/22)

California Senior Legislature (source)
California Advocates for Nursing Home Reform
California Association of Long Term Care Medicine

OPPOSITION: (Verified 6/30/22)

None received

ARGUMENTS IN SUPPORT: According to the sponsor of the bill, the California Senior Legislature:

> Existing law requires a patient [to] "only orally" designate a surrogate. Should a patient be mentally incapacitated and unable to orally make a surrogate decision, and does not have legal documentation designating a surrogate, healthcare professionals lack adequate direction in the medical care of the patient.
>
> This legislation will bring the State of [California] into alignment with 46 other states that have statutes prioritizing "next of kin."

ASSEMBLY FLOOR: 63-0, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Davies, Flora, Mike Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Berman, Mia Bonta, Chen, Choi, Megan Dahle, Fong, Lackey, Mathis, Nguyen, O'Donnell, Patterson, Blanca Rubio, Smith, Voepel, Waldron

Prepared by: Allison Meredith / JUD. / (916) 651-4113
7/28/22 10:38:29

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

SENATE RULES COMMITTEE AB 2339
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2339
Author: Bloom (D)
Amended: 6/20/22 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 8-1, 6/13/22
AYES: Wiener, Caballero, Cortese, McGuire, Ochoa Bogh, Skinner, Umberg, Wieckowski
NOES: Bates

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 55-16, 5/25/22 - See last page for vote

SUBJECT: Housing element: emergency shelters: regional housing need

SOURCE: California Rural Legal Assistance Foundation
Public Interest Law Project
Western Center on Law & Poverty

DIGEST: This bill makes changes to housing element law with regards to where shelters may be zoned, as specified.

ANALYSIS:

Existing law:

1) Requires cities and counties to prepare and adopt a general plan, including a housing element, to guide the future growth of a community. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policy objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing.

2) Requires the housing element to contain an inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level.

3) Requires the housing element to contain a program that sets forth a schedule of actions during the planning period that will be taken to make sites available with appropriate zoning and development standards to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory of sites without rezoning.

4) Requires the housing element to contain the identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or discretionary permit. Shelters may be subject to development and management standards that apply to residential and commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:

    a) The maximum number of beds or persons permitted to be served nightly by the facility.
    b) Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.
    c) The size and location of exterior and interior onsite waiting and client intake areas.
    d) The provision of onsite management.
    e) The proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart.
    f) The length of stay.
    g) Lighting.
    h) Security during hours that the emergency shelter is in operation.

This bill:

1) Changes the requirements regarding identification of zones and sites for emergency shelters in housing elements, as follows:

a) Expands the definition of "emergency shelters" to include other interim interventions, including but not limited to, navigation centers, bridge housing, and respite or recuperative care;
b) Requires that zoning designations identified to allow emergency shelters ministerially must allow residential uses;
c) Requires the zoning designations that allow emergency shelters to have sufficient sites to accommodate the need for shelters;
d) Specifies that the zoning designations where emergency shelters are allowed must include sites that meet at least one of the following standards:

    i) Vacant sites zoned for residential use;
    ii) Vacant sites zoned for nonresidential use that allow residential development, if the local government can demonstrate how the sites with the is zoning designation are located near amenities and services that serve people experiencing homelessness, which may include health care, transportation, retail, employment, and social services, or that the local government will provide free transportation to services or offer services onsite; and
    iii) Nonvacant sites zoned for residential use or for nonresidential use that allow residential development that are suitable for use as a shelter in the current planning period or which can be redeveloped for use as a shelter in the current planning period. A nonvacant site with an existing use is presumed to impede emergency shelter development unless the local agency finds that the use is likely to be discontinued during the planning period, as specified.

e) Narrows the potential development and management standards that a local government can apply to emergency shelters to those written, objective standards already contained in existing law.
f) Authorizes a local government to accommodate the need for emergency shelters on sites owned by the local government if it demonstrates with substantial evidence that the sites will be made available for emergency shelter during the planning period, they are suitable for residential use, and the sites are located near amenities and services that serve people experiencing homelessness, which may include health care, transportation, retail, employment, and social services, or that the local government will provide free transportation to services or offer services onsite.

2) Amends the "no net loss" policy in housing element law to factor in sites that the local government rezoned in the current planning period because they failed to rezone them in the prior planning period.

Comments

1) *Author's statement.* "AB 2339 strengthens the requirements for the identification of sites for homeless shelters and ensures cities are properly rezoning for their fair share of housing. Every day, more people are falling into homelessness than we are able to house. Tackling this humanitarian crisis will take all cities doing their part in helping build emergency shelters and removing the barriers that have delayed the production of much needed housing."

2) *Inadequate housing and shelter for California's homeless*. Homelessness in California is no longer confined to urban corridors; it pervades both urban and rural communities across the state and puts stress on local resources, from emergency rooms to mental health and social services programs to jails. The homelessness crisis is driven in part by the lack of affordable rental housing for lower income people. In the current market, 2.2 million extremely low-income and very low-income renter households are competing for 664,000 affordable rental units. Of the 6 million renter households in the state, 1.7 million are paying more than 50% of their income towards rent. The National Low Income Housing Coalition estimates that the state needs an additional 1.5 million housing units affordable to very-low income Californians.

3) *Housing elements and approvals generally*. Every city and county in California is required to develop a general plan that outlines the community's vision of future development through a series of policy statements and goals. General plans are comprised of several elements that address various land use topics. Each community's general plan must include a housing element, which outlines a long-term plan for meeting the community's existing and projected housing needs. The housing element demonstrates how the community plans to accommodate its "fair share" of its region's housing needs. To do so, each community establishes an inventory of sites designated for new housing that is sufficient to accommodate its fair share. State law requires cities and counties to update their housing elements every five or eight years.

   Cities and counties enact zoning ordinances to implement their general plans. Zoning determines the type of housing that can be built. In addition, before building new housing, housing developers must obtain one or more permits

from local planning departments and must also obtain approval from local planning commissions, city councils, or county board of supervisors. Some housing projects can be permitted by city or county planning staff ministerially or without further approval from elected officials. Projects reviewed ministerially, or by-right, require only an administrative review designed to ensure they are consistent with existing general plan and zoning rules, as well as meet standards for building quality, health, and safety. Most large housing projects are not allowed ministerial review. Instead, these projects are vetted through both public hearings and administrative review. Most housing projects that require discretionary review and approval are subject to review under the California Environmental Quality Act (CEQA), while projects permitted ministerially generally are not.

4) *By-right for shelters in the housing element*. SB 2 (Cedillo, Chapter 633, Statues of 2007) required a local government, in its housing element, to accommodate its need for emergency shelters on sites by right, or ministerially and without a conditional use permit, and requires cities and counties to treat transitional and supportive housing projects as a residential use of property. Local governments must treat supportive housing the same as other multifamily residential housing for zoning purposes, and may only apply the same restrictions as multifamily housing in the same zone to supportive housing. Current law is silent as to where these shelters may be located, and as a result, local governments often identify shelters in industrial areas far from services designed to move people experiencing homelessness from the streets and into permanent housing. Additionally, current law does not require a local government to identify zones with sufficient capacity to accommodate emergency shelters. As a result, some emergency shelter zones are not actually capable of accommodating a shelter on any of the identified sites.

   This bill clarifies housing element law with regards to where by-right zones for emergency shelters may be identified. Current law is not clear as to the types of standards that a jurisdiction may apply to a shelter project in an identified by right zone. This bill makes it clear that a local government shall only be subject to those development and management standards that apply to residential or commercial development within the same zone, except that a local government may apply the specified objective standards. Additionally, this bill requires local governments to identify by-right shelters in zones that allow residential uses, including mixed-use. Lastly, this bill requires that an emergency shelter zone must include vacant sites or sites that are adequate for a shelter.

5) *No Net Loss.* As discussed above, housing element law requires local governments to plan to accommodate their share of the regional housing need. Throughout the housing element planning period, as housing gets developed, local governments must ensure that there is still capacity to accommodate their share of the regional housing need on sites that have not yet been developed. This requirement is referred to as "Not Net Loss" law. In housing element law, if the city or county failed to zone for its full share of regional housing in the prior planning period, then within the first year of the planning period of the new housing element, the local government must rezone adequate sites to accommodate the amount it failed to zone for in the prior planning period. In housing element law, it is clear that this "carryover portion" that makes up for failure to rezone in the prior housing element is part of what HCD considers the city or county's share of the regional housing. No Net Loss law is ambiguous as to whether local governments need to account for the carryover portion when determining remaining capacity to accommodate growth. This bill rectifies this ambiguity by clearly aligning No Net Loss law with housing element law. Specifically, it requires that local governments must account for the carryover portion when calculating both the amount of housing they must plan for and the amount of capacity that must be available at any given time.

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

SUPPORT: (Verified 6/27/22)

California Rural Legal Assistance Foundation (co-source)
Public Interest Law Project (co-source)
Western Center on Law & Poverty (co-source)
National Association of Social Workers, California Chapter

OPPOSITION: (Verified 6/27/22)

None received

ASSEMBLY FLOOR: 55-16, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NOES: Bigelow, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron

NO VOTE RECORDED: Berman, Boerner Horvath, Chen, Kiley, Lackey, Mayes, O'Donnell

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
6/28/22 14:11:09

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2342
Author: Cervantes (D)
Amended: 6/15/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 6/8/22
AYES: Cortese, Durazo, Laird, Newman
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 73-0, 5/25/22 (Consent) - See last page for vote

SUBJECT: Community Economic Resilience Fund Program

SOURCE: Author

DIGEST: This bill makes several changes to the administration and scope of the Community Economic Resilience Fund (CERF) program. These changes include a broadening of program scope to include support for additional workforce efforts, such as apprenticeship and preapprenticeship and other changes to allow for program applicability beyond pandemic recovery efforts. This bill allows for a portion of grant funding to be reserved for making planning and implementation grants to Native American tribes. This bill also requires the Employment Development Department (EDD) to post reports required by current law on its website.

ANALYSIS:

Existing law:

1) Establishes the EDD within the Labor and Workforce Development Agency. EDD is responsible for, among other duties, the administration of the Unemployment Insurance and Disability Insurance programs as well as job creation activities. (Unemployment Insurance Code §301)

2) Establishes, under the California Workforce Innovation and Opportunity Act, the California Workforce Development Board as the body responsible for assisting the Governor in the development, oversight, and continuous improvement of California's workforce system. (Unemployment Insurance Code §14010 et seq).

3) Provides for training partnerships that are overseen by the board, including the High Road Training Partnerships initiative, a demonstration project to model partnership strategies for the state among various industry sectors, and that is industry based and worker focused in order to build skills for California employers that, among other things, generate family-supporting jobs. (Unemployment Insurance Code §14013)

4) Defines "high road" to mean a set of economic and workforce development strategies, as specified, to achieve economic growth, economic equity, shared prosperity and a clean environment. (Unemployment Insurance Code §14005)

5) Establishes the CERF Program, to be administered by the Workforce Services Branch at the Employment Development Department and overseen by the Labor and Workforce Development Agency, Office of Planning and Research and the Governor's Office of Business and Economic Development, referred to as the Inter-Agency Leadership Team. Makes the team jointly responsible for planning, oversight, and decision-making, as specified. (Unemployment Insurance Code §14531)

6) Establishes the CERF program to build an equitable and sustainable economic recovery from the impacts of COVID-19 on California's industries, workers and communities and to provide for the durability of that recovery by fostering long-term economic resilience in the overall transition to a carbon-neutral economy. (Unemployment Insurance Code §14531)

7) Requires the CERF program to assist in the establishment and support of highroad transition collaboratives to design region and industry specific economic recovery and transition strategies. Requires the Inter-Agency Leadership Team to award planning grants on a competitive basis to each region, as specified, prioritizing high-quality jobs and equitable access to them and emphasize the development of sustainable industries. (Unemployment Insurance Code §14531)

8) Provides that grant recipients must align with regional workforce needs by linking with high road training partnerships in areas that have had disproportionate impacts due to COVID-19 and would provide implementation grants on a rolling and competitive basis to fund economic recovery, as specified. (Unemployment Insurance Code §14531)

9) Requires the Workforce Services Branch of EDD to submit an annual report to the Legislature starting on December 31, 2022, regarding the grants awarded, progress on individual program objectives, related to high road metrics, including equity job quality and sustainability, job creation, wage increases, and job retention. Additionally, the Workforce Services Branch must submit a supplemental annual report to the Legislature starting on June 31, 2023, regarding key findings on regional trends in sustainable economic recovery and common challenges in the development and implementation of high road strategies. (Unemployment Insurance Code §14531)

10) Appropriated the sum of $600,000,000 from the Coronavirus Fiscal Recovery Fund of 2021 to the Workforce Services Branch to administer the program and authorized up to 3% of the funds to be transferred to specified state agencies to support the program. (Unemployment Insurance Code §14531)

This bill:

1) Adds, specifically, state and federally recognized apprenticeship and pre-apprenticeship programs, high road construction career training programs, in addition to other workforce programs that support career pathways to high road jobs as activities eligible for funding.

2) Expands the group of community capacity-building programs with which the Regional Collaboratives are required to engage to also include similar state-supported local and regional economic, workforce, and community development programs and initiatives.

3) Requires the Regional Collaboratives to seek out and invite into the regional engagement process other local and regional planning efforts whose missions are aligned with the purposes of CERF as well as ensure that representation on the collaboratives reflects the people and economy of the region.

4) Expands on the workforce development components of the regional economic recovery plans to specifically include career pathways for individuals with less than a two-year degree and career pathways that leads to high road jobs.

5) Provides that a portion of grant funding may be reserved for making planning and implementation grants to Native American tribes under criteria and conditions determined by the Inter-Agency Leadership Team and consistent with the purposes of the program. Tribes are intended to have maximum flexibility in the use of the funds and to use the funds to support tribe-led economic development projects.

6) Expands on the reporting requirements of the program to include information on implementing a strategy to promote long-term economic resilience within the region and to create high road jobs, while transitioning to a carbon-neutral economy.

7) Requires a copy of the report to the Joint Budget Committee to also be submitted through the Chief Clerk's Office and copies provided to related policy committees, per Government Code Section 9795 of existing law.

8) Requires, within 30 days of the CERF annual report being submitted to the Legislature, a copy to be made available for public review through the Internet websites of each agency of the Inter-Agency Leadership Team.

9) Makes other technical and organizational adjustments.

Background

CERF Program and need for this bill. In 2021, the California Economic Resilience Fund Program was established as part of the state budget [SB 162 (Committee on Budget and Fiscal Review, Chapter 259, Statutes of 2021]. As noted above, the CERF is a $600 Million, American Rescue Plan Act funded program intended to promote a sustainable and equitable recovery from the economic distress of COVID-19 by supporting new plans and strategies to diversify local economies and develop sustainable industries that create high-quality, broadly accessible jobs for all Californians. It will support communities and regional groups in producing regional roadmaps for economic recovery and transition and fund projects that contribute to the creation of accessible, high-quality jobs in sustainable industries.

According to the Assembly Jobs, Economic Development and the Economy Committee analysis of this bill, "By strengthening the economy, the [CERF] program intends to help regions buffer the impacts of the state's transition to a carbon-neutral economy. At the core of the program is the development of a regional plan, from which approximately $500+ million in implementation dollars

will flow. The Governor's proposed budget for 2022-23 aligns other state actions to the program and the implementation of the regional plans specifically.

"AB 2342 modifies the CERF Program to clarify certain implementation issues, as well as calling out issues that need to be addressed in order to have an inclusive economic, community, and workforce development grant program. Among the outstanding issues are the program impacts of the shift in funding from federal America Rescue Plan Act dollars to General Fund and the Planning Phase Draft Guidelines published the week of April 18, 2022."

Related/Prior Legislation

SB 162 (Committee on Budget, Chapter 259, Statutes of 2021) established the CERF Program.

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

SUPPORT: (Verified 6/28/22)

California Association for Micro Enterprise Opportunity
California Association of Local Conservation Corps
Coalition of Small and Disabled Veteran Businesses
Microenterprise Collaborative of Inland Southern California
National Small Business Advocacy Council
Riverside Community College District
San Gabriel Valley Economic Partnership

OPPOSITION: (Verified 6/28/22)

None received

ARGUMENTS IN SUPPORT: According to proponents, "The Community Economic Resilience Fund Program provides financial support to establish and support high road transition collaboratives and sets forth requirements for the program/collaboratives managed by the Inter-Agency Leadership Team comprised of the working relationship between the Labor and Workforce Development Agency, Office of Planning and Research, and the Governor's Office of Business and Economic Development. It also requires the support of at least one collaborative per region in areas that have had disproportionate impacts due to COVID-19 and would provide implementation grants on a rolling and competitive basis to fund economic recovery.

"This bill would expand scope of the Inter-Agency Leadership Team to include policies for grant funds to fund business and workforce investments in multiple sectors, state and federal recognized apprenticeship and preapprenticeship programs, and other workforce programs that support career pathways to high road jobs, require collaboratives to engage local and regional planning efforts and provides structure for program accountability."

ASSEMBLY FLOOR: 73-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Bloom, Irwin, O'Donnell, Blanca Rubio

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
6/28/22 14:28:21

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

SENATE RULES COMMITTEE AB 2359
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(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2359
Author: Gipson (D)
Amended: 6/28/22 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 6-0, 6/22/22
AYES: Leyva, Cortese, Dahle, Glazer, McGuire, Pan
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 5/26/22 - See last page for vote

SUBJECT: Compton Community College District: personnel commission

SOURCE: Author

DIGEST: This bill establishes a timeline for the reinstatement of Compton Community College District (CCCD) Personnel Commission (commission) commencing one year after CCCD's final payment on its state loan.

ANALYSIS:

Existing law:

1) Enables the California Community College (CCC) Board of Governors (BOG) to authorize the chancellor to suspend the authority of the local board of trustees of the CCCD, for up to five years from the effective date of AB 318 (Dymally), Chapter 50, Statutes of 2006, plus a period of time until the chancellor, the Fiscal Crisis and Management Assistance Team (FCMAT), the Director of Finance, and the Governor concur with the special trustee that the district has for two consecutive academic years met the requirements of the comprehensive assessment and the recovery plan.

2) Authorizes the chancellor to appoint a special trustee to assume the powers and duties of the local board of trustees of the CCCD, as determined by the chancellor. The chancellor may select a special trustee from a pool of candidates who have served in a similar capacity prior to 2004 and the special trustee is selected to serve at the pleasure of the chancellor. In the event of a vacancy in the post of special trustee, the chancellor may assume the duties of the special trustee until a new special trustee is appointed.

3) Authorizes the chancellor or the special trustee to assume the powers and duties of the CCCD Personnel Commission. The powers and duties assumed by the chancellor or special trustee are those deemed necessary to fulfill the management of the personnel functions of the CCCD.

4) Authorizes the special trustee to complete the following:

   a) Implement substantial changes in the fiscal policies and practices of the CCCD;

   b) Revise the academic program of the CCCD to reflect realistic income projections in response to the dramatic effect of the changes in fiscal policies and practices upon program quality.

   c) Encourage all members of the college community to accept a fair burden of the full recovery of the CCCD in the five operational areas of finance, academics, personnel facilities, and governance.

   d) Enter into agreement on behalf of CCCD, as defined and subject to any contractual and statutory obligation of the Compton Community College District, change any existing district rules, regulations, policies, or practices as necessary for the effective implementation of the recovery plan.

   e) Appoint an advisory committee to advise the special trustee with respect to the management of the CCCD and the establishment and implementation of the arrangements for the provision of services by a partner district pursuant to Section 74292 et. al. Permits the advisory committee to include residents of the communities served by CCCD and any outside experts, but clarifies no member of the advisory team may receive compensation for services rendered in their advisory role.

5) Appropriates $11.3 million to the BOG of the CCC to support one-time costs associated with CCCD efforts to restore core operational and oversight function of Compton College to the CCCD and to achieve and maintain accreditation by an accrediting agency, as defined. The appropriation of these funds are

provided only if CCCD agrees to implement the recommendations in FCMAT's report completed on May 16, 2017.

6) Authorizes the Board of Trustees of CCCD, until July 1, 2029, to assume the powers and duties of the CCCD personnel commission that the board of trustees deem are necessary for the management of personnel at the CCCD. Clarifies the CCCD personnel commission will not exercise any of the powers or duties assumed by the board of trustees.

This bill:

1) Authorizes the special trustee, in the event the Chancellor of the California Community College appoints a special trustee to oversee the CCCD, to assume the powers and duties of the commission identified as necessary for the management of personnel functions within the district.

2) Authorizes when the governing board of CCCD reassumes its powers and authority to govern the district, the governing board will assume the powers and duties of the commission identified as necessary for the management of personnel functions within the district. This authority will remain with the governing board until one calendar year after CCCCD has repaid the state loan it received in 2006, as defined.

3) Permits during the one year after the loan is repaid and before the commission is reestablished, for an advisory commission to be established to advise the governing board on personnel matters.

4) Requires the commission, by September 15 of the year the commission is established in an advisory role as described in (3) of this analysis, to provide a report of the duties fulfilled by the commission in their advisory role. The report will be available to the public on the CCCD website.

5) Requires CCCD by September 15, 2023, and annually thereafter, to provide to the Department of Finance, the Assembly Budget Subcommittee on Education Finance, and the Senate Budget Subcommittee on Education an update on its repayment of the state loan received in 2006, as defined.

6) Deletes from the SB 85 (Budget Committee), Chapter 23, Statutes of 2017, the provision requiring the board of trustees of the CCCD to assume responsibilities of the CCCD commission necessary for the management of the personnel

functions of the CCCD until July 1, 2029. Effectively reinstating the CCCD commission upon passage of the act.

Comments

1) *Need for the bill.* According to the author, "Classified school employees provide the backbone of every operation of a college district. Ranging from transportation to security, food services to clerical, these employees keep districts functioning day to day, year after year. In some cases, classified employees have utilized rights provided by the education code, by electing to convert their college to utilize the merit system.

   "Due to the loss of accreditation in 2006, classified school employees of the Compton Community College District have been unable to utilize their merit system as intended. This bill rectifies this by clarifying the powers and duties of the Compton College Personnel Commission and restores the commission to its full functionality."

2) *History of CCCD.* In January 2003, the Chancellor's Office of the CCC (CCCCO) received a fiscal audit of CCCD which made various findings as to the fiscal instability of the district. After failing to receive additional fiscal information in May 2004, the Chancellor determined CCCD was no longer acting responsibly to manage the district in a sound fiscal manner. The Chancellor appointed a special trustee to assume the duties and powers of the local governing board. Additionally, the Chancellor requested FCMAT to conduct a fiscal health analysis of the district. In June 2004, FCMAT determined the district did not have sufficient funds to cover its expenses. At the same time as the FCMAT report, the local governing board of CCCD sued the chancellor for overstepping their perceived role and the Supreme Court of Los Angeles issued a temporary restraining order prohibiting the Chancellor or his agents from assuming the powers of the district governing board. Realizing the fiscal crisis and the possibility of insolvency, the Legislature on an urgency clause enacted AB 61 (Dymally, Chapter 139, Statues of 2004) to amend the Education Code (EDC) to endow the chancellor with the authority to assume the powers of the CCCD governing board and to assign those powers to a special trustee.

   Due to growing concerns with the fiscal management and stability of Compton College (the only college within CCCD), the Accrediting Commission for Community and Junior Colleges (ACCJC) issued a show of cause in January of

2005 and required the College to correct the fiscal deficiencies. However, Compton College could not address the fiscal concerns as provided by the ACCJC and would lose accreditation on August 19, 2005. CCCD filed a formal appeal; however, by June 2006 it became apparent Compton College would lose their accreditation. The Legislature once again took action citing the loss of accreditation by a college of the CCC presented a severe burden for the students of that college and for the residents the community college served. On June 30, 2006, Governor Schwarzenegger signed AB 318 (Dymally, Chapter 50, Statutes of 2006) to provide a $30 million loan for CCCD for the purpose of continuing to provide accredited instructional programs to students residing in CCCD and to accomplish the task of collaborating with FCMAT and the special trustee to regain fiscal solvency. On August 21, 2006, the El Camino Community College District Board of Trustees approved a partnership agreement with the CCCD to continue offering educational programs at Compton College which became Compton Center.

After completing the statutory requirement to reassume governing authority, the CCCD began the process in June 2016 of seeking approval from the state to return authority to the governing board. On February 14, 2017, Chancellor Eloy Oakley announced the governance authority had been restored to the district's elected governing board. This marked an important milestone in the district and subsequently, Compton College returned to an independent college within the CCC.

To demonstrate Legislative support of Compton College's path toward re-accreditation, the State appropriated $11.3 million for the purpose of restoring core operation and oversight functions to the CCCD and to achieve and maintain accreditation for Compton College. As part of the budget negotiations for the dispersal of the $11.3 million, the State agreed with FCMAT's conclusion that the CCCD personnel commission should remain offline and the duties and responsibilities normally carried out by the CCCD personnel commission would be bestowed upon the CCCD governing board. The Legislature authorized that the CCCD personnel commission would resume its duties and responsibilities on July 1, 2029.

On June 7, 2017, the ACCJC granted initial accreditation status to Compton College, and on August 24, 2018, local control of Compton College was returned to the CCCD governing board. The partnership between El Camino Community College District and CCCD was terminated on June 7, 2019. Therefore, on June 7, 2019, Compton College became the 114th California

Community College operating under the authority of the CCCD governing board.

3) *Status of Compton College.* Compton College is currently accredited by the ACCJC and to maintain its accreditation, Compton College is entering its two year self-evaluation report which will conclude in June of 2024. To remain accredited, Compton College must meet the 21 requirements that cover college operations including, but not limited to: the conferral of degrees, standards for assessing student progress, providing academic freedom, student support services, and fiscal soundness.

   At the request of Compton College, on January 4, 2022, FCMAT published its latest analysis of CCCD's fiscal health. In addressing the overall budgetary constraints CCCD will face in the coming years, FCMAT has suggested the Personnel Commission remain suspended until 2029-2030 since 2028-2029 will be the last year payment will be necessary to repay the $30 million state loan provided to CCCD in 2006.

   Based on a recent budget document published by the CCCD governing board, the line of credit from the $30 million state-provided loan is projected to be paid off by June 1, 2026, three years ahead of schedule.

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

SUPPORT: (Verified 8/2/22)

California Federation of Teachers
California School Employees Association

OPPOSITION: (Verified 8/2/22)

None received

ARGUMENTS IN SUPPORT: According to the California School Employees Association, "The California School Employees Association (CSEA), AFL-CIO, supports AB 2359 (Gipson), which would restore the powers and duties of the Compton Community College District's Personnel Commission after they were relegated to the Board of Trustees and the chancellor. Merit systems were first enacted to prevent the corruption of the spoils system in public employment. This bill, by restoring the original powers and responsibilities of the Compton Community College District's Personnel Commission, will ensure that the college honors the original intent of the classified employees who first voted to implement

a merit system. Personnel commissions, which include representatives of the school district and classified employees, provide transparency and accountability in the hiring and promotion of school employees."

ASSEMBLY FLOOR: 76-0, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Ian Johnson / ED. / (916) 651-4105
8/3/22 14:36:07

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

SENATE RULES COMMITTEE AB 2361
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(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2361
Author: Mia Bonta (D), et al.
Amended: 3/31/22 in Assembly
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 6/21/22
AYES: Bradford, Kamlager, Skinner, Wiener
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 54-19, 5/25/22 - See last page for vote

SUBJECT: Juveniles: transfer to court of criminal jurisdiction

SOURCE: California Public Defenders Association
Pacific Juvenile Defender Center

DIGEST: This bill requires the juvenile court to find by clear and convincing evidence that the minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court in order to transfer the minor to a court of criminal jurisdiction.

ANALYSIS:

Existing law:

1) Provides that, any minor who is between 12 and 17 years of age that violates any law of this state or of the United States or any ordinance of any city or county other than an ordinance establishing a curfew based solely on age, is within the jurisdiction of the juvenile court, and may be adjudged to be a ward of the court. (Welf. & Inst. Code, § 602, subd. (a).)

2) Authorizes the prosecutor to make a motion to transfer a minor who is 16 years of age or older from juvenile court to a court of criminal jurisdiction in any case

in which the minor is alleged to have committed a felony. (Welf. & Inst. Code, § 707, subd. (a)(1).)

3) Authorizes the prosecutor to make a motion to transfer a minor who committed a specified serious or violent felony from juvenile court to a court of criminal jurisdiction if the offence was committed while the minor was 14 or 15 years of age or older but the minor was not apprehended prior to the end of juvenile court jurisdiction. (Welf. & Inst. Code, § 707, subd. (a)(2).)

4) Requires, upon the motion of the prosecutor, the juvenile court to order the probation officer to submit a report on the behavioral patterns and social history of the minor. (Welf. & Inst. Code, § 707, subd. (a)(1) & (2).)

5) Requires the juvenile court, following submission and consideration of the report, and of any other relevant evidence that the minor may wish to submit, to decide whether the minor should be transferred to a court of criminal jurisdiction. (Welf. & Inst. Code, § 707, subd. (a)(3).)

6) Requires the juvenile court, in making its decision, to consider specified criteria including:

    a) The degree of criminal sophistication exhibited by the minor. The juvenile court may give weight to any relevant factor, including, but not limited to, the minor's age, maturity, intellectual capacity, and physical, mental, and emotional health at the time of the alleged offense, the minor's impetuosity or failure to appreciate risks and consequences of criminal behavior, the effect of familial, adult, or peer pressure on the minor's actions, and the effect of the minor's family and community environment and childhood trauma on the minor's criminal sophistication;
    b) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction. The juvenile court may give weight to any relevant factor, including, but not limited to, the minor's potential to grow and mature;
    c) The minor's previous delinquent history. The juvenile court may give weight to any relevant factor, including, but not limited to, the seriousness of the minor's previous delinquent history and the effect of the minor's family and community environment and childhood trauma on the minor's previous delinquent behavior;
    d) Success of previous attempts by the juvenile court to rehabilitate the minor. The juvenile court may give weight to any relevant factor, including, but not

limited to, the adequacy of the services previously provided to address the minor's needs; and,

e) The circumstances and gravity of the offense alleged to have been committed by the minor. The juvenile court may give weight to any relevant factor, including, but not limited to, the actual behavior of the person, the mental state of the person, the person's degree of involvement in the crime, the level of harm actually caused by the person, and the person's mental and emotional development. (Welf. & Inst. Code, § 707, subd. (a)(3)(A)-(E).)

7) Requires, if the juvenile court orders a transfer to a court of criminal jurisdiction, the court to recite the basis for its decision in an order entered upon the minutes. (Welf. & Inst. Code, § 707, subd. (a)(3).)

8) Authorizes, if the minor's case is transferred from juvenile court to a court of criminal jurisdiction, the prosecutor to file an accusatory pleading against the minor in a court of criminal jurisdiction. The case shall proceed from that point according to the laws applicable to a criminal case. (Welf. & Inst. Code, § 707.1.)

9) Allows a court to commit a minor to the Division of Juvenile Justice (DJJ), within the California Department of Corrections and Rehabilitation (CDCR), if the minor committed a specified serious, violent, or sex offense and has been the subject of a motion filed to transfer the minor to the jurisdiction of the criminal court. This provision will remain in effect until the final closure of the DJJ. (Welf. & Inst. Code, § 731.)

10) Provides that, a person whose case originated in juvenile court but who was sentenced in criminal court shall not serve their sentence in a juvenile facility but may remain in the juvenile facility until transferred to serve their sentence in an adult facility. (Welf. & Inst. Code, § 208.5.)

This bill:

1) Requires the finding that the minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court to be supported by clear and convincing evidence.

2) Requires the transfer order to state the reasons supporting the court's finding that the minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court.

Background

As a general rule, any minor between the age of 12 and 17, inclusive, who commits a crime falls within the jurisdiction of the juvenile court. (Welf. & Inst. Code, § 602.) This extends to a youth alleged to have committed a crime before their 18th birthday, even if they were an adult at the time or arrest or commencement of proceedings. (Welf. & Inst. Code, § 603.) For example, if someone commits a crime at age 17, but it is not discovered or tried until the person is 20, the person can still be tried in juvenile court. The jurisdiction of the juvenile court continues until the youth is 23 years old, unless the youth would have, in criminal court, faced a sentence of 7 years or more, in which case the juvenile court's jurisdiction continues until the youth turns 25. (Welf. & Inst. Code, § 607.)

Some minors may be tried as adults, depending on the age of the minor at the time of the offense and the crime charged. Minors who may be subject to transfer to adult criminal court include those alleged to have committed any felony when 16 years old or older, or 14- and 15-year-old minors who are alleged to have committed one of a list of enumerated serious or violent felonies. (Welf. & Inst. Code, § 707, subd. (a).)

Transfers from Juvenile Court to Adult Criminal Court

The Arnold-Kennick Juvenile Court Act, enacted in 1961, established 16 as the minimum age for which a minor could be transferred from juvenile court to adult criminal court. Over 30 years later, AB 560 (Peace), Chapter 453, Statutes of 1994, lowered the age at which a minor could be transferred to adult criminal court from 16 to 14 years of age. In response to the perception that juvenile crime was on the rise and more dangerous than the delinquency of earlier decades, Proposition 21 was passed by the voters in March of 2000. Among other things, Proposition 21 increased sentences for specified gang-related crimes, authorized a prosecutor to file charges against a juvenile offender directly in criminal court for specified felonies, prohibited the sealing of juvenile records involving Welfare and Institutions Code section 707(b) offenses, and designated additional crimes as violent and serious felonies. (Ballot Pamp., Prim. Elec. (Mar. 7, 2000), text of Prop. 21, p. 45 et seq.)

Over the last several years, there have been a series of U.S. Supreme Court cases involving juvenile defendants that have recognized the inherent difference between juveniles and adults for purposes of sentencing, relying in part on research on brain and adolescent development. (*See Roper v. Simmons* (2005) 543 U.S. 551 [125

S.Ct. 1138, 161 L.Ed. 2d]; *Graham v. Florida* (2010) 560 U.S. 48 [130 S.Ct. 2011, 176 L.Ed. 825]; *J.D.B. v. North Carolina* (2011) 564 U.S. 261 [131 S. Ct. 2394, 180 L.Ed. 310]; *Miller v. Alabama* (2012) 567 U.S. 460 [132 S.Ct. 2455, 183 L.Ed. 2d 407].) The Court summarized those differences in *Miller*:

> *Roper* and *Graham* establish that children are constitutionally different from adults for purposes of sentencing. Because juveniles have diminished culpability and greater prospects for reform, we explained, "they are less deserving of the most severe punishments." *Graham*, 560 U.S., at 68, 130 S.Ct. 2011, 176 L.Ed. 2d 825. Those cases relied on three significant gaps between juveniles and adults. First, children have a " 'lack of maturity and an underdeveloped sense of responsibility,' " leading to recklessness, impulsivity, and heedless risk-taking. *Roper*, 543 U.S., at 569, 125 S.Ct. 1183, 161 L.Ed. 2d 1. Second, children "are more vulnerable . . . to negative influences and outside pressures," including from their family and peers; they have limited "contro[l] over their own environment" and lack the ability to extricate themselves from horrific, crime-producing settings. *Ibid*. And third, a child's character is not as "well formed" as an adult's; his traits are "less fixed" and his actions less likely to be "evidence of irretrievabl[e] deprav[ity]." (567 U.S. 460, 570 [125 S.Ct. 1183, 161 L. Ed. 2d 1].)

This body of case law and the research relied upon in these cases prompted the passage of several juvenile justice reform measures in the state in the past decade. In addition, the voters passed Proposition 57 in 2016, which among other things, eliminated the ability of a prosecutor to file charges against a juvenile offender directly in criminal court. (See, *Voter Information Guide for 2016* <https://vig.cdn.sos.ca.gov/2016/general/en/pdf/complete-vig.pdf .)

Transfer Criteria to Adult Criminal Court

Current law allows the juvenile court, on motion of the prosecution, to transfer minors aged 14 to 17 years old, who are alleged to have committed specified offenses, to adult court if the juvenile court determines, following a hearing, that the youth should be transferred to a court of criminal jurisdiction. (Welf. & Inst. Code, §707, subd. (a)(1)-(3).) The prosecution bears the burden of proving the youth should be transferred to adult court by a preponderance of the evidence. (Cal. Rules of Ct., rule 5.770, subd. (b)(2).) Upon the prosecutor filing a motion to transfer the minor from juvenile court to adult criminal court, the juvenile court

orders the probation officer to submit a report on the behavioral patterns and social history of the minor. (Welf. & Inst. Code, §707, subd. (a).) The prosecutor and the minor may submit additional relevant information to aid the court in evaluating a juvenile's fitness to remain in juvenile court. (*Ibid*.)

A minor is not required to establish innocence in order to show amenability to the juvenile court system, and the fact that a minor did commit the charged offense does not automatically require a finding of unfitness. (*People v. Superior Court* (*Jones*) (1998) 18 Cal.4th 667, 682.) Rather, the dispositive question at a transfer hearing is the minor's amenability to treatment through the facilities available to the juvenile court. (*Jimmy H. v. Superior Court* (1970) 3 Cal.3d 709, 714; see also *People v. Chi Ko Wong* (1976) 18 Cal.3d 698, 717 [holding that the issue at a transfer hearing "is not whether the minor committed a specified act, but rather whether he is amenable to the care, treatment and training program available through juvenile court facilities"]; *J.N. v. Superior Court* (2018) 23 Cal.App.5th 706, 714 ["There must be substantial evidence adduced at the hearing that the minor is not a fit and proper subject for treatment as a juvenile before the court may certify him to the superior court for prosecution."].)

In making its decision, the court considers five enumerated criteria: (1) the degree of criminal sophistication; (2) whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction; (3) the minor's previous delinquent history; (4) the success of previous rehabilitation attempts by the juvenile court; and (5) the gravity of the offense alleged in the petition to have been committed by the minor. (Welf. & Inst. Code, § 707, subd.(a)(3)(A)-(E).) Under the current statutory scheme, appellate courts have held that juvenile courts "may accord the appropriate weight to each factor." (*C.S. v. Superior Court* (2018) 29 Cal.App.5th 1009, 1034.)

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

SUPPORT: (Verified 8/1/22)

California Public Defenders Association (co-source)
Pacific Juvenile Defender Center (co-source)
ACLU California Action
Asian Prisoner Support Committee
California Alliance for Youth and Community Justice
California Attorneys for Criminal Justice
California Catholic Conference
Californians for Safety and Justice

Californians United for a Responsible Budget
Center on Juvenile and Criminal Justice
Communities United for Restorative Youth Justice
East Bay Community Law Center
Ella Baker Center for Human Rights
Fresh Lifelines for Youth
Fresno Barrios Unidos
Fresno County Public Defender's Office
Friends Committee on Legislation of California
Immigrant Legal Resource Center
Initiate Justice
Los Angeles County District Attorney's Office
Motivating Individual Leadership for Public Advancement
National Association of Social Workers, California Chapter
National Center for Lesbian Rights
National Center for Youth Law
Services, Immigration Rights and Education Network
Silicon Valley De-Bug
Sister Warriors Freedom Coalition
The Gathering for Justice
W. Haywood Burns Institute
Young Women's Freedom Center
Youth Alive!

OPPOSITION: (Verified 8/1/22)

None received

ASSEMBLY FLOOR: 54-19, 5/25/22
AYES: Aguiar-Curry, Arambula, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel

NO VOTE RECORDED: Bauer-Kahan, Berman, Cooper, O'Donnell, Waldron

Prepared by: Stephanie Jordan / PUB. S. /
8/3/22 14:36:08

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

SENATE RULES COMMITTEE AB 2369
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2369
Author: Salas (D)
Amended: 6/9/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 10-1, 6/21/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Laird, McGuire, Stern, Wiener
NOES: Jones

ASSEMBLY FLOOR: 73-0, 5/23/22 - See last page for vote

SUBJECT: Domestic Violence Prevention Act: attorney's fees and costs

SOURCE: Family Violence Appellate Project

DIGEST: This bill modifies the fee-shifting statute under the Domestic Violence Prevention Act (DVPA) to require a court to award attorney fees and costs to a prevailing protected party and permit a court to award attorney fees and costs to a prevailing party who was sought to be restrained if the court finds the petition was brought in bad faith.

ANALYSIS:

Existing law:

1) Establishes the DVPA (Fam. Code, §§ 6200 et seq.) which sets forth procedural and substantive requirements for the issuance of a protective order to, among other things, enjoin specific acts of abuse or prohibit the abuser from coming within a specified distance of the abused person. (Fam. Code, §§ 6218, 6300 et seq.)

2) Permits a court to issue a short-term, ex parte domestic violence protective order enjoining a party from, among other things, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, credibly impersonating,

falsely personating, harassing, telephoning, destroying personal property, contacting, coming within a specified distance of, or disturbing the peace of the other party, and, in the discretion of the court, on a showing of good cause, of other named family or household members. (Fam. Code§§ 6320 et seq.)

3) Permits a court, after notice and a hearing, to issue any domestic violence restraining order that could be issued ex parte. The order can last up to five years, at which point it can be renewed for successive five-year terms or permanently. (Fam. Code, § 6340.)

4) Permits a court, after a noticed hearing pursuant to 3), to issue an award for the payment of attorney fees and costs to the prevailing party. (Fam. Code, § 6344(a).)

5) Provides that, where the petitioner is the prevailing party and cannot afford to pay for attorney fees and costs, the court shall, if appropriate based on the parties' abilities to pay, order that the respondent pay the petitioner's attorney fees and costs for commencing and maintaining the proceeding. This determination shall be based on:

   a) The respective incomes and needs of the parties; and

   b) Any factors affecting the parties' respective abilities to pay. (Fam. Code, § 6344(b).)

6) Requires, if a court orders a party to pay attorney fees or costs under the Family Code, the court shall first determine that the party is or is reasonably likely to have the ability to pay. (Fam. Code, § 270.)

This bill:

1) Repeals the existing attorney fee statute set forth in Family Code section 6344.

2) Adds a new Family Code section 6344, which provides:

   a) After notice and a hearing, a court shall issue an order for the payment of attorney fees and costs for the prevailing petitioner.

   b) After a notice and hearing, the court may issue an order for the payment of attorney fees and costs for the prevailing respondent only if the respondent establishes by a preponderance of the evidence that the petition or request is frivolous or solely intended to abuse, intimidate, or cause unnecessary delay.

3) Provides a court cannot issue an order for attorney fees and costs under 2)(a) or (b) unless it first determines that the party ordered to pay has, or is reasonably likely to have, the ability to pay.

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

SUPPORT: (Verified 6/24/22)

Family Violence Appellate Project (source)
Advocates for Child Empowerment and Safety
California Partnership to End Domestic Violence
Coalition of California Welfare Rights Organizations
Community Overcoming Relationship Abuse
Desert Sanctuary, Inc.
Interface Children & Family Services
Jewish Family Service LA
Legislative Coalition to Prevent Child Abuse
Public Counsel
Rainbow Services

OPPOSITION: (Verified 6/24/22)

None received

ARGUMENTS IN SUPPORT: According to the bill's sponsor, the Family Violence Appellate Project:

> AB 2369 would help to promote these legislative policies that are not currently being realized; and would reduce the chilling effect under the current law, which has led survivors [of domestic violence] having to pay the other side's fees, even if the court finds abuse has occurred, just because the survivor could not overcome some evidentiary or procedural barriers to fully present their case.
>
> As an example of how the current law could play out against survivors, say a survivor is of moderate income and can afford to pay for their own attorney—not all that common, but it happens—or, perhaps more commonly, say a survivor is of low or no income and they somehow are able to scrounge up enough to pay for an attorney. If they win and get a restraining order, under Family Code section 6344 as currently written…the court could still refuse to give them attorney's fees simply because the statute gives them that discretion, for almost any reason. And, in fact…some courts interpret to mean the court

should always consider the survivor's needs and ability to pay, and will deny them attorney's fees on that basis, even if they win.

With the current law, then, the court could say, for instance, that the survivor could afford to pay for their attorney on their own, because they had in fact already retained the attorney. In these situations, survivors essentially mist fund their own abuse. If passed, AB 2369 would change the outcome. In this kind of scenario, AB 2369 would require the court to order the respondent to pay for the survivor's attorney's fees, after taking into consideration the respondent's ability to pay.

ASSEMBLY FLOOR: 73-0, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Mia Bonta, O'Donnell, Blanca Rubio, Seyarto

Prepared by: Allison Meredith / JUD. / (916) 651-4113
6/24/22 12:51:20

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

SENATE RULES COMMITTEE AB 2374
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2374
Author: Bauer-Kahan (D), et al.
Amended: 4/7/22 in Assembly
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/14/22
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 69-0, 5/16/22 - See last page for vote

SUBJECT: Crimes against public health and safety: illegal dumping

SOURCE: Contra Costa County

DIGEST: This bill increases the maximum fines for illegal dumping for persons employing more than 10 full-time employees, and requires any person convicted of illegal dumping to remove or pay the cost of removing the waste matter they were convicted of illegally dumping.

ANALYSIS:

Existing law:

1) States that it is unlawful to dump or cause to be dumped waste matter in or upon a public or private highway or road, including any portion of the right-of-way thereof, or in or upon private property into or upon which the public is admitted by easement or license, or upon private property without the consent of the owner, or in or upon a public park or other public property other than property designated or set aside for that purpose by the governing board or body having charge of that property. (Penal Code § 374.3 (a).)

2) Provides it is unlawful to place, deposit, or dump, or cause to be placed, deposited, or dumped, rocks, concrete, asphalt, or dirt in or upon a private

highway or road, including any portion of the right-of-way of the private highway or road, or private property, without the consent of the owner or a contractor under contract with the owner for the materials, or in or upon a public park or other public property, without the consent of the state or local agency having jurisdiction over the highway, road, or property. (Penal Code § 374.3 (b).)

3) States that a person violating dumping provisions is guilty of an infraction. Each day that waste is placed, deposited, or dumped in violation the law is a separate violation. (Penal Code § 374.3 (c).)

4) Provides that illegal dumping prohibitions do not restrict a private owner in the use of his or her own private property, unless the placing, depositing, or dumping of the waste matter on the property creates a public health and safety hazard, a public nuisance, or a fire hazard, as determined by a local health department, local fire department or district providing fire protection services, or the Department of Forestry and Fire Protection, in which case this section applies. (Penal Code § 374.3 (d).)

5) Provides a person convicted of dumping shall be punished by a mandatory fine of not less than $250 nor more than $1,000 upon a first conviction, by a mandatory fine of not less than $500 nor more than $1,500 upon a second conviction, and by a mandatory fine of not less than $750 nor more than $3,000 upon a third or subsequent conviction. If the court finds that the waste matter placed, deposited, or dumped was used tires, the fine prescribed in this subdivision shall be doubled. (Penal Code § 374.3 (e).)

6) Provides that the court may require, in addition to any fine imposed upon a conviction, that, as a condition of probation the probationer remove, or pay the cost of removing, any waste matter which the convicted person dumped or caused to be dumped upon public or private property. (Penal Code § 374.3 (f).)

7) States that except when the court requires the convicted person to remove waste matter for which he or she is responsible for dumping as a condition of probation, the court may require the probation to pick up waste matter at a time and place within the jurisdiction of the court for not less than 12 hours. (Penal Code § 374.3 (g).)

8) States that a person who illegally dumps waste matter in commercial quantities is guilty of a misdemeanor punishable by imprisonment in a county jail for not more than six months and by a fine. The fine is mandatory and shall amount to not less than $1,000 nor more than $3,000 upon a first conviction, not less than

$3,000 nor more than $6,000 upon a second conviction, and not less than $6,000 nor more than $10,000 upon a third or subsequent conviction. (Penal Code § 374.3 (h)(1).)

9) Defines "commercial quantities" as an amount of waste matter generated in the course of a trade, business, profession, or occupation, or an amount equal to or in excess of one cubic yard. (Penal Code § 374.3 (h)(2).)

This bill:

1) Increases the maximum mandatory fine for illegally placing, depositing, dumping, or causing to be placed, deposited or dumped, waste matter in commercial quantities by a person employing more than 10 full-time employees, as follows:

   a) From not more than $3,000 for the first offense to not more than $5,000;

   b) From not more than $6,000 for the second conviction to not more than $10,000; and,

   c) From not more than $10,000 for a third or subsequent conviction to not more than $20,000.

2) Requires the court to order person convicted of illegal dumping, as specified, to remove, or pay the cost of removing, any waste matter which the convicted person dumped or caused to be dumped on public or private property.

3) Requires the court, if that person holds a license or permit to conduct business that is substantially related to the conviction, to notify the applicable licensing or permitting entity, if any, that a licensee or permittee had been convicted of illegal dumping.

4) Requires the licensing or permitting entity to record and post the conviction on the public profile of the licensee or permittee on the entity's website.

5) Provides that any fine shall be based on the person's ability to pay including, but not limited to, consideration of the following:

   a) The defendant's present financial position;

   b) The defendant's reasonably discernible future financial position, provided that the court shall not consider a period of more than one year from the date of the hearing for purposes of determining the reasonably discernible future financial position of the defendant;

c) The likelihood that the defendant will be able to obtain employment within one year from the date of the hearing; and,

d) Any other factor that may bear upon the defendant's financial capability to pay the fine.

Comments

According to the author:

> Illegal dumping has been a serious problem in California for many years. Illegal dumping occurs when solid wastes are discarded or caused to be dumped or placed on any property, either public or private, without proper authorization or legitimate purpose. Illegal dumping is a crime of convenience often by repeat offenders for economic gain. Materials illegally dumped range from household items such as mattresses, furniture, and large appliances to other more traditional commercial business items such as tires, hazardous waste, rock, concrete, asphalt, and dirt.
>
> Illegal dumping is an increasing problem that poses significant health, social, environmental, and economic impacts on communities. Illegal dumping contributes to a loss of community pride, discourages investment and development, decreases property values, and increases a community's vulnerability to crime.
>
> Existing law prohibits the dumping of waste matter upon a road or highway or in other locations. A violation of this prohibition, generally, is an infraction punishable by specific fines that escalate for subsequent convictions. Under existing law, the court may, as a condition of probation, order the convicted person to remove, or pay for the removal of the waste matter. Under existing law, the dumping of commercial quantities of waste is punishable as a misdemeanor and includes escalating fines.
>
> Commercial businesses have been caught illegally dumping in an attempt to "cut corners" and maximize their total profit. Violators assume little risk in doing so because it is economically feasible, as the fines for violating illegal dumping laws are relatively minimal.
>
> Existing penalties do not serve as an adequate deterrent. Additionally, district attorneys throughout California report having difficulty in prosecuting cases.

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

SUPPORT: (Verified 6/27/22)

Contra Costa County (source)
California District Attorneys Association
California State Sheriffs' Association
Contractors State License Board
East Bay Municipal Utility District
Los Angeles County District Attorney's Office
Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force
Rural County Representatives of California

OPPOSITION: (Verified 6/27/22)

None received

ASSEMBLY FLOOR: 69-0, 5/16/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bennett, Cunningham, Low, Muratsuchi, Nazarian, Nguyen, Quirk-Silva, Blanca Rubio, Ting

Prepared by: Mary Kennedy / PUB. S. /
6/28/22 14:30:50

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

SENATE RULES COMMITTEE AB 2380
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2380
Author: Maienschein (D)
Amended: 6/13/22 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 10-0, 6/27/22
AYES: Roth, Archuleta, Becker, Dodd, Eggman, Hurtado, Leyva, Min, Newman, Pan
NO VOTE RECORDED: Melendez, Bates, Jones, Ochoa Bogh

ASSEMBLY FLOOR: 65-0, 5/12/22 (Consent) - See last page for vote

SUBJECT: Online pet retailers: retail financing options

SOURCE: Animal Legal Defense Fund

DIGEST: This bill prohibits an online pet retailer, as defined, from offering a loan or other financing for the adoption or sale of a dog, cat, or rabbit.

ANALYSIS:

Existing law:

1) Prohibits a pet store operator from selling a live dog, cat, or rabbit in a pet store unless the animal was obtained from a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group that is in a cooperative agreement with at least one private or public shelter, as specified. (Health and Safety Code (HSC) § 122354.5(a))

2) Defines a "rescue group" an organization that is tax exempt under Section 501(c)(3) of the Internal Revenue Code, and that does not obtain animals from breeders or brokers for compensation. (HSC § 122354.5(j))

This bill:

1) Prohibits an online retailer from offering a loan or other financing option for the adoption or sale of a dog, cat, or rabbit.

2) States that the prohibition in 1) above does not apply to a loan or other financing option for the purchase of a service animal.

3) Defines an "online pet retailer" to mean a person engaged in the business of selling dogs, cats, or rabbits, at retail, online through an internet website.

Background

AB 485 and the Prohibition on the Retail Sale of Animals. In 2017, the Legislature passed, and the Governor signed AB 485 (O'Donnell, Chapter 740, Statutes of 2017), which prohibited, a pet store operator from selling a live cat, dog, or rabbit in a pet store unless the animal was obtained from a public animal control agency or shelter, specified nonprofit, or animal rescue or adoption organization beginning January 1, 2019. That bill was an effort to help address both overcrowding in California animal shelters and animal sourcing from out-of-state "puppy mills." While AB 485 addressed retail sales in this state at pet stores, it did not address the online animal marketplace or California-based breeders that sell privately. The aim of this bill is not to restrict a consumer's ability to purchase an animal from online market places, but instead to restrict an online pet retailer from being able to provide or offer loans for the pets purchased on that site out of concerns that some of the pet loans programs may include high interest rates for borrowers.

In 2017, the Legislature passed and the Governor signed AB 1491 (Caballero, Chapter, Statutes of 2017), which was authored in response to the growing practice of using various retail installment contracts or rent-to-own agreements in connection with the ownership of dogs and cats. That bill ultimately made a contract for the purchase of a dog or cat, which is contingent on making payments over a period of time or other types of lease-to-own agreements that do not immediately transfer ownership of the animal to the purchaser void against public policy. That bill dealt specifically with leasing arrangements for the purchase of an animal, and did not address any other types of loans. This bill builds upon that prohibition by preventing online retailers from offering a loan for the purchase of a dog, cat or rabbit. AB 1491 did not prohibit the use of unsecured loans such as credit cards or other personal loans for purchasing the pet, nor will this bill. As currently drafted, the prohibition included in this bill does not address credit cards or the use of other types of loans, but specifically prohibits an online retailer from *offering* a loan or other financing option for the purchase of a dog, car or rabbit.

The average cost to "purchase" or "adopt" an animal from a shelter in California is approximately $150. While potential adopters may use a credit card to pay for the adoption fees, shelters do not offer credit or loan services as this bill aims to address and therefore should not be impacted.

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

SUPPORT: (Verified 8/2/22)

Animal Legal Defense Fund (source)
Social Compassion in Legislation

OPPOSITION: (Verified 8/2/22)

None received

ARGUMENTS IN SUPPORT: Animal Legal Defense Fund and Social Compassion in Legislation write in support and note, "Financing offerings can be a key part of the pet sales proposal. Many of these animals sell for thousands of dollars, which is out of reach for the average consumer. However, lenders make it easy for potential purchasers by including a readily available link to instantaneously apply for seemingly low or no interest short term financing, even for those with bad or no credit. Full disclosure of interest rates, fees, payoff amount, and general loan terms are not available until after a loan application is made, however, which is usually after an emotional connection with and desire to purchase the animal is already present. According to data of publicly available shipping transactions, California is the number one importer of dogs and cats in the nation. Online sales allow puppy mills to continue to service California customers through the cloak of sanitized imagery and obfuscated origination information. Most of the large online brokers that ship puppies to in-state customers offer financing."

ASSEMBLY FLOOR: 65-0, 5/12/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Salas, Santiago, Seyarto,

Smith, Stone, Ting, Villapudua, Voepel, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Boerner Horvath, Cunningham, Davies, Gray, Grayson, Kiley, Lackey, Lee, Quirk-Silva, Rodriguez, Blanca Rubio, Valladares, Ward

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
8/3/22 14:50:35

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

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

THIRD READING

Bill No: AB 2392
Author: Irwin (D)
Amended: 6/23/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 10-0, 6/21/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Laird, McGuire, Stern, Wiener
NO VOTE RECORDED: Jones

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 62-0, 5/2/22 - See last page for vote

SUBJECT: Information privacy: connected devices: labeling

SOURCE: Author

DIGEST: This bill provides that manufacturers of connected devices satisfy existing security requirements regarding connected devices by meeting certain baseline labeling standards established by the National Institute of Standards and Technology.

ANALYSIS:

Existing law:

1) Provides, pursuant to the California Constitution, that all people have inalienable rights, including the right to pursue and obtain privacy. (Cal. Const., art. I, Sec. 1.)

2) Requires a manufacturer of a connected device to equip the device with a reasonable security feature or features that are all of the following:

   a) Appropriate to the nature and function of the device;

b) Appropriate to the information it may collect, contain, or transmit; and

c) Designed to protect the device and any information contained therein from unauthorized access, destruction, use, modification, or disclosure. (Civ. Code § 1798.91.04(a).)

3) Provides that subject to all of the above requirements, if a connected device is equipped with a means for authentication outside a local area network, it shall be deemed a reasonable security feature if the preprogrammed password is unique to each device manufactured or the device contains a security feature that requires a user to generate a new means of authentication before access is granted to the device for the first time. (Civ. Code § 1798.91.04(b).)

4) Defines "connected device" as any device or other physical object that is capable of connecting to the Internet, directly or indirectly, and that is assigned an Internet Protocol address or Bluetooth address. (Civ. Code § 1798.91.05.)

5) Provides a series of clarifying exemptions and limitations to the above provisions. (Civ. Code § 1798.91.06.)

6) Requires a business that owns, licenses, or maintains personal information about a California resident to implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure and requires such businesses to contractually require nonaffiliated third parties to which it discloses such personal information to similarly protect that information. (Civ. Code § 1798.81.5(b), (c).)

This bill:

1) Provides that a manufacturer of a connected device satisfies the above requirements if the connected device does all of the following:

a) Meets or exceeds the baseline product criteria of a NIST conforming labeling scheme;

b) Satisfies a conformity assessment as described by a NIST conforming labeling scheme that includes a third-party test, inspection, or certification; and

c) Bears the binary label as described by a NIST conforming labeling scheme.

2) Defines "NIST conforming labeling scheme" to mean a labeling scheme conforming to the Cybersecurity White Paper titled "Recommended Criteria for Cybersecurity Labeling for Consumer Internet of Things (IoT) Products" published by the National Institute of Standards and Technology (NIST) on February 4, 2022.

Background

Juniper Research, a technology market research and analytics consulting firm, estimates that the number of Internet of Things (IoT) connections in 2024 will reach 83 billion, a 130 percent increase from 2020. [1] As with all technological advances, the virtually endless opportunities come with serious privacy and security issues. The billions of connected devices have varied functionality and implemented various levels of security.

Existing law requires such devices to be equipped with reasonable security features that are appropriate for the device, as provided. This bill creates a safe harbor within that statute that encourages manufacturers to meet baseline standards established by the National Institute of Standards and Technology (NIST) in response to an executive order issued by President Biden. A manufacturer is deemed in compliance with the statute if the connected device meets or exceeds the NIST baseline criteria.

This bill is author sponsored. There is no known support. Consumer Reports has written in opposition arguing the existing statute is already weak and this bill simply adds an additional safe harbor

The Rise of Connected Devices

Currently, everything from toasters and baby dolls to televisions and thermostats are connected to the Internet, gathering and using a wide range of information. This technology has limitless possibilities. It has revolutionized the capabilities of medical devices and made shopping easier. "The potential economic value that the IoT could unlock is large and growing. By 2030, [McKinsey Digital estimates] that it could enable $5.5 trillion to $12.6 trillion in value globally, including the value captured by consumers and customers of IoT products and services."[2]

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[1] Press Release, *IoT Connections to Reach 83 Billion by 2024, Driven by Maturing Industrial Use Cases* (March 31, 2020) Juniper Research, **https://www.juniperresearch.com/press/iot-connections-to-reach-83-bn-by-2024**. All internet citations are current as of June 9, 2022.

[2] Michael Chui, et al., *IoT value set to accelerate through 2030: Where and how to capture it* (November 9, 2021) **https://www.mckinsey.com/business-functions/mckinsey-digital/our-insights/iot-value-set-to-accelerate-through-2030-where-and-how-to-capture-it**.

However, along with the promise IoT brings comes serious privacy and security concerns. Corporations are rapidly networking the physical world and gathering data from everything. Many of these devices collect a vast amount of personal and intimate information. If not properly secured, this immense amount of private information can be vulnerable to breaches. In addition, many of these devices can be directly hacked into, allowing strangers to conduct surreptitious surveillance on homes or to communicate through devices directly. Perhaps most disturbing, consumers may not even be aware of the full capabilities of these products or the information that is being collected.

The Legislative Response

To address these innovations and their attendant risks, SB 327 (Jackson, Chapter 886, Statutes of 2018)[3] was introduced to establish baseline security requirements for "connected devices," defined as any device, or other physical object that is capable of connecting to the Internet, directly or indirectly, and that is assigned an Internet Protocol address or Bluetooth address. SB 327 created Civil Code Section 1798.91.04. Subdivision (a) of that statute requires a manufacturer of a connected device to equip the device with a reasonable security feature or features that are appropriate to the nature and function of the device; appropriate to the information it may collect, contain, or transmit; and designed to protect the device and any information contained therein from unauthorized access, destruction, use, modification, or disclosure. The law also has a series of clarifying exemptions and limitations to the above provisions.

Section 1798.91.04(b) addresses one specific functionality of connected devices, a means for authentication outside a local area network. The bill provides that it shall be deemed a reasonable security feature if the preprogrammed password is unique to each device manufactured or the device contains a security feature that requires a user to generate a new means of authentication before access is granted to the device for the first time. The statute thereby provides one example of what is deemed a "reasonable security feature" with regard to the ability to remotely connect into a device. However, this provision does not act as a safe harbor even for a device with this security feature as there may be other elements of the device requiring other features. The provision makes it clear that it is still "[s]ubject to all of the requirements of subdivision (a)."

[3] Another bill, AB 1906 (Irwin, Ch. 860, Stats. 2018) was later introduced and the bills were eventually merged into identical vehicles with contingent enactment.

Further responding to the surge in IOT devices

Concerns continue to exist that IOT devices are not adequately protected. The author points to a study conducted by NIST in 2019 that evaluated the security of select consumer connected devices:

> The results of the review showed that all reviewed IoT devices implemented at least some cybersecurity features. Common features that devices supported included secure communications among components of the consumer home IoT ecosystem using TLS 1.2, password protection for applications and devices, and secure access to the IoT devices from various user interfaces.
>
> These features were not always implemented, though, or did not all have the same level of maturity across devices in a category. Many devices provided update features, but most categories had some issue with the security of the update process, such as lack of automatic download options; unprotected update communications; or insufficient control provided to the user to schedule or stop automatic updates, including the inability to roll back an update if needed.[4]

President Biden emphasized the gravity of the cybersecurity issues facing the nation in an executive order issued last May:

> The United States faces persistent and increasingly sophisticated malicious cyber campaigns that threaten the public sector, the private sector, and ultimately the American people's security and privacy. The Federal Government must improve its efforts to identify, deter, protect against, detect, and respond to these actions and actors. The Federal Government must also carefully examine what occurred during any major cyber incident and apply lessons learned. But cybersecurity requires more than government action. Protecting our Nation from malicious cyber actors requires the Federal Government to partner with the private sector. The private sector must adapt to the continuously changing threat environment, ensure its products are built and operate securely, and partner with the Federal Government to foster a more secure cyberspace. In the end, the trust we place in our digital infrastructure should be proportional to how trustworthy and transparent that infrastructure is, and to the consequences we will incur if that trust is misplaced.[5]

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[4] Michael Fagan, et al., *Security Review of Consumer Home Internet of Things (IoT) Products* (October 2019) NIST, **https://nvlpubs.nist.gov/nistpubs/ir/2019/NIST.IR.8267-draft.pdf**.

[5] *Executive Order on Improving the Nation's Cybersecurity* (May 12, 2021) The White House, **https://www.whitehouse.gov/briefing-room/presidential-actions/2021/05/12/executive-order-on-improving-the-nations-cybersecurity/**.

As part of the order, the Secretary of Commerce acting through the Director of NIST, in coordination with representatives of other agencies as the Director of NIST deems appropriate, was required to initiate pilot programs informed by existing consumer product labeling programs to educate the public on the security capabilities of IoT devices and software development practices and consider ways to incentivize manufacturers and developers to participate in these programs. In addition, he ordered the Secretary of Commerce acting through the Director of NIST, in coordination with the Chair of the Federal Trade Commission (FTC) and representatives of other agencies as the Director of NIST deems appropriate, to identify IoT cybersecurity criteria for a consumer labeling program, and to consider whether such a program may be operated in conjunction with or modeled after existing government programs. The order stated:

> The criteria shall reflect increasingly comprehensive levels of testing and assessment that a product may have undergone, and shall use or be compatible with existing labeling schemes that manufacturers use to inform consumers about the security of their products. The Director of NIST shall examine all relevant information, labeling, and incentive programs and employ best practices. This review shall focus on ease of use for consumers and a determination of what measures can be taken to maximize manufacturer participation.

In response to this mandate, NIST published "Recommended Criteria for Cybersecurity Labeling of Consumer IoT Products."[6] The white paper lays out "recommended criteria for a cybersecurity labeling effort for consumer internet of things (IoT) products." However, it specifically states that rather than "establishing its own scheme or program" or "designing or proposing a design of a consumer IoT product label," the document identifies key elements of a potential labeling scheme with criteria recommended by NIST stated in terms of minimum requirements and desirable attributes.

This bill seeks to create a safe harbor within the connected device statute that incentivizes manufacturers to implement security features that meet this criteria. It provides that a manufacturer of a device is deemed to have complied with Section 1798.91.04(a) if the device does the following:

- Meets or exceeds the baseline product criteria of a NIST conforming labeling scheme;

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[6] NIST Cybersecurity White Paper, *Recommended Criteria for Cybersecurity Labeling for Consumer Internet of Things (IoT) Products* (February 4, 2022) NIST, **https://nvlpubs.nist.gov/nistpubs/CSWP/NIST.CSWP.02042022-2.pdf**.

- Satisfies a conformity assessment as described by a NIST conforming labeling scheme that includes a third-party test, inspection, or certification; and

- Bears the binary label as described by a NIST conforming labeling scheme.

This bill ties this to the white paper discussed above by defining "NIST conforming labeling scheme" as a "labeling scheme conforming to the Cybersecurity White Paper titled 'Recommended Criteria for Cybersecurity Labeling for Consumer Internet of Things (IoT) Products' published by the National Institute of Standards and Technology (NIST) on February 4, 2022."

Comments

Author's statement. According to the author, "AB 2392 will help Californians more easily identify secure Internet of Things (IoT) devices by encouraging the development and voluntary [adoption] of consumer-friendly cybersecurity labels. While California already has the strongest security requirements in law for IoT devices, President Biden and NIST's recent efforts on consumer cybersecurity labels provide us a key opportunity to provide even greater security and confidence to California consumers."

Argument in opposition. Consumer Reports writes, "Internet-connected devices like smart speakers and cameras are growing in popularity, leaving more and more consumers vulnerable to security breaches. In 2018, California adopted a first-of-its-kind law requiring manufacturers to adopt reasonable security procedures to keep IoT devices protected from hackers. Unfortunately, because the 2018 measure already included a safe harbor for enabling a device with a password — even though passwords are just one element of reasonable security — existing law does not adequately protect the security of these devices.

"This bill, AB 2392, proposes to add a new safe harbor to the IoT security requirement — for compliance with the recent National Institute of Standards and Technology (NIST) labeling framework — compounding the problems with the existing law. Neither safe harbor is suited to constitute reasonable security. At the very least, we recommend replacing the existing safe harbor for unique passwords in Cal. Civ. Code § 1798.91.04(b) with a stronger safe harbor, similar to the one proposed in this bill, but adjusted to account for updates to the NIST document."

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

SUPPORT: (Verified 8/3/22)

None received

OPPOSITION: (Verified 8/3/22)

Consumer Reports

ASSEMBLY FLOOR: 62-0, 5/2/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Mia Bonta, Calderon, Megan Dahle, Gallagher, Gipson, Levine, Medina, Muratsuchi, Nguyen, Patterson, Seyarto, Smith, Voepel, Waldron

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
8/3/22 14:36:09

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

SENATE RULES COMMITTEE AB 2406
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2406
Author: Aguiar-Curry (D), et al.
Amended: 6/28/22 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 15-0, 6/14/22
AYES: Gonzalez, Bates, Allen, Becker, Cortese, Dahle, Dodd, Limón, McGuire, Melendez, Min, Newman, Skinner, Wieckowski, Wilk
NO VOTE RECORDED: Archuleta, Rubio

SENATE JUDICIARY COMMITTEE: 11-0, 6/21/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, McGuire, Stern, Wiener

ASSEMBLY FLOOR: 63-1, 5/5/22 - See last page for vote

SUBJECT: Intermodal marine terminals

SOURCE: Author

DIGEST: This bill expands existing state prohibitions on the assessment of certain kinds of cargo storage charges by intermodal marine equipment providers and terminal operators by broadening the definition of prohibited charges, adding new entities on which those charges may not be levied, and adding specific conditions under which these prohibitions apply.

ANALYSIS:

Existing law:

1) Requires marine terminals to operate in a manner that does not cause trucks to idle or queue for more than 30 minutes while waiting to enter the gate into the marine terminal.

2) Prohibits an intermodal marine equipment provider or intermodal marine terminal operator from imposing per diem, detention, or demurrage charges on an intermodal carrier relative to transactions involving cargo shipped by intermodal transport under any of the following circumstances:

   a) When the intermodal marine or terminal truck gate is closed during posted normal working hours.

   b) When the intermodal marine terminal decides to divert equipment without 48 hours' electronic or written notification to the motor carrier.

   c) When the intermodal marine terminal is assessed a fine related to truck idling.

   d) When the intermodal marine terminal is out of compliance with safety inspection requirements or the equipment is placed out of service.

   e) When a loaded container is not available for pickup when the motor carrier arrives at the intermodal marine terminal.

   f) When the intermodal marine terminal is too congested to accept the container and turns away the motor carrier.

3) Prohibits an intermodal marine equipment provider from taking any of the following actions:

   a) Charge back, deduct, or offset per diem charges, maintenance and repair charges, or peak hour pricing from a motor carrier's freight bill.

   b) Unilaterally terminate, suspend, or restrict the equipment interchange rights of a motor carrier or driver that uses the dispute resolution process contained in the Uniform Intermodal Interchange and Facilities Access Agreement to contest a charge, fee, or fine, including a charge for maintenance and repairs imposed by the intermodal marine terminal , while the dispute resolution process is ongoing.

   c) Unilaterally terminate, suspend, or restrict the equipment interchange rights of a motor carrier for late payment of an undisputed invoice from the intermodal marine terminal, provided that the payment is no more than 60 days late.

   d) Unilaterally terminate, suspend, or restrict the equipment interchange rights of a motor carrier or driver for parking tickets issued by the marine terminal

unless the tickets remain unpaid more than 60 days after being in receipt of the driver or motor carrier. No parking tickets shall be issued by the marine terminal to a driver or motor carrier for a parking violation if the assigned spot was occupied and the trouble window or terminal administration was unable to immediately provide a place to park, or if the driver was instructed to park the equipment in a different spot by marine terminal personnel or security.

e) Willfully attempt to circumvent any provisions of this section or to fail, for any reason other than what is specified in the governing port tariff, to collect demurrage when due and payable and when consistent with this section. An intermodal carrier shall not be liable for any portion of demurrage when an intermodal container is not picked up during free time, which is the time period before demurrage charges are to be applied.

This bill:

1) Expands the types of charges which may not be imposed by intermodal marine equipment providers and terminal operators, including extended dwell charges, congestion charges, and any other charges of a similar character, and expands the types of entities against whom the prohibited charges may not be assessed, including beneficial cargo owners and other intermediaries relative to transactions involving cargo shipped by intermodal transport, and expands the circumstances under which those charges may not be assessed to include the following:

   a) When the intermodal motor carrier documents an unsuccessful attempt to make an appointment for a loaded or empty container.

   b) When a booked vessel cancels, booking is moved to a later vessel, or when early return dates are otherwise unilaterally advanced or delayed after equipment has been picked up.

   c) When the obstacle to the cargo retrieval or return of equipment is within the scope of responsibility of the carrier or their agent and beyond the control of the invoiced or contracting party.

2) Provides that if federal law or regulation addresses any provisions of this bill, the applicable provision shall conform to any federal standards where the federal standard is more stringent.

3) Defines "intermodal marine equipment provider" as the entity authorizing delivery or receipt of physical possession of the container with an intermodal motor carrier, beneficial cargo owner, or other intermediary.

4) Defines "intermodal marine terminal" as a marine terminal location or satellite facility, with the same local commercial territory that supports operations of an intermodal marine equipment provider, for the location from which equipment was originally received, that engages in discharging or receiving equipment owned, operated, or controlled by an equipment provider.

Comments

1) *Author's Statement*. "Agricultural exporters are losing customers around the globe while absorbing unfair fees. California manufacturers and retailers are already facing unprecedented cost increases for imports on top of paying the highest detention and demurrage rates in the world. These unfair fees ultimately increase the price of goods and services for all Californians. This bill will protect California businesses from being charged excessive and unfair fees (detention/demurrage) by intermodal marine equipment providers (equipment providers) for reasons outside the control of the business by clarifying and modernizing the protections set by SB 45 (Alarcon), Chapter 244, Statutes of 2005."

2) *Pick Up Your Room*. Containers that aren't picked up quickly from the dock or warehouse create congestion which can clog the supply chain. In the fall of 2021 the Ports of Los Angeles and Long Beach were the focus of national attention as port congestion slowed the movement of goods, created a near parking lot of full container ships waiting offshore to be unloaded, and threatening Christmas. At the time, much of the blame was placed on shippers who were slow to pick up their containers. The obvious solution was to impose a fee on those containers which were parked for too long, which the ports threatened to do but ultimately never did. This bill prohibits the imposition of these types of fees, known as demurrage, detention charges, congestion charges or dwell charges under specified circumstances by certain types of intermodal terminal companies. (It does not apply to ports themselves.) Supporters contend that they have been subject to unfair late charges by international ocean carriers when the late pickup is outside of their control. They further argue that these fees are far higher than charged elsewhere in the world.

3) *Nationwide Problem*. Supply chain constraints are affecting importers and exporters nationwide, making this a problem best solved by the federal government. The Federal Maritime Commission (FMC) is considering the issue of demurrage billing practices and is in the midst of a proposed rulemaking to revise the rules.[1] California has weighed in and supported the FMC's efforts.[2] Congress is also considering reforms to shipping practices in the Ocean Shipping Reform Act, which has passed both houses and is awaiting final reconciliation.

4) *Our Fight?* The commercial relationship between shippers and the shipping industry is covered in a global agreement known as the Uniform Intermodal Interchange and Facilities Access Agreement (UIIA). Terms and conditions for the exchange and use of intermodal equipment are covered in the UIIA and the vast majority of the industry agrees to its terms. The supporters of this bill believe that the UIIA has inadequately protected their interests and that parts of the shipping industry are unfairly imposing fees upon them. In this way this bill is getting in the middle of a commercial dispute between California shippers and global shipping companies. Whether this is legal is for the courts to decide, but there may be precedent in that state law was applied to a similar case.[3]

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

SUPPORT: (Verified 6/28/22)

African American Farmers of California
Agricultural Council of California
Agriculture Transportation Coalition
Air Conditioning, Heating and Refrigeration Institute
Almond Alliance of California
American Chemistry Council
American Forest & Paper Association
American Home Furnishings Alliance
American Lighting Association
American Pistachio Growers
American Trucking Associations' Agricultural Food Transporters Conference and Intermodal Motor Carrier Conference
Association of Food Industries

[1] See FMC Advanced Notice of Proposed Rulemaking posted February 4, 2022.
[2] See January 28, 2021 letter from Eleni Kounalakis, Lt. Governor; Dee Dee Myers, Director of GO-Biz; Karen Ross, Secretary of the Department of Food and Agriculture to FMC.
[3] Unimax Express, Inc. v. Cosco North America, Inc.; Case No. CV 11-02947 DDP, United States District Court Central district of California; November 28, 2011.

Association of Home Appliance Manufacturers
Auto Care Association
California Apple Commission
California Blueberry Association
California Blueberry Commission
California Citrus Mutual
California Cotton Ginners and Growers Association
California Farm Bureau
California Fresh Fruit Association
California Manufacturers and Technology Association
California Olive Oil Council
California Retailers Association
California Rice Commission
California Trucking Association
California Walnut Commission
Capay Canyon Ranch
CAWA - Representing the Automotive Parts Industry
Columbia River Customs Brokers & Forwarders Association
Far West Equipment Dealers Association
Fashion Accessories Shippers Association
Fashion Jewelry and Accessories Trade Association
Foreign Trade Association
Gemini Shippers Association
Green Coffee Association
Harbor Trucking Association
International Housewares Association
International Warehouse Logistics Association
Leather and Hide Council of America
Los Angeles Customs Brokers and Freight Forwarders Association
Meat Import Council of America
National Confectioners Association
National Hay Association
National Milk Producers Federation
National Onion Association
Nisei Farmers League
North American Meat Institute
Northern California Customs Brokers and Freight Forwarders Association
Olive Growers Council of California
Pacific Coast Council of Customs Brokers and Freight Forwarders Association
Pet Food Institute

Plumbing Manufacturers International
Promotional Products Association International
Retail Industry Leaders Association
San Diego Customs Brokers and Forwarders Association
Specialty Crop Trade Council
Sports & Fitness Industry Association
Truck and Engine Manufacturers Association
U.S. Dairy Export Council
U.S. Forage Export Council
Western Agricultural Processors Association
Western Growers Association
Western Plant Health Association
Western States Trucking Association

OPPOSITION: (Verified 6/28/22)

Pacific Merchant Shipping Association

ASSEMBLY FLOOR: 63-1, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Friedman, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: O'Donnell
NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Gallagher, Cristina Garcia, Gipson, Levine, Medina, Villapudua, Waldron

Prepared by: Randy Chinn / TRANS. / (916) 651-4121
6/28/22 15:37:11

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

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THIRD READING

Bill No: AB 2431
Author: Committee on Banking and Finance
Amended: 6/9/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 8-0, 5/31/22
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas, Jones, Stern

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-0, 6/22/22
AYES: Cortese, Durazo, Laird, Newman
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 68-0, 4/21/22 (Consent) - See last page for vote

SUBJECT: Business entities: statement of information: requirements

SOURCE: California Lawyers Association, Business Law Section, Partnerships and Limited Liability Companies Committee

DIGEST: This bill modifies the requirement for a limited liability company (LLC) to include in its statement of information a statement indicating whether a member or manager has an outstanding final judgment related to a wage order or Labor Code violations.

ANALYSIS:

Existing law:

1) Establishes the California Revised Uniform Limited Liability Company Act, which governs the formation and regulation of limited liability companies in this state. (Corp. Code, tit. 2.6, §§ 17701.01 et seq.)

2) Defines the following relevant terms:

   a) A "foreign limited liability company" is an unincorporated entity formed under the law of a jurisdiction other than this state and denominated by that law as a limited liability company. (Corp. Code, § 17701.02(j).)

   b) A "limited liability company," except in the phrase "foreign limited liability company," is a domestic entity formed under the Act. (Corp. Code, § 17701.02(k).)

3) Requires every limited liability company and every foreign limited liability company registered to transact intrastate business in this state to deliver to the SOS a statement of information that contains the following information:

   a) The name of the LLC, the filing number issued by the Secretary of State, and for a foreign LLC, the name under which it is authorized to transact business in this state and the jurisdiction under the laws of which it was organized.

   b) The name and address of its agent in this state for service of process.

   c) The street address of its principal office.

   d) The mailing address of the LLC, if different from its principal office.

   e) The name and complete business or residence address of any manager(s) and the chief executive officer, if any; or, if no manager or officer has been elected, the name and business or residence address of each member.

   f) The valid email address for the LLC, if the LLC chooses to receive renewal notices and other notifications from the Secretary of State by email.

   g) The general type of business that constitutes the LLC's principal business activity.

   h) A statement indicating whether any member or manager has an outstanding final judgment issued by the Division of Labor Standards Enforcement or a court of law, for which no appeal therefrom is pending, for the violation of a wage order or provision of the Labor Code. (Corp. Code, § 17702.09(a).)

4) Provides that a statement of information must be filed at the following times:

   a) Ninety days after the LLC files its original articles of organization or, for a foreign LLC, its registration to transact intrastate business in the state;

b) Biennially after the first statement.

c) When the LLC changes its agent for service for process or the address of the agent.

d) At the discretion of the LLC, when the LLC changes information required to be disclosed under 3) other than the information relating to the agent for service of process; the LLC may also opt to wait until its regular filing period. (Corp. Code, § 17702.09(a), (d).)

5) Requires a corporation incorporated in California to file a biennial statement of information containing similar information to the LLC statement of information described in 3), including a statement indicating whether any officer or any director has an outstanding final judgment issued by the Division of Labor Standards Enforcement or a court of law, for which no appeal therefrom is pending, for the violation of any wage order or provision of the Labor Code. (Corp. Code, § 1502.)

This bill:

1) Modifies the requirement that an LLC disclose judgments for wage order or Labor Code violations as follows:

a) For a manager-managed LLC, the statement of information must include a statement indicating whether any manager has an outstanding final judgment issued by the Division of Labor Standards Enforcement or a court of law, for which no appeal therefrom is pending, for the violation of any wage order or provision of the Labor Code.

b) For a member-managed LLC, the statement of information must include a statement indicating whether any member has an outstanding final judgment issued by the Division of Labor Standards Enforcement or a court of law, for which no appeal therefrom is pending, for the violation of any wage order or provision of the Labor Code; unless, however, the LLC's written operating agreement limits the members who are agents of the LLC for the purpose of its business and affairs to a specified member or specified members pursuant to Corporations Code section 17701.10, in which case the statement is required only with respect to the specified member or members.

c) For a foreign LLC that is not managed by a manger or mangers, the statement of information must include a statement indicating whether any member has an outstanding final judgment issued by the Division of Labor Standards Enforcement or a court of law, for which no appeal therefrom is

pending, for the violation of any wage order or provision of the Labor Code; unless, however, the member is not an agent of the foreign LLC for purposes of its business and affairs, in which case the statement is required only with respect to the member or members who are agents of the foreign LLC.

2) Makes certain technical and nonsubstantive conforming changes.

Comments

Authors comments. In 2020, the Legislature passed AB 3075 to help prevent a bad actor business from evading a wage theft judgment by closing down and starting a new business. One of AB 3075's provisions requires limited liability companies (LLCs) and corporations to attest whether key individuals in the business have an outstanding final judgment issued by the Labor Commissioner. Unfortunately, this requirement, as drafted, did not anticipate different management structures for LLCs. This bill clarifies this requirement so that it more precisely applies to the individuals who manage the LLC's business operations rather than passive investors, making the attestation requirement consistent for LLCs and corporations. AB 2431 strengthens the protections put in place by AB 3075 and ensures equal treatment of limited liability companies (LLC's) and corporations under the Corporations Code.

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

SUPPORT: (Verified 7/28/22)

California Lawyers Association, Business Law Section, Partnerships and Limited Liability Companies Committee (source)

OPPOSITION: (Verified 7/28/22)

None received

ARGUMENTS IN SUPPORT: According to the sponsor of the bill, the Partnerships and Limited Liability Companies Committee of the Business Law Section of the California Lawyers Association:

> This bill addresses an inconsistency in the treatment of limited liability companies from that of corporations…
>
> Under current statutory language, the statement of a corporation applies only to the officers or directors of the corporation, thereby applying the provisions to those who manage and direct the affairs of the business entity. It does not, for

example, apply to a corporation's shareholders. In contrast, the statement of a limited liability company applies to "any member" even if the member is not an agent of the limited liability company for the purpose of its business and affairs.

This bill ensures that the disclosure requirement for a limited liability company is consistent with that of a corporation by limiting that requirement to managers and those members who are agents of the limited liability company for the purpose of its business affairs.

ASSEMBLY FLOOR: 68-0, 4/21/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Carrillo, Cervantes, Chen, Choi, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Gipson, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wilson, Wood, Rendon
NO VOTE RECORDED: Bennett, Bigelow, Calderon, Cooley, Cooper, Eduardo Garcia, Gray, Blanca Rubio, Wicks

Prepared by: Allison Meredith / JUD. / (916) 651-4113
8/3/22 14:36:11

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

SENATE RULES COMMITTEE AB 2441
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2441
Author: Kalra (D)
Amended: 6/2/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-0, 6/1/22
AYES: Cortese, Durazo, Laird, Newman
NO VOTE RECORDED: Ochoa Bogh

ASSEMBLY FLOOR: 50-18, 4/21/22 - See last page for vote

SUBJECT: Public employment: local public transit agencies: new vehicle technology

SOURCE: California Conference Board of the Amalgamated Transit Union
California Teamsters Public Affairs Council

DIGEST: This bill requires public transit districts to notify their employees' unions of the district's determination, as specified, to initiate any procurement process or plan to acquire or deploy new vehicle technology for public transit services not less than 12 months before commencing the process, plan, or deployment and establishes a procedure to, upon written request from the union, provide specified reports and engage in collective bargaining regarding the plan.

ANALYSIS:

Existing law:

1) Establishes transit districts pursuant to various sections of the Public Utilities Code (PUC) for the purpose of providing public transportation services. However, cities, counties, and other local governmental entities may also establish transit agencies pursuant to their local authority under the Government Code or local charter. (PUC §§ 24501 through §§ 107025).

2) Governs collective bargaining in the private sector under the federal National Labor Relations Act (NLRA) but leaves to the states the regulation of collective bargaining in their respective public sectors. While the NLRA and the decisions of its National Labor Relations Board (NLRB) often provide persuasive precedent in interpreting state collective bargaining law, public employees generally have no collective bargaining rights absent specific statutory authority establishing those rights. (29 United State Code § 151 et seq.)

3) Provides several statutory frameworks under California law to provide public employees collective bargaining rights, govern public employer-employee relations, and limit labor strife and economic disruption in the public sector through a reasonable method of resolving disputes regarding wages, hours and other terms and conditions of employment between public employers and recognized public employee organizations or their exclusive representatives. These include the Meyers-Milias-Brown Act (MMBA) which provides for public employer-employee relations between local government employers and their employees, including some, but not all public transit districts. (Government Code § 3500 et seq.)

4) Establishes the Public Employment Relations Board (PERB), a quasi-judicial administrative agency charged with administering certain statutory frameworks governing employer-employee relations, resolving disputes, and enforcing the statutory duties and rights of public agency employers and employee organizations, but provides the City and County of Los Angeles, respectively, local alternatives to PERB oversight. (GC § 3541)

5) Does not cover California's public transit districts by a common collective bargaining statute. Instead, while some transit agencies are subject to the MMBA, many transit agencies are instead still subject to labor relations provisions found in each district's specific PUC enabling statute, in joint powers agreements, or in articles of incorporation and bylaws. (e.g., Public Utilities Code § 28500)

6) Provides transit employees not under the MMBA with basic rights to organization and representation, but does not define or prohibit unfair labor practices. Unlike other California public agencies and employees, these transit agencies and their employees generally rely upon the courts to remedy alleged violations unless otherwise provided in their enabling statute. Additionally, they may be subject to provisions of the federal Labor Management Relations Act of

1947 (Taft-Hartley) and the 1964 Urban Mass Transit Act, now known as the Federal Transit Act. (PUC § 24501 et seq.; 49 United State Code § 5333 (b))

7) Provides that the following provisions shall govern disputes between exclusive bargaining representatives of public transit employees and local agencies not covered by the MMBA:

   a) The disputes shall not be subject to any fact-finding procedure otherwise provided by law.
   b) Each party shall exchange contract proposals not less than 90 days before the expiration of a contract, and shall be in formal collective bargaining not less than 60 days before that expiration.
   c) Each party shall supply to the other party all reasonable data as requested by the other party.
   d) At the request of either party to a dispute, a conciliator from the California State Mediation and Conciliation Service shall be assigned to mediate the dispute and shall have access to all formal negotiations. (GC § 3611).

This bill:

1) Requires a public transit employer to notify the exclusive employee representative in writing of its determination to begin, or substantive progress toward initiating, any procurement process or plan to acquire or deploy any new vehicle technology for public transit services, as specified, not less than 12 months before commencing the process, plan, or deployment.

2) Provides that the required notification shall apply to any new vehicle technology for services, including automated vehicles, that eliminate job functions or jobs of the workforce to which the new vehicle technology will apply.

3) Provides that after the required notification and upon written request by the exclusive employee representative therefore, the public transit employer shall provide within 15 days of its next regular governing board meeting to the employee representative, the following information:

   - A comprehensive analysis of the effects of new products, services, or type of operation on workers, including workers who may not be adequately skilled in their use or may be fully displaced by them.
   - The potential gaps in skills that may result from the new service on the workers to which it will apply.

- The total amount budgeted for, and descriptions of, training and retraining programs for affected workers.

4) Requires a public transit employer, upon a written request from the affected employees' union, to engage in collective bargaining on the following subjects:

   - Developing the new product or service.
   - Implementing the new product or service.
   - Creating a transition plan for affected workers.
   - Creating plans to train and prepare the affected workforce to fill new positions created by a new service or product.

5) States that no one shall deem this bill to supersede the employee representative's right for disclosure of information by the public transit employer pursuant to the California Public Records Act.

6) Prohibits anyone from construing this bill's provision as creating any labor requirements that are less protective of employees than any labor requirements created pursuant to statute or a collective bargaining agreement.

7) Provides that this bill's provisions are severable. If any provision or its application is held invalid, the invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

8) Defines the following terms:

   - "Autonomous technology" means technology that has the capability to drive a vehicle without the active physical control by a human operator.
   - "New vehicle technology" means the following:
     - Autonomous technology.
     - Camera and voice systems whose principal purpose is to replicate customer information services currently provided by a transit worker.
     - Other new technology that pertains directly to the operation of a vehicle and eliminates jobs or job functions of the workforce to which they apply.
     - Maintenance services, as specified.
   - "Plan to acquire or deploy" includes any public notification that initiates acquisition or deployment of new vehicle technology.
   - "Procurement process" means any of the following:
     - A request for information.
     - A request for proposal.

- A request for quotation.
- Any substantially similar request that begins the process of acquiring new equipment or technology.

Comments

Author's statement. According to the author:

> Autonomous technologies and other products that may displace workers are enticing to transit agencies as it would allow them to save money on labor costs. However, transit employees play a critical role in facilitating a safe and smooth passenger experience for commuters and passengers across the state. In fulfilling non-driving responsibilities, workers can increase accessibility for riders with disabilities, elderly riders, riders who speak other languages, and even younger riders.
>
> AB 2441 rightfully recognizes these technologies often come with impacts on the existing workforce that should be reviewed. While a transit agency may score a cost-savings in labor costs, the state must be vigilant in ensuring public safety and maintaining an adequate workforce.

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

SUPPORT: (Verified 6/2/22)

California Conference Board of the Amalgamated Transit Union (co-source)
California Teamsters Public Affairs Council (co-source)
American Federation of State, County and Municipal Employees
California Alliance for Retired Americans
California Conference of Machinists
California Labor Federation
California State Legislative Board, Smart Transportation Division
Engineers and Scientists of California, IFPTE Local 20
International Union of Operating Engineers, California-Nevada Conference
Transport Workers Union of America
Unite Here
Utility Workers Union of America

OPPOSITION: (Verified 6/2/22)

California Transit Association
Monterey-Salinas Transit

ARGUMENTS IN SUPPORT: According to the California Teamsters Public Affairs Council:

> AB 2441 is a comprehensive measure meant to restore and protect transit workers' voice in the implementation of new transit services, including automated vehicles. Regrettably, public transit employers have already begun to earmark dollars or show interest in the implementation of services that displace career-sustaining jobs across the industry. These new technologies may cut labor cuts in the short term but fail to recognize the importance transit employees play in facilitating a safe and smooth passenger experience for commuters and passengers across the state.

ARGUMENTS IN OPPOSITION: According to the California Transit Association:

> We recognize the bill's intent is to require notification and potentially bargaining prior to the deployment of autonomous vehicles, and we believe language entirely focused on that specific technology should be the starting place for moving forward. That said, we will note that transit agencies routinely engage in collective bargaining with their employees and the Association believes that how employees are managed vis-à-vis autonomous vehicle deployment would be subject to those processes moving forward. The Meyers-Milias-Brown Act (Government Code 3500 et seq.) already requires that transit employers 'meet and confer in good faith regarding wages, hours, and other terms and conditions of employment' and that both parties are under an 'obligation personally to meet and confer promptly upon request by either party and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation prior to the adoption by the public agency of its final budget for the ensuing year.' Our member agencies consider worker displacement or loss of job function to be terms and conditions of employment that would trigger the meet and confer process; therefore, we argue this bill is unnecessary.

ASSEMBLY FLOOR: 50-18, 4/21/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Carrillo, Cervantes, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos,

Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wilson, Wood, Rendon
NOES: Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Bennett, Bigelow, Calderon, Chen, Cooley, Cooper, Gray, McCarty, Wicks

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
6/3/22 9:49:15

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

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

THIRD READING

Bill No: AB 2442
Author: Robert Rivas (D)
Amended: 8/1/22 in Senate
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 9-5, 6/14/22
AYES: Dodd, Allen, Becker, Bradford, Hertzberg, Hueso, Kamlager, Portantino, Roth
NOES: Nielsen, Borgeas, Jones, Melendez, Wilk
NO VOTE RECORDED: Glazer

SENATE GOVERNANCE & FIN. COMMITTEE: 4-1, 6/29/22
AYES: Caballero, Durazo, Hertzberg, Wiener
NOES: Nielsen

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 57-10, 5/25/22 - See last page for vote

SUBJECT: Climate change

SOURCE: The Nature Conservancy

DIGEST: This bill adds "climate change" to the definition of the term "disaster," for the purposes of the California Disaster Assistance Act (CDAA); and, specifies that mitigation measures for climate change and disasters related to climate, may include, but are not limited to, measures that reduce emissions of greenhouse gases (GHGs) and investments in natural infrastructure, as specified.

ANALYSIS:

Existing law:

1) Specifies that the CDAA requires the Director of the Office of Emergency Services (OES) to provide financial assistance to local agencies for their personnel costs, equipment costs, and the cost of supplies and materials used

during disaster response activities, incurred as a result of a state of emergency proclaimed by the Governor, subject to certain criteria.

2) Requires the Director to authorize the replacement of a damaged or destroyed facility, whenever a local agency and the director determine that the general public and state interest will be better served by replacing a damaged or destroyed facility with a facility that will more adequately serve the present and future public needs than would be accomplished merely by repairing or restoring the damaged or destroyed facility.

3) Authorizes the Director to implement mitigation measures when the director determines that the measures are cost effective and substantially reduce the risk of future damage, hardship, loss, or suffering in any area where a state of emergency has been proclaimed by the Governor.

4) Defines "disaster" to mean a fire, flood, storm, tidal wave, earthquake, terrorism, epidemic, or other similar public calamity that the Governor determines presents a threat to public safety.

5) Defines "natural infrastructure" to mean using natural ecological systems or processes to reduce vulnerability to climate change related hazards, or other related climate change effects, while increasing the long term adaptive capacity of coastal and inland areas by perpetuating or restoring ecosystem services, as specified.

This bill:

1) Expands, for the purposes of the CDAA, the definition of "disaster" to include "climate change."

2) Provides that, for climate change and disasters related to climate, mitigation measures may include, but are not limited to, measures that reduce emissions of GHGs and investments in natural infrastructure, as defined, including, but not limited to, the preservation of open space, improved forest management, and wildfire risk reduction measures.

Background

Purpose of this bill. According to the author's office, "current law is inconsistent as to whether climate change is a hazard in and of itself, or whether it is merely a

'hazard modifier' that increases the risks associated with existing hazards like storms or floods. Assembly Bill 2442 will clarify that climate change is itself a hazard as well as a hazard modifier, which will enable better integration of climate mitigation and adaptation planning at the state and local levels as well as open up new sources of state and federal funding for climate resilience."

California Emergency Services Act. The California Emergency Services Act (ESA) grants the Governor the authority to proclaim a state of emergency in an area affected or likely to be affected when: a) conditions of disaster or extreme peril exist; b) the Governor is requested to do so upon request from a designated local government official; or c) the Governor finds that local authority is inadequate to cope with the emergency. Local governments may also issue local emergency proclamations, which is a prerequisite for requesting the Governor's Proclamation of a State of Emergency.

The ESA grants the Governor certain special powers during a declared state of emergency, which are in addition to any other existing powers otherwise granted. For example, the ESA empowers the Governor to expend any appropriation for support of the ESA in order to carry out its provisions, as well as the authority to make, amend, and rescind orders and regulations necessary to carry out the ESA. The orders and regulations shall have the force and effect of law.

Additionally, the ESA authorizes the director of OES, when the director determines there are mitigation measures that are cost effective and that substantially reduce the risk of future damage, hardship, loss, or suffering in any area where a state of emergency has been proclaimed by the Governor, to authorize the implementation of those mitigation measures. This bill, for climate change and disasters related to climate, provides that mitigation measures may include, but are not limited to, measures that reduce emissions of GHGs and investments in natural infrastructure, including, but not limited to, the preservation of open space, improved forest management, and wildfire risk reduction measures, as specified.

Local Government General Plans. Every county and city must adopt a general plan with seven mandatory elements: land use, circulation, housing, conservation, open space, noise, and safety. Except for the housing elements, state law does not require counties and cities to regularly revise their general plans. Most cities' and counties' major land use decisions—subdivisions, zoning, public works projects, use permits—must be consistent with their general plans. Development decisions must carry out and not obstruct a general plan's policies.

The Planning and Zoning Law says that the safety element's purpose is to protect the community from unreasonable risks from geologic hazards, flooding, and wildland and urban fires. In 2007, the Legislature expanded the safety elements' contents for flood hazards AB 162 (Wolk, Chapter 369, Statutes of 2007). Similarly, in 2012, the Legislature expanded the safety elements' contents for fire risks on land classified as state responsibility areas and very high fire hazard severity zones SB 1241 (Kehoe, Chapter 311, Statutes of 2012). These bills require safety elements to contain:

- Specified information about flood hazards and fire hazards.
- Based on that information, a set of comprehensive goals, policies, and objectives to protect against unreasonable flood risks and fire risks.
- To carry out those goals, a set of feasible implementation measures.

In recent years, local officials have started to focus more attention on the risks posed to communities throughout California by the potential effects of global climate change, including increased temperatures, sea level rise, a reduced winter snowpack, altered precipitation patterns, and more frequent storm events. Many local governments have adopted a local hazard mitigation plan (LHMP) to identify all of the natural hazards that threaten a community and strategies to mitigate those hazards. The Federal Emergency Management Agency (FEMA) reviews and approves every LHMP, and the LHMP expires five years after it's approved, unless amended and recertified.

Seeking to ensure that cities and counties consider risks associated with climate change, the Legislature passed SB 379 (Jackson, Chapter 608, Statutes of 2015), which requires cities and counties to review and update their general plans' safety elements to address climate adaptation and resiliency. SB 379 requires the safety element to contain specified information on climate adaptation and resiliency strategies applicable to that city or county, including:

- A vulnerability assessment that identifies the risks that climate change poses to the local jurisdiction and the geographic areas at-risk from climate change impacts, including existing and planned development in identified at-risk areas.
- A set of adaptation and resilience goals, policies, and objectives for the protection of the community based on the identified climate risks.
- A set of feasible implementation measures designed to carry out those goals, policies, and objectives.

Under SB 379, cities and counties must revise their safety elements to include this information upon the next update of a city or county's LHMP after January 1,

2017, or by January 1, 2022, if the city or county has not adopted a LHMP. If the city or county has adopted a LHMP or other planning document that meets those requirements, a city or county can incorporate the LHMP or other plan by reference in the general plan instead of revising the safety element.

Cities and counties must also review and revise the information in their safety element along with each update of the housing element or LHMP, but no less than once every eight years, to identify new information relating to flood and fire hazards and climate adaptation and resiliency strategies applicable to the city or county that was not available during the previous revision of the safety element.

Natural Infrastructure. The state has various programs to ensure that California is adapting appropriately to the changing climate. The California Natural Resources Agency develops and regularly updates the "Safeguarding California Plan," which lays out the steps that all state agencies are taking to protect California's communities, infrastructure, services, and environment from climate change. The Safeguarding California Plan was last updated in 2018. Consistent with the plan, state agencies must promote the use of the plan to inform planning decisions and ensure that state investments consider climate change impacts, as well as promote the use of natural systems and natural infrastructure, when developing physical infrastructure to address adaptation.

As noted above, local agencies must also, where feasible, identify natural infrastructure that can be used in adaptation projects. They must also use existing or restored natural features and ecosystem processes where feasible. Natural infrastructure is defined to mean using natural ecological systems or processes to reduce vulnerability to climate change related hazards, or other related climate change effects, while increasing the long-term adaptive capacity of coastal and inland areas by perpetuating or restoring ecosystem services. This includes, but is not limited to, the conservation, preservation, or sustainable management of any form of aquatic or terrestrial vegetated open space, such as beaches, dunes, tidal marshes, reefs, seagrass, parks, rain gardens, and urban tree canopies. It also includes systems and practices that use or mimic natural processes, such as permeable pavements, bioswales, and other engineered systems, such as levees that are combined with restored natural systems, to provide clean water, conserve ecosystem values and functions, and provide a wide array of benefits to people and wildlife.

California Disaster Assistance Act. The CDAA authorizes the Director of OES to administer a disaster assistance program that provides financial assistance from the state for costs incurred by local governments as a result of a disaster event.

Funding for the repair, restoration, or replacement of public real property damaged or destroyed by a disaster is made available when the director concurs with a local emergency proclamation requesting state disaster assistance. Currently "disaster" is defined to include a fire, flood, storm, tidal wave, earthquake, terrorism, epidemic, or other similar public calamity that the Governor determines presents a threat to public safety.

When there is a federal declaration, FEMA pays 75%, and the state may pay up to 75% of the remaining 25% of eligible costs for any state-declared emergency (18.75%of the total). For some statutorily specified disasters, the state may pay up to 100% of the non-federal eligible disaster mitigation costs. Existing law prohibits the state share for any eligible project from exceeding 75% of state eligible costs unless the local agency has adopted a local hazard mitigation plan as part of the safety element of its general plan.

AB 2442 expands the definition of "disaster," for the purposes of the CDAA, to include "climate change."

Related/Prior Legislation

SB 558 (Caballero, 2021-22) establishes the Farmworker Disaster Relief Planning Task Force in OES, as specified. (Pending in the Assembly Appropriations Committee)

SB 462 (Borgeas, 2021) would have required the state share be up to 100% of total state eligible costs associated with the Creek Fire that started on September 4, 2020, in the Counties of Fresno and Madera. (Held on the Senate Appropriations Committee Suspense File)

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

SUPPORT: (Verified 8/8/22)

The Nature Conservancy (source)
California Native Plant Society
CivicWell
Defenders of Wildlife

OPPOSITION: (Verified 8/8/22)

Western States Petroleum Association

ARGUMENTS IN SUPPORT: In support of this bill, The Nature Conservancy writes that, "AB 2442 will clarify that climate change is itself a hazard as well as a hazard modifier, which will enable better integration of climate mitigation and adaptation planning at the state and local levels. The lack of clarity in current law has caused confusion among state and local government officials tasked with hazard mitigation planning. For example, several counties (including San Francisco and Santa Cruz) have identified climate change as a standalone hazard in their most recent Local Hazard Mitigation Plans, while the rest treat it as a hazard modifier. The result is inconsistent approaches to climate mitigation and adaptation planning across the state, which can lead to state and local government agencies missing opportunities to integrate climate mitigation and adaptation planning, maximize benefits, and access new funding sources to fund climate resiliency."

ARGUMENTS IN OPPOSITION: In opposition to this bill, the Western States Petroleum Association writes that, "AB 2442 seems to try to drive clarity and consistency within local jurisdictional hazard mitigation plans with regards to how they address disasters that may be exacerbated by climate change. By including 'climate change' in the definition of 'disaster,' it is likely to achieve the opposite effect due to the fact that all other examples used in the definition of 'disaster' are specific events in time for which a governor could declare a disaster after the event occurs. This definition includes fire, floods, storms, tidal waves, earthquakes, terrorism, and epidemics. In order to drive consistency with the current definition of disaster under the CDAA, AB 2442 would be better served by including additional types of events which can be exacerbated by climate change to be more inclusive of the types of disasters a local jurisdiction should be preparing for. This could include examples such as extreme heat and/or cold events, droughts, etc. This change would provide significantly more direction to local jurisdictions that are designing measures in hazard mitigation plans because it would allow them to address specific disasters."

ASSEMBLY FLOOR: 57-10, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NOES: Bigelow, Megan Dahle, Fong, Gallagher, Kiley, Lackey, Patterson, Seyarto, Smith, Voepel
NO VOTE RECORDED: Berman, Chen, Choi, Cooley, Cunningham, Davies, Flora, Mathis, Nguyen, O'Donnell, Valladares

Prepared by: Brian Duke / G.O. / (916) 651-1530
8/10/22 14:19:14

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

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

THIRD READING

Bill No: AB 2449
Author: Blanca Rubio (D)
Amended: 8/8/22 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/22/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE JUDICIARY COMMITTEE: 9-1, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, McGuire, Stern, Wieckowski, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas

ASSEMBLY FLOOR: 65-4, 5/26/22 - See last page for vote

SUBJECT: Open meetings: local agencies: teleconferences

SOURCE: Author

DIGEST: This bill allows, until January 1, 2026, members of a legislative body of a local agency to use teleconferencing without noticing their teleconference locations and making them publicly accessible under certain conditions.

Senate Floor Amendments of 8/8/22 clarify the process for members of legislative bodies to participate via teleconference in cases of emergency circumstances, and refine provisions regarding compliance with applicable civil rights and nondiscrimination laws.

ANALYSIS:

Existing law:

1) Guarantees, pursuant to Article I, Section 3 of the California Constitution, that "the people have the right to instruct their representatives, petition government

for redress of grievances, and assemble freely to consult for the common good." This includes a right to access information concerning the meetings and writings of public officials.

2) Requires, pursuant to the Constitution, local agencies to comply with certain state laws that outline the basic requirements for public access to meetings and public records. If a subsequent bill modifies these laws, it must include findings demonstrating how it furthers the public's access to local agencies and their officials.

3) Provides, under the Ralph M. Brown Act, guidelines for how local agencies must hold public meetings:

   a) Defines a "meeting" as "any congregation of a majority of the members of a legislative body at the same time and location, including teleconference locations, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body."

   b) Requires local agencies to notice meetings in advance, including the posting of an agenda, and requires these meetings to be open and accessible to the public.

   c) Requires members of the public to have an opportunity to comment on agenda items, and generally prohibits deliberation or action on items not listed on the agenda.

   d) If a member of the public, including the respective district attorney, believes a local agency violated the Brown Act, it must first send an order to the local agency to correct the violation. If the local agency disagrees with the complaint and does not correct it, the submitter can pursue the complaint through the courts. If the court agrees with the complaint, outcomes range from invalidating certain actions of the local agency to a misdemeanor.

4) Authorizes the legislative body of a local agency to use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law, provided that the teleconferenced meeting complies with all of the following conditions:

   a) Teleconferencing, as authorized, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting must be by rollcall.

b) If the legislative body elects to use teleconferencing, it must post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or in the public appearing before the legislative body of the local agency.

c) Each teleconferencing location must be identified in the notice and agenda of the meeting or proceeding, and each teleconference location must be accessible to the public.

d) During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercised jurisdiction, except as otherwise specified.

e) The agenda must provide an opportunity for members of the public to address the legislative body directly, as the Brown Act requires for in-person meetings, at each teleconference location.

f) For purposes of these requirements, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.

5) Authorizes a local agency to use teleconferencing for a public meeting without complying with the Brown Act's teleconferencing quorum, meeting notice, and agenda requirements, in any of the following circumstances:

a) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing;

b) The legislative body holds a meeting during a proclaimed state of emergency for purposes of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health and safety of attendees; and

c) The legislative body holds a meeting during a proclaimed state of emergency and has determined by majority vote that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

6) Provides that a legislative body holding a teleconferenced meeting pursuant to the Brown Act exception provided in 5) is subject to the following requirements:

a) The legislative body must give notice of the meeting and post agendas as otherwise required by the Brown Act.

b) The legislative body must allow members of the public to access the meeting, and the agenda must provide an opportunity for members of the public to address the legislative body directly pursuant to Brown Act requirements as specified. The agenda must identify and include an opportunity for all persons to attend via call-in option or an internet-based service option. The legislative body need not provide a physical location from which the public may attend or comment.

c) The legislative body must conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body.

d) In the event of a disruption that prevents the public agency from broadcasting the meeting to members of the public using the call-in or internet-based service options, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in or internet-based service options, the legislative body must take no further action on items appearing on the meeting agenda until public access to the meeting is restored. Actions taken on agenda items during a disruption preventing the broadcast of the meeting may be challenged as provided in the Brown Act.

e) The legislative body may not require public comments to be submitted in advance of the meeting, and it must provide an opportunity for the public to address the legislative body and offer comment in real time.

f) The legislative body may use an online third-party system for individuals to provide public comment that requires an individual to register with the system prior to providing comment.

g) If a legislative body provides a timed public comment period, it may not close the comment period or the time to register to provide comment until the timed period has elapsed. If the legislative body does not provide a time-limited comment period, it must allow a reasonable time for the public to comment on each agenda item and to register as necessary.

7) Provides that if the state of emergency remains active, or state or local officials have imposed measures to promote social distancing, the legislative body must, in order to continue meeting subject to this exemption to the Brown Act,

no later than 30 days after it commences using the exemption, and every 30 days thereafter, make specified findings by majority vote.

8) Provides that the provisions relating to the Brown Act in 5) through 7) above will remain in effect only until January 1, 2024.

This bill:

1) Authorizes, until January 1, 2026, members of a legislative body of a local agency to use teleconferencing without noticing each teleconference location or making it publicly accessible, provided at least a quorum of the members of the body participates in person at a singular physical location. The location of the in-person meeting must be clearly identified on the agenda, must be open to the public, and must be within the boundaries of the local agency's jurisdiction.

2) Requires the legislative body, in order to use the flexibility described above, to meet the following requirements:

   a) Provide a two-way audio-visual platform or a two-way telephonic service and a live webcasting of the meeting by which the public may remotely hear and visually observe the meeting and also remotely address the legislative body;

   b) Give notice of the means for the public to access the meeting and offer public comment in each instance the legislative body notices the meeting or posts the agenda;

   c) Identify and include an opportunity for all persons to attend and address the legislative body directly via a call-in or internet-based service option, and at the in-person location of the meeting; and

   d) Provide an opportunity for the public to address the legislative body and offer comment in real time. A third-party internet website or online platform not under the control of the legislative body may require members of public to login or register to provide public comment.

3) Prohibits a local agency from requiring public comments to be submitted in advance of the meeting.

4) Prohibits a local agency from taking further action in the event of a disruption that prevents the legislative body from broadcasting the meeting to the public, or in the event of a disruption within the local agency's control that prevents

the public from offering public comments remotely, until it can restore public access to the meeting. The public can challenge actions taken on agenda items during such disruptions as specified under the Brown Act.

5) Authorizes a member of a legislative body to participate in a meeting remotely using these provisions only if one of the following circumstances applies:

   a) The member notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting. These provisions cannot be used by any member of the legislative body for more than two meetings per calendar year.

   b) The member requests the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request, as follows:

      i) The legislative body is required to request a general description of the circumstances relating to their need to appear remotely at the given meeting. A general description of an item generally need not exceed 20 words and does not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law.

      ii) The legislative body may decide to allow the member to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting as specified.

6) Requires a member of the legislative body, when using these provisions, to participate through both audio and visual technology, and publicly disclose whether any other individuals 18 years of age or older are present at the teleconference location and the member's relationship with any such individuals.

7) Provides that the above provisions cannot serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency

within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.

8) Defines "just cause" as any of the following:

   a) Childcare or caregiving need that requires them to participate remotely;

   b) A contagious illness that prevents a member from attending in person;

   c) A need related to a physical or mental disability not otherwise accommodated; and

   d) Travel while on official business of the legislative body or another state or local agency.

9) Defines "emergency circumstances" as a physical or family medical emergency that prevents a member from attending in person.

10) Requires the legislative body to have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132) (hereafter ADA), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body must also give notice of the procedure for receiving and resolving requests for accommodation.

11) Requires the legislative body to conduct meetings subject to the Brown Act consistent with applicable civil rights and nondiscrimination laws.

12) States that these provisions are necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in teleconference meetings.

13) Repeals these provisions on January 1, 2026.

Background

The COVID-19 pandemic, also known as the coronavirus pandemic, is an ongoing, widespread outbreak of the disease caused by a strain of the coronavirus. This severe, acute respiratory syndrome was first identified in Wuhan, China in late December 2019. The first cases in the United States occurred in early 2020 and the first California case was confirmed in late January. To control the spread of the disease, California, and other states, issued mandatory "stay-at-home" orders.

Public agencies also had to adjust to new ways of conducting business because of the public safety risk associated with meeting in person. In March 2020, the Governor issued Executive Order N-29-20, which provided local agencies with more flexibility to use teleconferencing without making those teleconference locations accessible to the public. On June 11, the Governor issued Executive Order N-08-21 notifying local agencies and the public that previous executive orders concerning the conduct of public meetings would apply through September 30, 2021. Despite the executive order, both local and state governing bodies remained concerned about their ongoing ability to teleconference without having to disclose the location of teleconferencing members or make that location accessible to the public. The Legislature later enacted AB 361 (Robert Rivas, Chapter 165, Statutes of 2021) which allowed, until January 1, 2024, local agencies to use teleconferencing without complying with specified Brown Act restrictions in certain state-declared emergencies.

Comments

1) *Purpose of the bill*. According to the author, "While remote participation in meetings was necessitated by the pandemic, we have simultaneously demonstrated the value of remote participation options when individuals are unable to attend a physical gathering. The Brown Act ensures that officials and their constituents can have open and transparent meetings, which we now know can occur using modern technology. Considering the experiences of the past two years, AB 2449 would provide an avenue for constituents to interact with their representatives in situations where they might have not previously been able to."

2) *Accommodation or convenience?* Teleconferencing has been part of the Brown Act since 1988. Legislative bodies could use teleconferencing so long as they did so in a way that providing the public notice of the locations they were teleconferencing from and made them publicly accessible. Due to the social distancing requirements of the COVID-19 pandemic, the Legislature enacted AB 361 to allow local agencies to use teleconferencing without noticing each teleconference location or making these locations publicly accessible during declared states of emergency until January 1, 2024, provided they meet specified requirements. Despite having over a year until AB 361 sunsets, AB 2449 expands the ability for members of the legislative body to use teleconferencing without noticing each teleconference location or making these locations publicly accessible for an additional two years, and no longer requires a state of emergency to use this flexibility. If and when the pandemic ends, what is the need to continue to provide flexibility for members of

legislative bodies to teleconference without noticing teleconference locations and making them publicly accessible? Opponents argue this is more for convenience than necessity, and where benefits accrue solely to members of legislative bodies. Supporters argue that teleconferencing during the pandemic has increased public participation, protected the health and safety of civil servants and the public, and reduced travel costs and work hours for legislative body members. They further contend that it provides necessary accommodation for members who may have a physical or mental health reason they cannot participate in person, or because the number of threats against their members has increased during the pandemic. While AB 2449 provides various guardrails, such as limiting the reasons and frequency a member can use the bill's flexibility, does it adequately protect the public's right to access information concerning the meetings and writings of public officials?

Related/Prior Legislation

SB 1100 (Cortese, 2022) authorizes the presiding member of a legislative body conducting a meeting to remove an individual for disrupting the meeting, and defines "disrupting" for these purposes. The bill is currently awaiting the Governor's signature.

AB 1944 (Lee, 2022) allows, until January 1, 2030, members of a legislative body of a local agency to use teleconferencing without identifying each teleconference location and making it publicly accessible provided at least a quorum of the members of the body participates in person at a singular physical location and meet additional requirements. The bill is currently pending in the Senate Governance and Finance Committee.

AB 2647 (Levine, 2022) exempts local agencies from making materials available for public inspection at the time they distribute them to members of the legislative body less than 72 hours before the meeting, if the agency meets certain requirements. The bill is currently pending on the Senate Floor.

AB 339 (Lee, 2021) would have required, until December 31, 2023, certain city council or county board of supervisors meetings to allow the public to attend and comment via telephone or internet. The Governor vetoed AB 339.

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

SUPPORT: (Verified 8/9/22)

Association of California Water Agencies
California Central Valley Flood Control Association

California Municipal Utilities Association
Calleguas Municipal Water District
Central Basin MWD
Central Contra Costa Sanitary District
City of Carlsbad
City of Cupertino
City of Rancho Palos Verdes
County of Solano
Cucamonga Valley Water District
Dawn Murdock - City of Palos Verdes Estates Council Member
Desert Water Agency
Eastern Municipal Water District
El Dorado Irrigation District
Elsinore Valley Municipal Water District
Foothill Municipal Water District
Inland Empire Utilities Agency
Los Angeles County LAFCO
Los Angeles Unified School District
Mesa Water District
Metropolitan Water District of Southern California
Municipal Water District Orange County
Palmdale Water District
Public Risk Innovation, Solutions, and Management
Regional Chamber of Commerce, SGV
Regional Water Authority
Rowland Water District
San Bernardino Municipal Water Department
San Bernardino Valley Municipal Water District
San Diego County Water Authority
San Gabriel Basin Water Quality Authority
San Gabriel Valley Economic Partnership
San Gabriel Valley Municipal Water District
San Gabriel Valley Water Association
Santa Margarita Water District
Solano County Water Agency
Southern California Association of Governments
Southern California Water Coalition
Suburban Water Systems
Three Valleys Municipal Water District
Upper San Gabriel Valley

Valley County Water District
Walnut Valley Water District
Water Replenishment District of Southern California
Western Municipal Water District

OPPOSITION: (Verified 8/9/22)

ACLU California Action
Bay Area Air Quality Management District
California News Publishers Association
Californians Aware: the Center for Public Forum Rights
City of Half Moon Bay
County of Santa Barbara
First Amendment Coalition
Howard Jarvis Taxpayers Association
Leadership Counsel for Justice and Accountability
Marin County Council of Mayors & Councilmembers
Society of Professional Journalists, Greater Los Angeles Chapter

ASSEMBLY FLOOR: 65-4, 5/26/22
AYES: Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Friedman, Salas, Seyarto, Ward
NO VOTE RECORDED: Aguiar-Curry, Berman, Bigelow, Fong, Gabriel, Gallagher, Grayson, Kiley, O'Donnell

Prepared by: Jonathan Peterson / GOV. & F. / (916) 651-4119
8/10/22 14:57:21

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

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THIRD READING

Bill No: AB 2452
Author: Chen (R)
Amended: 3/28/22 in Assembly
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 12-0, 6/6/22
AYES: Roth, Melendez, Archuleta, Bates, Becker, Dodd, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Eggman, Hurtado

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-0, 5/5/22 (Consent) - See last page for vote

SUBJECT: Structural Fumigation Enforcement Program

SOURCE: Author

DIGEST: This bill extends the sunset date for the Structural Fumigation Enforcement Program (Program) under the Department of Pesticide Regulation to January 1, 2024, and removes San Diego County from the Program.

ANALYSIS:

Existing law:

1) Establishes the Program in Los Angeles, Orange, Santa Clara and San Diego Counties under the oversight of the Department of Pesticide Regulations (DPR) and authorizes the county agricultural commissioner (Commissioner) of each county to perform increased structural fumigation, inspection, and enforcement activities those counties. (Business and Professions Code (BPC) § 8698)

2) Requires, under the Program, any person who performs a structural fumigation in the county to pay a $8 fee to the Commissioner for each fumigation

performed. (BPC § 8698.1)

3) Requires the funds collected by the counties under the Program to be used for the sole purpose of funding enforcement and training activities directly related to the Program. (BPC § 8698.5)

4) Defines "structural pest control" and "pest control" to refer to household pests and wood destroying pests or organisms, or other such pests which may invade households or other structures, including railroad cars, ships, docks, trucks and airplanes, and the advertisement, solicitation, or performance of identifying, eliminating, exterminating, controlling or preventing the infestation of such pests, and making structural repairs or replacements, as specified. (BPC § 8505)

5) Defines a "fumigator" as any individual licensed by the Structural Pest Control Board (SPCB) as a structural pest control operator or as a structural pest control field representative in the branch of pest control which includes fumigation, or the practice relating to the control of household and wood-destroying pests or organisms by fumigation with poisonous or lethal gases. (BPC §§ 8505.14, 8560)

6) Defines "fumigation" as the use of a substance to destroy plant and animal life within an enclosed space that has a vapor pressure greater than five millimeters of mercury at 25 degrees centigrade when labeled for those purposes. Further specified that lethal fumigants include: methyl bromide, sulfur dioxide, propylene oxide, sulfuryl fluoride and aluminum phosphide. (BPC § 8505.1)

7) Sunsets the Program on January 1, 2023. (BPC § 8698.6)

This bill extends the sunset date for the Program to January 1, 2024, and removes San Diego County from the Program.

Background

The Program was originally established in 1993 as a two-year pilot project in Los Angeles County as a way to help ensure the safety of fumigation operators. The Program sought to ensure the proper handling of chemicals and the correct use of safety equipment among other important features. The sunset date has been extended a number of times since then. In 1996, the pilot project status was

removed and the Program was expanded to also include Orange County and San Diego County.

The Program exercises oversight of the structural fumigation industry and DPR inspects fumigation companies to ensure regulatory compliance and protect the public, industry workers and the environment. Any person who performs a structural fumigation in Los Angeles, Orange, Santa Clara, and San Diego Counties must pay the county agricultural commissioner a fee of $8 for each treatment.

Counties use this fee-generated revenue to increase monitoring of pesticide use in structural fumigations through undercover inspections and surveillance. While the DPR licenses and regulates commercial applicators, dealers, consultants and other pesticide professionals statewide, the Program originated from an increased need to enforce local structural pest control fumigation laws in counties where most fumigations are performed by collecting fees for more inspectors and research on safer pest control methods.

"Fumigation" is the use of a substance to destroy plant and animal life within an enclosed space. Structural fumigation applies solely to the fumigation of houses or other structures, such as railroad cars, ships, docks, trucks and airplanes. It does not apply to agricultural fumigation. To fumigate a home or structure, it must be vacated and enclosed with a tent or tarps, and after a fumigant is released the home or structure must remain enclosed for a specified period of time to kill the pests. Afterwards, the home or structure must be properly ventilated before the inhabitants can return.

Structural fumigation is regulated primarily because it utilizes large quantities of toxic chemicals, particularly sulfuryl fluoride. Sulfuryl fluoride is a highly toxic pesticide fumigant used to control termites and other pests in homes and other structures. Sulfuryl fluoride is colorless, odorless and leaves no residue. If used incorrectly, it can result in fluoride poisoning and cause illness or death in humans. Los Angeles, San Diego and Orange Counties are the top three users of structural fumigation in the state, based on the total pounds of sulfuryl fluoride they use.

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

SUPPORT: (Verified 8/8/22)

County of Santa Clara

OPPOSITION: (Verified 8/8/22)

None received

ARGUMENTS IN SUPPORT: The County of Santa Clara states that "Fumigating human dwellings with lethal gases to control termites, bed bugs, and other pests is a very serious pesticide application with a long list of regulations and safety procedures to comply with and can result in poisoning and death in humans if performed incorrectly. This program provides funding to perform a higher frequency of inspections and increases compliance among pest control operators. As a result, the program greatly benefits the industry and citizens as increased compliance also results in increased protection to workers, the public, animals, and the environment."

ASSEMBLY FLOOR: 61-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Friedman, Gallagher, Cristina Garcia, Gipson, Levine, McCarty, Medina, Villapudua, Waldron, Wicks

Prepared by: Sarah Mason / B., P. & E.D. /
8/10/22 14:12:32

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

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THIRD READING

Bill No: AB 2453
Author: Bennett (D)
Amended: 5/5/22 in Assembly
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 11-3, 6/14/22
AYES: Gonzalez, Allen, Becker, Cortese, Dodd, Limón, McGuire, Min, Newman, Skinner, Wieckowski
NOES: Bates, Dahle, Melendez
NO VOTE RECORDED: Archuleta, Rubio, Wilk

SENATE GOVERNANCE & FIN. COMMITTEE: 4-1, 6/29/22
AYES: Caballero, Durazo, Hertzberg, Wiener
NOES: Nielsen

ASSEMBLY FLOOR: 48-23, 5/25/22 - See last page for vote

SUBJECT: Transactions and use taxes: Ventura County Transportation Commission

SOURCE: Author

DIGEST: This bill authorizes the Ventura County Transportation Commission to impose a transactions and use tax (TUT) for countywide transportation programs at a rate of no more than 0.5% that would, in combination with other TUTs, exceed the combined rate limit of 2%.

ANALYSIS:

Existing law:

1) Imposes, under the Sales and Use Tax Law, a tax on retailers measured by the gross receipts from the sale of tangible personal property (TPP) sold at retail in this state or on the storage, use, or other consumption in this state of TPP purchased from a retailer for storage, use, or other consumption in this state.

2) Authorizes various local governmental entities, subject to certain limitations and approval requirements, to levy a TUT for general purposes, in accordance with the procedures and requirements set forth in the TUT Law, including a requirement that the combined rate of all taxes that may be imposed in accordance with that law in the county not exceed 2%.

This bill:

1) Authorizes the Ventura County Transportation Commission to impose a TUT, as specified above, if both of the following requirements are met:

   a) The ordinance proposing the TUT is submitted to the electorate and is approved by the voters in accordance with Article XIII C of the California Constitution; and,

   b) The TUT conforms to the TUT Law, other than the combined rate limit specified in Revenue and Taxation Code (R&TC) Section 7251.1 (e.g. the combined 2% TUT limit).

2) Specifies that if an ordinance proposing the TUT authorized by this bill is not approved, this bill's statutory provisions shall be repealed on January 1, 2027.

Comments

1) *Author's Statement.* "AB 2453 simply provides the voters of Ventura County the ability to raise the transaction and use tax to provide for more infrastructure funding. The bill does not increase the tax itself – that discretion continues to remain with the voters. "

2) *Mostly Local.* Almost half of California's transportation funding, including freeways, roads and transit, comes from local taxes[1]. Twenty five of California's 58 counties impose local transportation taxes. These are primarily urban and suburban counties, including Ventura County's coastal neighbors Santa Barbara and Los Angeles, covering 88% of California's population.

3) *If at First You Don't Succeed.* In 2016 Ventura County voters considered Measure AA, a one-half cent sales tax to fund transportation projects. That measure failed 58% to 42% as approval by 2/3 of voters was required. A Ventura County citizens group is attempting to put another one-half cent sales tax measure before voters again. Adding one-half cent to the county sales tax

[1] "California's Transportation System", Legislative Analyst's Office, June 2018; p 45.

will breech the combined 2% TUT limit because of locally imposed sales taxes in two cities in Ventura County. Passing this bill will allow the one-half cent county sales tax measure to be placed on the ballot.

4) *Bonus Funding*. State policy encourages local efforts to fund transportation. SB 1, the Road Repair and Accountability Act of 2017, established the Local Partnership Program (LPP) with the specific intent of encouraging local transportation taxes. The LPP is a $200 million annual program which provides funding to local jurisdictions that have approved local transportation taxes. If Ventura County voters approve a transportation tax the county will become eligible for funding from the LPP.

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

SUPPORT: (Verified 8/2/22)

Blois Construction
Carpenters Union Local 805
Meissner Filtration Products of Camarillo
Mustang Marketing
Rebuild Socal Partnership
Toro Enterprises
WSP USA

OPPOSITION: (Verified 8/2/22)

California Taxpayers Association

ASSEMBLY FLOOR: 48-23, 5/25/22
AYES: Aguiar-Curry, Arambula, Bennett, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, McCarty, Medina, Mullin, Nazarian, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bauer-Kahan, Bigelow, Cervantes, Chen, Choi, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Petrie-Norris, Quirk-Silva, Salas, Seyarto, Smith, Valladares, Voepel, Waldron

NO VOTE RECORDED: Berman, Boerner Horvath, Cunningham, Maienschein, Mayes, Muratsuchi, O'Donnell

Prepared by: Randy Chinn / TRANS. / (916) 651-4121
8/3/22 14:50:36

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

SENATE RULES COMMITTEE AB 2463
Office of Senate Floor Analyses
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CONSENT

Bill No: AB 2463
Author: Lee (D)
Amended: 3/21/22 in Assembly
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 6/1/22
AYES: Cortese, Ochoa Bogh, Durazo, Laird, Newman

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-0, 5/5/22 (Consent) - See last page for vote

SUBJECT: Public works: exemption

SOURCE: California Association of Local Conservation Corps
California Council of Land Trusts

DIGEST: This bill extends the sunset date on a public works exemption for specified "volunteers" and other related individuals until 2031.

ANALYSIS:

Existing law:

1) Requires that not less than the general prevailing rate of per diem wages be paid to all workers employed on a "public works" project costing over $1,000 dollars and imposes misdemeanor penalties for violation of this requirement. (Labor Code §1771)

2) Defines "public work" to include, among other things, construction, alteration, demolition, installation or repair work done under contract and paid for in whole or in part out of public funds. (Labor Code §1720)

3) Defines “paid for in whole or in part out of public funds” to mean fees, costs, rents, insurance or bond premiums, loans, interest rates, or other obligations

normally required in the execution of a contract that are paid, reduced, charged at less than fair market value, waived or forgiven. (Labor Code §1720)

4) Requires that the applicable general prevailing rate of per diem wages be determined by the Director of the Department of Industrial Relations (DIR) for each locality in which the public work is to be performed and for each craft, classification, or type of worker needed to execute the public works project. (Labor Code §1773)

5) Exempts work from the above requirements if the work is done by a volunteer, which is defined to mean "an individual who performs work for civic, charitable, or humanitarian reasons for a public agency or corporation qualified under Section 501(c)(3) of the IRS code, without promise expectation, or receipt of any compensation for work performed.

   a) Further exempts any work performed by the California Conservation Corps or by certified Community Conservation Corps. (Labor Code §1720.4)

6) Establishes a sunset date for the above exemption of January 1, 2024.

This bill extends the sunset date of the exemption for volunteer work above to January 1, 2031.

Comments

*Need for this bill?*_According to the author, "AB 2463 will extend the sunset date to 2031, which will exempt volunteers, volunteer coordinators, or members of the California Conservation Corps or a community conservation corps from prevailing wage requirements. This will allow California to continue to tap into one of our greatest resources for healthy communities and the environment: volunteerism."

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

SUPPORT: (Verified 8/9/22)

California Association of Local Conservation Corps (co-source)
California Council of Land Trusts (co-source)
Amigos De Los Rios
Angelenos for Trees
Arborpro
Association of California Healthcare Districts
Bay Area Urban Forest Ecosystem Council
Big Sur Land Trust

Bolsa Chica Land Trust
California Association of Joint Powers Authorities
California Central Valley Flood Control Association
California Greenworks
California Releaf
California Special Districts Association
California State Association of Counties
California Urban Forests Council
Canopy
Center for Climate Change and Health
Center for Regenerative Agriculture
Central Coast Urban Forests Council
Climate Action Now
Coachella Valley Conservation Commission
Community Forest Advisory Committee
Davey Resource Group
Eastern Sierra Land Trust
Elkhorn Slough Foundation
Fallbrook Land Conservancy
Forever Balboa Park
Foundation, California Park and Recreation Society
Growing Together
Inland Urban Forest Council
International Society of Arboriculture Western Chapter
Koreatown Youth and Community Center Inc.
LA Neighborhood Land Trust, Trust for Public Land, California State Parks
Land Conservancy of San Luis Obispo; the
Land Trust for Santa Barbara County
Local Conservation Corps
Los Angeles Beautification Team
Los Angeles Neighborhood Land Trust
Lumber Cycle
Midpeninsula Regional Open Space District
North East Trees
Ojai Valley Land Conservancy
Our City Forests
Pacific Crest Trail Association
Peninsula Open Space Trust
Placer Land Trust
Redwood Coast Land Conservancy

Rural County Representatives of California
Sacramento Tree Foundation
Sacramento Urban Forest Council
San Diego Regional Urban Forests Council
San Joaquin Urban Forest Council
Santa Clara Valley Open Space Authority
Save Mount Diablo
Save the Redwoods League
Sequoia Riverlands Trust
Sierra County Land Trust
Sierra Foothill Conservancy
Sonoma Land Trust
Street Tree Seminar
Sustainable Claremont
Tree Fresno
Tree Partners Foundation
Treepeople Land Trust
Trust for Public Land
Urban Counties of California
Your Children's Trees

OPPOSITION: (Verified 8/9/22)

None received

ARGUMENTS IN SUPPORT: The California Association of Local Conservation Corps writes in support:

"The Local Conservation Corps are 14 state-certified regional organizations, located throughout the state, whose missions are to develop and deploy a trained workforce equipped to preserve and protect our state, our environment, and our communities. The corps offer young people from some of California's most disadvantaged communities targeted job skills training, career planning, educational opportunities, leadership development, counseling, and soft skills training.

"The local corps are at the forefront of California's environmental and conservation efforts. Whether it's helping to make California's recycling rate the highest in the country, restoring world-renowned parks, or being boots-on-the-ground for the state's lead in the global fight against climate change, local corps are proud to help protect California's natural resources. In combining education,

environment, opportunity, and innovation into one package, the corps are the solution to many of the problems currently facing our young generation.

“Local conservation corps programs rely on state funding to provide specialized services, including workforce development, education, and wraparound services such as mental health care, transportation, and housing to our corspsmembers. AB 2463 is essential to ensuring state and local conservation corps can continue providing these services to young people as it will extend the existing prevailing wage exemption for corpsmembers and volunteers another ten years.”

ASSEMBLY FLOOR: 61-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Friedman, Gallagher, Cristina Garcia, Gipson, Levine, McCarty, Medina, Villapudua, Waldron, Wicks

Prepared by: Jake Ferrera / L., P.E. & R. / (916) 651-1556
8/10/22 14:24:48

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

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THIRD READING

Bill No: AB 2466
Author: Cervantes (D)
Amended: 6/15/22 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 4-0, 6/13/22
AYES: Hurtado, Cortese, Kamlager, Pan
NO VOTE RECORDED: Jones

SENATE JUDICIARY COMMITTEE: 9-0, 6/21/22
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, McGuire, Stern, Wiener
NO VOTE RECORDED: Borgeas, Jones

ASSEMBLY FLOOR: 66-0, 5/16/22 - See last page for vote

SUBJECT: Foster children

SOURCE: Author

DIGEST: This bill prohibits a placing agency, when placing a foster child, from declining to place a child with a resource family because of a resource family's parent's actual or perceived sexual orientation, gender identity, or gender expression; and removes the term "hard to place children" from certain statutes.

ANALYSIS:

Existing law:

1) Establishes a state and local system of child welfare services, including foster care, for children who have been adjudged by the court to be at risk of abuse and neglect or to have been abused or neglected, as specified. *(WIC 202*)

2) Establishes a system of juvenile dependency for children for specified reasons, and designates that a child who meets certain criteria is within the jurisdiction

of the juvenile court and may be adjudged as a dependent child of the court, as specified. *(WIC 300 et seq.)*

3) Declares the intent of the Legislature to, whenever possible, preserve and strengthen a child's family ties and, when a child must be removed from the physical custody of their parents, to give preferential consideration to placement with relatives. States the intent of the Legislature to reaffirm its commitment to children who are in out-of-home placement to live in the least restrictive family setting and as close to the child's family as possible, as specified. Further states the intent of the Legislature that all children live with a committed, permanent, nurturing family and states that services and supports should be tailored to meet the specific needs of the individual child and family being served, as specified. *(WIC 16000)*

4) Requires out-of-home placement of a child in foster care to be based upon the selection of a safe setting that is the least restrictive family setting that promotes normal childhood experiences and the most appropriate setting that meets the child's individual needs and is available, in proximity to the parent's home, in proximity to the child's school, consistent with the selection of the environment best suited to meet the child's special needs and best interests. *(WIC 16501.1(d)(1))*

5) Defines "placing agency" to mean a county child welfare department, a county probation department, or a foster family agency with responsibility for the placement of the child or nonminor dependent. *(WIC 362.06(a)(4))*

6) Defines a "resource family" to mean an individual or family that has successfully met both the home environment assessment and the permanency assessment criteria, as specified, necessary for providing care for a child placed by a public or private child placement agency by court order, or voluntarily placed by a parent or legal guardian. *(HSC 1517; WIC 16519.5(c)(1))*

7) Stipulates that a resource family shall be considered eligible to provide foster care for children in out-of-home placement and shall be considered approved for adoption and guardianship, and authorizes a county to approve a resource family to care for a specific child, as specified. (*WIC 16519.5(c)(4))*

8) Establishes requirements for Foster Family Agencies (FFAs) that approve resource families, including, among other things, requiring an FFA to be responsible for approving or denying resource family applications, and preparing a written evaluation of an applicant's capacity to foster, adopt, or provide legal guardianship, as specified. *(HSC 1517(b))*

9) Provides that it is the policy of this state that all persons engaged in providing care and services to foster children, including, but not limited to, foster parents, adoptive parents, relative caregivers, and other caregivers contracting with a county welfare department, shall have fair and equal access to all available programs, services, benefits, and licensing processes, and shall not be subjected to discrimination or harassment on the basis of their clients' or their own actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status. Further, clarifies that these provisions shall not be interpreted to create or modify existing preferences for foster parents or to limit the local placement agency's ability to make placement decisions for a child based on the child's best interest. *(WIC 16013)*

This bill:

1) Prohibits a placing agency from declining to place a child with a resource family because of a resource family parent's actual or perceived sexual orientation, gender identity, or gender expression.

2) Removes statutory references to "hard to place children," and, in the context of appropriations, replaces the term with a reference to children who are eligible for specified types of financial assistance.

Background

Child Welfare Services (CWS). The CWS system is an essential component of the state's safety net. Social workers in each county receive reports of abuse or neglect, and work to investigate and resolve those reports. When a case is substantiated, a family is either provided with services to ensure a child's well-being and avoid court involvement, or a child is removed from the family and placed into foster care. This system seeks to ensure the safety and protection of these children, and where possible, preserve and strengthen families through visitation and family reunification. It is the state's goal to reunify a foster child or youth with their biological family whenever possible. In 2021, the state's child welfare agencies received 400,313 reports of abuse or neglect. Of these, 61,438 reports contained allegations that were substantiated and 22,004 children were removed from their homes and placed into foster care via the CWS system.

As of January 1, 2022, there were 59,539 children in California's CWS system.

Continuum of Care Reform (CCR). The CCR is a system-wide effort to institute a series of reforms to California's CWS system. It is designed out of an

understanding that children who must live apart from their biological parents do best when they are cared for in committed nurturing family homes. For more than a decade, researchers have documented poor outcomes for foster children. These outcomes have been especially pronounced for those placed in group or congregate care settings. CCR was designed to reduce the number of foster children placed in congregate care settings by improving the assessments of children and families and establishing a child and family team for each child in foster care. AB 403 (Stone, Chapter 773, Statutes of 2015) was the first of six California Department of Social Services-sponsored CCR bills and provided the statutory and policy framework to ensure services and supports provided to the child or youth and their family are tailored toward the ultimate goal of maintaining a stable permanent family.

Resource Families and the Resource Family Approval (RFA) Program. A resource family is a caregiver who provides out-of-home care for children in foster care, previously referred to as foster parents. Resource families play a critical role in the CWS system, providing placements for foster youth in a family-based setting. A resource family can include individuals, couples, and families, who may be related to the child, have a familiar or mentoring relationship, or have no previous relationship to the child. Resource families are approved to provide care on a temporary (foster care) and/or permanent (adoption and legal guardianship) basis.

The RFA program created a single process for the approval of foster family homes, relative or non-relative extended family member (NREFM) homes for foster care, and legal guardianship or adoption. It combines elements of each of these prior processes into a single approval standard, regardless of the child's case plan. RFA was designed to be a unified, family friendly, child-centered process for the approval of home-based placements. The RFA process includes a psychosocial assessment, home environment check, and training for all resource families, including relatives, in order to prepare families to better meet the needs of vulnerable children and youth in the CWS system. Additionally, because RFA is the same process for both temporary and permanent placements, RFA can create opportunities for more direct routes to permanency for foster youth.

Depending on the county, the RFA process may be conducted by the county's child welfare agency or by a licensed FFA. According to stakeholders, most counties contract at least some of their RFA responsibilities out to an FFA. At the time of writing, more specific data points on this were unavailable.

Prohibition on Discrimination. Existing law, Welfare and Institutions Code (WIC) Section 16013, requires that all persons engaged in providing care and services to foster children, including all types of resource families – whether they are relative

caregivers, adoptive parents, or foster parents, not be subjected to discrimination or harassment on the basis of their actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status. This prohibition on discrimination and harassment does not guarantee placement, as the local placement agency still has the obligation to make placement decisions for a child based on that individual child's best interests. Additionally, existing law, WIC Sections 319 and 361.3, creates preferential consideration for placement requests by a relative or NREFM of the child; this preferential consideration is also ultimately limited by the best interest of the child.

Comments

This bill is strengthening existing anti-discrimination policies for LGBTQ resource families. To ensure this effort is as inclusive as possible, the author's office should consider the Committee's proposed amendment at the bottom of this comment section to ensure no members of the LGBTQ+ community are not unintentionally excluded.

According to the author, "AB 2466 will explicitly prohibit placing agencies from declining to place a child with a resource family because a resource family parent identifies as LGBTQ+ when placing foster children. AB 2466 also eliminates the use of 'hard to place children' no child should be labeled as 'hard to place.' No child is difficult to love or care for."

The author goes on to note that "although more public and private agencies have created supportive practices while also recruiting LGBTQ+ families, some agency policies and professional biases continue to present obstacles for some LGBTQ+ individuals and couples interested in pursuing foster care. Misinformation and inexperience in working with LGBTQ+ families prevent many child welfare and foster care professionals from providing meaningful services to foster care families who identify as LGBTQ+. LGBTQ+ related stigma undermines placement stability. It is our responsibility to ensure that the over 60,000 children in the foster care system are placed in nurturing foster homes. Not doing so is harmful to our foster children and unfair to the LGBTQ+ families who are well-equipped to care for them."

The Pacific Justice Institute – Center for Public Policy alleges that this bill is counter to the Supreme Court's decision in *Fulton v. City of Philadelphia*, because the Supreme Court in that case found the City of Philadelphia's ending of a contractual relationship with Catholic Social Services (CSS) to provide child welfare system services due to CSS's refusal to consider LGBTQ+ couples. The

Supreme Court's decision in that case seemed to focus on a variety of components related to the City's contract with CSS. This bill has been double referred, and should it pass out of the Senate Human Services Committee it will be re-referred to the Senate Judiciary Committee. That Committee may further delve into this issue, as it falls within their jurisdiction.

Human Services Committee staff notes that in California, placement decisions ultimately depend on a "best interests of the child" determination. This includes the best interests of LGBTQ+ children and youth who deserve to be placed in environments where they will not face discrimination or harassment, but rather love and acceptance as all children deserve. All individuals and families licensed through the RFA process are subject to this determination based on the specific interests of each individual child who might be placed with them. This occurs regardless of whether the county is the placing agency or the county contracts out that responsibility with licensed FFA.

Additionally, this bill strikes references to "hard to place children" in several code sections. This terminology does not seem to be defined in code, making it difficult to determine which children and youth fall into such a category. Use of the "hard to place" terminology often seems to refer to children who are over the age of four, boys, children with disabilities, children with behavioral health needs, children who are exiting short-term residential therapeutic program placements, children of color, sibling groups, or LGBTQ+ children. Use of this terminology creates a perception that these children will have difficulties accessing a family based placement. Undoubtedly use of such terminology can result in barriers to resource family placement or adoption for the children to whom this label has been attached.

It seems that re-examining the labels the CWS system unofficially attaches to children might be necessary for ensuring the reforms intended under CCR. If use of labels such as "hard to place" entrench a mindset that certain children are difficult to place in a family based setting, this seems to run contrary to the statewide goal of placing all children in out-of-home foster care in the least restrictive, most family like setting available.

Related/Prior Legislation

AB 403 (Stone, Chapter 773, Statutes of 2015) began implementation of CCR by sunsetting existing licensure, rate setting, and other provisions for group homes and creating new models of care to better serve children and youth in California's child welfare services system.

AB 458 (Chu, Chapter 331, Statutes of 2003), amongst other things, stated that it is the policy of this state that all persons engaged in providing care and services to foster children are to have fair and equal access to all available programs, benefits, services, and licensing processes, and shall not be subjected to discrimination or harassment based on their own actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

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

SUPPORT: (Verified 6/24/22)

County Welfare Directors Association of California
First 5 California
National Association of Social Workers, California Chapter

OPPOSITION: (Verified 6/24/22)

Pacific Justice Institute – Center for Public Policy

ARGUMENTS IN SUPPORT: In support, the National Association of Social Workers, California Chapter writes: "There is a need to continue to challenge stereotypes about who can foster. Even though more public and private agencies have created supportive practices while also recruiting LGBTQ+ families, some agency policies and professional biases continue to present obstacles for some LGBTQ+ individuals and couples interested in pursuing foster care.

"It is imperative for the state of California to send a clear message that discrimination in its many forms will not be accepted. Specifically in this case, sexual orientation is not made a part of the criteria for one to become a resource parent. There are many children in need of a loving and supportive home in the process of reunification or adoption; let's not deprive the children of a loving home by reducing the number of people who are willing, trained, and certified to provide a loving home for children in need. It is also important to take into account that the foster care system has been especially overwhelmed by the coronavirus pandemic."

ARGUMENTS IN OPPOSITION: In opposition, the Pacific Justice Institute – Center for Public Policy writes: "Our primary concerns are with Section 4 of the Bill. According to the Legislative Counsel's Digest: 'This bill would explicitly prohibit placing agencies, when placing foster children, from declining to place a child with a resource family because a resource family parent identifies as lesbian, gay, bisexual, transgender, or queer (LGBTQ).

"We agree with the author that the placement of foster children in loving homes continues to be a major challenge in California, as it is in the rest of the nation. But AB 2466 would only exacerbate the problem… by eliminating the many qualified families from faith traditions which continue to respectfully disagree with the political objective of LGBTQ advocacy groups… There may be faith-based entities that continue to rely on traditional families for placement, but it has not been shown that the relatively few such entities, in comparison to the counties themselves and the numerous secular placement agencies, have resulted in any family being denied all opportunities to welcome children into their home."

ASSEMBLY FLOOR: 66-0, 5/16/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Nguyen, O'Donnell, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Stone, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Cunningham, Kiley, Low, Muratsuchi, Nazarian, Patterson, Quirk-Silva, Blanca Rubio, Smith, Ting, Voepel, Waldron

Prepared by: Marisa Shea / HUMAN S. / (916) 651-1524
6/24/22 12:51:21

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

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

CONSENT

Bill No: AB 2473
Author: Nazarian (D), et al.
Amended: 8/1/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 10-0, 6/29/22
AYES: Pan, Melendez, Eggman, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Gonzalez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 74-0, 5/23/22 - See last page for vote

SUBJECT: Substance use disorder: counselors

SOURCE: Los Angeles County Board of Supervisors

DIGEST: This bill requires the Department of Health Care Services to determine required core competencies for specified registered and certified substance use disorder counselors. This bill requires specified counselors to have six months from the time of registration to complete the core competency requirements and to provide proof of completion, as specified.

ANALYSIS:

Existing law:

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

2) Requires DHCS to require that an individual providing counseling services, except for certain licensed professionals, who is working within a specified program be registered with or certified by a DHCS-approved CO. [HSC §11833]

3) Prohibits DHCS from approving a CO that does not, prior to registering or certifying an individual, contact other DHCS-approved COs to determine whether the individual has ever had their registration or certification revoked. Requires a CO to deny the request for registration and to send the counselor a written notice of denial if a counselor's registration or certification has been previously revoked. [HSC §11833]

This bill:

1) Requires DHCS to determine requires core competencies for registered and certified substance use disorder (SUD) counselors. Requires DHCS to consult with affected stakeholders in developing the requirements.

2) Requires core competency requirements to include all of the following elements:

   a) Knowledge of the current Diagnostic and Statistical Manual of Mental Disorders;
   b) Knowledge of the American Society of Addiction Medicine (ASAM) criteria and continuum of ASAM levels of care, or other similar criteria and standards as approved by DHCS;
   c) Cultural competence, including for people with disabilities, and its implication for treatment;
   d) Case management;
   e) Utilization of electronic health records systems;
   f) Knowledge of medications for addiction treatment;
   g) Clinical documentation;
   h) Knowledge of cooccurring substance use and mental health conditions;
   i) Confidentiality;
   j) Knowledge of relevant law and ethics;
   k) Understanding and practicing professional boundaries; and,
   l) Delivery of services in the behavioral health delivery system.

3) Requires core competency requirements to align with national certification domains and competency exams. Requires hours completed for the core competency requirements to count toward the education requirements for SUD certification. Prohibits hour requirements for registered counselors from being

lower than the hour requirements approved by DHCS for certified peer support specialists (PSS).

4) Requires counselors to have six months from the time of registration to complete the core competency requirements and to provide their respective CO proof of completion of the required hours within that timeframe.

5) Prohibits DHCS from implementing the core competency requirements, and from specifying and implementing the hour requirements, before July 1, 2025.

6) Exempts counselors "in good standing," as defined, that registered with a DHCS-approved CO prior to July 1, 2025, from meeting the hour requirements in this bill. Exempts counselors in good standing that are registered with a DHCS-approved CO and who have a master's degree in psychology, social work, marriage and family therapy, or counseling from meeting the core competency requirements in this bill. Defines "in good standing" as those registrants with an active CO registration status.

Comments

1) *Author's statement.* According to the author, SUD counselors have an incredibly challenging job, particularly given the opioid epidemic and the COVID-19 pandemic. More people now than ever are falling victim to substance abuse and the SUD counselor's already difficult job has become even more challenging. The current statewide minimum standard for providing SUD treatment services within the specialized SUD field as a counselor is only nine hours with a limited curriculum. Still, once registered, the counselor is expected to provide the full scope of Medi-Cal-reimbursable SUD treatment services, such as intakes, individual and group counseling, and support during and after treatment. This minimum standard is inadequate to effectively prepare individuals to enter a public behavioral health system and work with a diverse, high-need population, frequently with complex behavioral health conditions and life experiences.

2) *SUD counselor certification.* To meet current counselor requirements, individuals must be registered with or certified by a DHCS-approved CO, of which there are currently three. Counselor certification is based upon the Addiction Counseling Competencies: The Knowledge, Skills, and Attitudes of Professional Practice, published by the federal Substance Abuse and Mental Health Services Administration's Center for Substance Abuse Treatment. In order for a CO to issue certification, individuals must meet requirements established in regulations, which include completion of at least 155 hours of

formal classroom education, as defined; have documented completion of at least 160 hours of supervised alcohol or other drug program counseling and 2,080 or more hours of work experience; and received a score of at least 70% on an approved exam. Certification is valid for two years and a counselor is required to complete 40 hours of continuing education every two years for renewal. Regulations allow for individuals who are registered with a CO to provide counseling services while working toward completion of certification requirements. Regulations also exempt licensed professionals (such as physicians licensed by the Medical Board of California, psychologists licensed by the Board of Psychology, those licensed by or registered as an intern with the California Board of Behavioral Sciences or the California Board of Psychology) from certification for providing SUD counseling services at facilities and programs under DHCS's purview.

3) *PSS*. SB 803 (Beall, Chapter 150, Statutes of 2020) required DHCS (by July 1, 2022 and subject to any necessary federal waivers or approvals) to establish statewide PSS requirements for counties or their representatives to use in developing certification programs. SB 803 also authorized a county, or an agency that represents a county, to develop a PSS certification program and certification fee schedule, both of which are subject to DHCS approval. PSS are individuals who self-identify as having lived experience with the process of recovery from mental illness, SUD, or both, and who understand and model the process of recovery and healing while offering moral support and encouragement to people who need it. Moral support and encouragement have proven to result in greater compliance with treatment services, better health function, lower usage of emergency departments, fewer medications and prescriptions, and a higher sense of purpose and connectedness on the part of the consumer. PSS are neither certified or registered SUD counselors nor licensed professionals exempt from SUD counseling requirements.

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

SUPPORT: (Verified 8/8/22)

Los Angeles County Board of Supervisors (source)
Alcohol Justice
California Association of Alcohol and Drug Program Executives
California Council of Community Behavioral Health Agencies
County Behavioral Health Directors Association

OPPOSITION: (Verified 8/8/22)

None received

ARGUMENTS IN SUPPORT: The Los Angeles County Board of Supervisors, sponsor of this bill, and other supporters argue that the current statewide minimum standard for providing SUD treatment services within the specialized SUD field as a counselor is inadequate to effectively prepare an individual to enter a public behavioral health system and work with a diverse, high-need population frequently with complex behavioral health conditions and life experiences. Originally intended to be a temporary measure when the state was negotiating the requirements around becoming a registered SUD counselor, the current standard is insufficient and outdated. SUDs are complex, life-threatening chronic health conditions that require appropriately trained professionals who have specialized knowledge of addiction and other critical skills necessary for today's health care field. Supporters further state that since implementing the DMC-ODS in 2017, the public SUD treatment landscape has fundamentally shifted, and SUD counselors are expected to provide high caliber, medically necessary treatment services. The COVID-19 pandemic and its many impacts have contributed to increases in SUD and overdose cases across the country. The Centers for Disease Control and Prevention (CDC) reported that over 100,000 people died from drug overdoses nationally between May 2020 and April 2021, a 29% increase from the previous year. California experienced a 44% increase in overdose deaths in April 2021 compared to April 2020. Similarly, Los Angeles County has seen staggering increases in overdose deaths since March 2020. Raising the minimum training standards for those joining the SUD workforce during this critical time is crucial to effectively address the growing burden of our drug overdose crisis. Establishing higher minimum training requirements, especially for registered SUD counselors, would support the specialty SUD treatment system, the California Advancing and Innovating Medi-Cal initiative, and the Medi-Cal program overall with an enhanced, qualified, and well-trained workforce. The County Behavioral Health Directors Association states that county behavioral health agencies rely on SUD counselors to provide critical SUD services to low-income Californians and make up approximately 70% of the county SUD workforce. The California Association of Alcohol and Drug Program Executives states that the grandfathering provisions for the existing workforce and six-month window to acquire the education and training creates a measured workforce bill that will increase the competencies of the workforce while not negatively impacting the overall supply of the SUD workforce.

ASSEMBLY FLOOR: 74-0, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Mia Bonta, O'Donnell, Blanca Rubio

Prepared by: Reyes Diaz / HEALTH / (916) 651-4111
8/10/22 14:24:39

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

SENATE RULES COMMITTEE AB 2481
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2481
Author: Smith (R)
Amended: 6/28/22 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 6-0, 6/1/22
AYES: Wieckowski, Bates, Cortese, Dahle, Gonzalez, Skinner
NO VOTE RECORDED: Stern

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-0, 5/5/22 (Consent) - See last page for vote

SUBJECT: Household hazardous waste: facilities: transportation and acceptance

SOURCE: Rural County Representatives of California

DIGEST: This bill makes various changes to the statutory requirements for the transportation of hazardous waste and the operation of household hazardous waste (HHW) collection facilities.

Senate Floor Amendments of 6/28/22 clarify the circumstances under which HHW can be transported to an HHW collection facility by a person who did not generate the waste and conditions under which a person dropping off waste can exit their vehicles in waste acceptance areas; imposes limits on the amount of hazardous waste that can be transported to an HHW collection facility by a public agency cleaning up illegally disposed wastes (55 gallons or 500 pounds); and addresses chaptering issues.

ANALYSIS:

Existing law:

1) Establishes the federal Resource Conservation and Recovery Act (RCRA) to authorize the United States Environmental Protection Agency (US EPA) to manage hazardous and non-hazardous wastes throughout the wastes' life cycle. (42 United States Code (U.S.C.) § 6901 et seq.)

2) Establishes the Hazardous Waste Control Law (HWCL) to authorize the Department of Toxic Substances Control (DTSC) to regulate the management of hazardous wastes in California. (Health and Safety Code (HSC) § 25100 et seq.)

3) Defines "waste" as any solid, liquid, semisolid, or contained gaseous discarded material. (HSC § 25124)

4) Defines "hazardous waste" as waste, that, because of its quantity, concentration, or physical, chemical, or infectious characteristics:

    a) Causes, or significantly contributes to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or,

    b) Poses a substantial present or potential hazard to human health or the environment, due to factors including, but not limited to, carcinogenicity, acute toxicity, chronic toxicity, bio accumulative properties, or persistence in the environment, when improperly treated, stored, transported, disposed of, or otherwise managed. (HSC § 25141(b))

5) Defines "household hazardous waste" as hazardous waste generated incidental to owning or maintaining a place of residence, but does not include waste generated in the course of operating a business at a residence. (HSC § 25218.1(e))

6) Establishes that counties and cities will provide services for the collection of HHW and that the state will provide an expedited and streamlined regulatory structure to facilitate the collection of HHW. (HSC § 25218)

This bill:

1) Revises and recasts various requirements and conditions related to the transportation of hazardous waste and the operation of HHW collection facilities.

2) Allows, to the extent consistent with federal law, the transporting of waste to an HHW collection facility from another HHW collection facility, as specified, with a shipping paper instead of a manifest.

3) Allows HHW to be transported in a leased vehicle.

4) Allows, under certain circumstances, HHW to be transported to an HHW collection facility by a person who did not generate the waste.

5) Allows an HHW collection facility authorized to accept hazardous waste from a very small quantity generator (VSQG) to take several actions, including, but not limited to, accepting hazardous waste from a VSQG in the same area and at the same time as residential HHW and allowing the facility to accept more than 100 kilograms of hazardous waste from a VSQG at a single time as long as it accepts no more 1,200 kilograms from that VSQG in a calendar year.

6) Authorizes an HHW collection facility to allow people to exit their vehicles in waste acceptance areas only under specified conditions.

7) Specifies that volume limitations placed on a facility in accepting hazardous waste from a VSQG do not apply to latex and oil-based paints, as provided, and would impose other volume and weight limitations on wastes transported by public agencies under existing authority to transport, or oversee the transport of, illegally disposed of hazardous waste.

8) Makes numerous nonsubstantive changes, including deleting obsolete provisions, and would make clarifying and conforming changes.

Background

1) *Hazardous waste management*. Hazardous waste is a waste with properties that make it potentially dangerous or harmful to human health or the environment. In regulatory terms, a waste is hazardous if it appears on an RCRA hazardous wastes list or exhibits one of the four characteristics of a hazardous waste: ignitability, corrosivity, reactivity, or toxicity. However, materials can be hazardous wastes even if they are not specifically listed or do not exhibit any characteristic of a hazardous waste. Hazardous wastes are prohibited from being disposed of in the trash, and must be properly transported and disposed of at permitted treatment, storage, and disposal facilities or at a recycling facility.

2) *Universal waste*. Universal waste comes primarily from consumer products containing mercury, lead, cadmium and other substances that are hazardous to

human health and the environment. These items cannot be discarded in household trash nor disposed of in landfills. Examples of universal waste are batteries, fluorescent tubes, and many electronic devices. Under both state and federal law and regulation, universal wastes are authorized to be managed in a less stringent manner than hazardous waste.

3) *Hazardous waste manifests*. The Uniform Hazardous Waste Manifest is the shipping document that travels with hazardous waste from the point of generation, through transportation, to the final treatment, storage, and disposal facility. Each party in the chain of shipping, including the generator, signs and keeps one of the manifest copies, creating a "cradle-to-grave" tracking of the hazardous waste. Hazardous waste transporters in California must adhere to regulations regarding proper containment and management of the hazardous waste, and hence must be registered with DTSC.

4) *Household hazardous waste collection*. Many common household products are also hazardous, and when these products are discarded, they become "household hazardous waste." Common HHW includes, but is not limited to, antifreeze, glue and adhesives, pesticides, used oil, batteries, electronic wastes, and household cleaners. In California, HHW is prohibited from being disposed of in the trash, down the drain, or by abandonment, and must be disposed of through a Household Hazardous Waste Program. Most HHW programs are run by local government agencies such as a city or county. California Hazardous Waste Law provides several management requirements for HHW generators and establishes a streamlined permitting process for HHW collection facilities. The reduced management requirements provided to households include:

   a) Households are not required to have a US EPA identification number;

   b) Households may self-transport up to 5 gallons or 50 pounds of HHW to an approved HHW Collection Facility. The local administering agency may elect to increase this quantity, under specified conditions, to 15 gallons or 125 pounds; and,

   c) Households are not required to use a Hazardous Waste Manifest when they self-transport HHW to an approved HHW Collection Facility.

   Additionally, local agencies may offer a number of services to assist in the transportation of HHW to a collection facility, including a curbside collection program, a mobile collection facility, a door-to-door collection program, an HHW residential pickup service, a registered hazardous waste transporter, or a registered hazardous waste transporter operating under a contract with a public

agency (i.e. Waste Management). Current law requires registered HHW transporters to comply with the manifest system, but authorizes the use of consolidated manifesting. These "consolidated transporters" are authorized to combine specified wastes from multiple generators on a single manifest, rather than using a separate manifest from each generator. The generators using the consolidated manifesting procedure are exempt from filling out a hazardous waste manifest. The consolidated transporter completes both the generator and the transporter section of the manifest.

5) *AB 2481.* This bill provides some additional flexibility and clarifications for HHW collection facilities. Generally speaking, HHW collection facilities, run by local, are the only place a household or small business can safely take their hazardous waste. When it comes to universal wastes, such as batteries or fluorescent lamps, households are often unsure where to dispose of them and they can often end up in the solid waste stream. It makes sense to continue to look at the requirements for HHW collection facilities, and where appropriate, to further clarify and streamline these requirements to assist with the safe collection of hazardous wastes from households.

Comments

1) *Purpose of this bill.* According to the author, "AB 2481 makes a variety of changes to the laws related to the transportation of household hazardous waste and operation of household hazardous waste collection facilities in an effort to clarify ambiguities and inconsistencies in current law, reduce the financial burden on local governments, and provide more flexibility to collection facilities and individuals to ensure that hazardous waste is disposed of properly.

   “Hazardous wastes, such as paint, cleaners, and batteries, pose a threat to human health and the environment if improperly discarded. The goal of this bill is to ensure that these items are disposed of correctly while reducing some of the burdens on individuals, local governments, and collection facilities."

Related/Prior Legislation

AB 698 (Assembly Environmental Safety and Toxic Materials Committee, Chapter 153, Statutes of 2021) updated terms within the HWCL to conform to recent changes in federal hazardous waste regulation promulgated by the US EPA under their Generator Improvement Rule.

SB 552 (Archuleta, Chapter 481, Statutes of 2019) authorized the use of consolidated manifests in the transportation of HHW in door-to-door HHW collection programs.

SB 726 (Caballero, Chapter 485, Statutes of 2019) authorized a public agency's contractor to conduct HHW materials exchange programs.

AB 1597 (Assembly Environmental Safety and Toxic Materials Committee, Chapter 133, Statutes of 2019) authorized the state's hazardous waste management manifest requirements to be satisfied through the use of the US EPA's electronic manifest system.

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

SUPPORT: (Verified 6/28/22)

Rural County Representatives of California (source)
American Coatings Association
City and County of San Francisco
Los Angeles County Sanitation Districts

OPPOSITION: (Verified 6/28/22)

None received

ASSEMBLY FLOOR: 61-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Friedman, Gallagher, Cristina Garcia, Gipson, Levine, McCarty, Medina, Villapudua, Waldron, Wicks

Prepared by: Gabrielle Meindl / E.Q. / (916) 651-4108
6/29/22 23:28:54

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

SENATE RULES COMMITTEE AB 2482
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2482
Author: Calderon (D), et al.
Amended: 6/28/22 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 5-1, 6/22/22
AYES: Leyva, Cortese, Glazer, McGuire, Pan
NOES: Dahle
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 52-4, 5/5/22 - See last page for vote

SUBJECT: Public postsecondary education: student health: pilot program: wellness vending machines

SOURCE: Author

DIGEST: This bill requires the California State University (CSU) and California Community Colleges (CCCs) to select five campuses within each respective segment to participate in the Wellness Vending Machine Pilot Program for the purpose of maintaining wellness vending machines that dispense specified non-prescription wellness products.

ANALYSIS:

Existing law:

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

2) Establishes the Donahoe Higher Education Act and assigns the missions of the CCC, the CSU, and the UC. (Education Code § 66010 et. seq.)

3) Stipulates no provision of the Donahue Higher Education Act shall apply to the UC unless the UC Regents adopts the provision. (EC § 67400).

4) Establishes the CSU system, comprised of 23 campuses, and bestows upon the CSU Board of Trustees the power, duties, and functions with respect to the management, administration, and control of the CSU system. (EC § 66606 and 89030 et. seq.)

5) Establishes the CCC under the administration of the Board of Governors of the CCC, as one of the segments of public postsecondary education in this state. (EC § 70900)

This bill:

1) Establishes the Wellness Vending Machine Pilot Program and requires the CSU and CCC to administer the pilot program at their respective segments.

2) Requires the CSU and CCC to select five campuses within their respective segments, which are deemed most appropriate, to participate in the pilot program.

3) Provides that participation by community college campuses is voluntary.

4) Requires each participating campus to establish at the main campus, a satellite campus, or both, at least one wellness vending machine that dispenses wellness products, including, but not limited to:

   a) Condoms.

   b) Dental dams.

   c) Menstrual cups.

   d) Lubrication.

   e) Tampons.

   f) Menstrual pads.

   g) Pregnancy tests.

   h) Non-prescription drugs, including discounted emergency contraception.

5) Requires each participating campus to do both of the following:

   a) Place wellness vending machines in central locations on campus that will enable students to have access 24 hours per day, seven days per week, to the extent possible.

   b) Select and implement at least one of the following methods, or other chosen method, to notify students of the presence of the wellness vending machine:

      i) Pamphlets.

      ii) Posters.

      iii) Flyers.

      iv) Social media.

      v) Creating or updating internet websites.

      vi) Hosting a grand opening event.

      vii) Outreach to campus clubs and organizations.

      viii) During an orientation session.

6) Requires the CSU and CCC, by July 1, 2025, and annually thereafter, to submit a report to the Legislature on the pilot project at its participating campuses, with information disaggregated by campus. This bill requires the report to include all of the following:

   a) The location of the wellness vending machines.

   b) Which times of the day and days of the week the wellness vending machine is stocked, functioning, and accessible to students.

   c) The total cost to acquire and maintain the wellness vending machine.

   d) Which method or methods were used to notify students of the presence of the wellness vending machine.

   e) The types of products offered through the wellness vending machine.

   f) Whether the price for each type of product was offered at a discounted rate as compared to the average retail price.

g) The total sales volume, disaggregated by type of product.

h) The name of each entity or organization, if any, the campus or segment partnered with to offer products through the wellness vending machine.

i) The source or sources of funding used to finance the wellness vending machine.

7) Requests the UC to select any number of campuses, which are deemed most appropriate, to participate in the pilot program, and requests each participating campus to do everything described in #s 4 -5, and requests UC to report pursuant to # 6, above.

8) Sunsets the provisions of this bill on July 1, 2029.

Comments

Need for the bill. According to the author, "Access to quality, affordable healthcare products is essential for ensuring health and wellness – a crucial component to college students' success. In the fall of 2020, the CCC served about 1.8 million students across 116 colleges, the CSU served a total of 537,849 students across 23 campuses, and the UC served more than 280,000 students across nine campuses. While every one of the CSU and UC campuses have a student health center, most are not available 24/7, many lack same-day appointments, and they are closed on the weekends. Additionally, not every one of the CCC's has a student health center on-site. This means a large proportion of college students seeking health and wellness products off-campus or outside of operating hours must travel to the closest pharmacy – sometimes as far as two to three miles away, with many closing after midnight. This can prove difficult for students who do not have access to a car or when public transportation is not proximate to a pharmacy.

"Installing a wellness vending machine has the potential to address these barriers to care by allowing students to access over-the-counter health products outside the confines of pharmacy hours and without the need for personal transportation given that they are easily accessible. Because the maintenance and re-stocking costs are low and staffing needs are minimal, these vending machines will also address affordability barriers which prevent students from accessing quality care."

Existing wellness vending machines. According to data provided by the author, wellness vending machines have been installed and positively received by students in several California public and independent colleges and universities. Some of the campuses include, but are not limited to, the following: 1) UC Davis; 2) UC Riverside; 3) UC Santa Barbara; 4) UCLA; 5) UC Berkeley; 6) CSU Northridge;

7) Stanford University; 8) Scripps College; 9) Pomona College; and, 10) University of Southern California. While campuses may currently install and maintain a wellness vending machine, this bill standardizes a minimum number of products to be provided and requires the CSU and CCC to report on the pilot program to provide information about programs across each segment.

Access to wellness products by minors. None of the products listed in this bill are prohibited from being provided to minors; emergency contraception is available to minors through a pharmacy without a prescription.

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

SUPPORT: (Verified 8/2/22)

Office of Lieutenant Governor Eleni Kounalakis
American College of Obstetricians and Gynecologists, District IX
California Faculty Association

OPPOSITION: (Verified 8/2/22)

None received

ASSEMBLY FLOOR: 52-4, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Eduardo Garcia, Grayson, Haney, Holden, Irwin, Kalra, Lee, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Megan Dahle, Davies, Smith, Voepel
NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Choi, Cunningham, Flora, Fong, Gallagher, Cristina Garcia, Gipson, Gray, Jones-Sawyer, Kiley, Lackey, Levine, Medina, Nguyen, Patterson, Seyarto, Villapudua, Waldron

Prepared by: Lynn Lorber / ED. / (916) 651-4105
8/3/22 14:36:14

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

SENATE RULES COMMITTEE AB 2487
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2487
Author: Gray (D)
Introduced: 2/17/22
Vote: 21

SENATE AGRICULTURE COMMITTEE: 5-0, 6/21/22
AYES: Borgeas, Hurtado, Caballero, Eggman, Glazer

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-0, 5/5/22 (Consent) - See last page for vote

SUBJECT: Fairs: district agricultural associations: sponsorship fees

SOURCE: Author

DIGEST: This bill authorizes a district agricultural association to pay sponsorship fees and join and participate in affairs of any similar organization that deals with subjects related to the powers and duties of the association.

ANALYSIS:

Existing law:

1) Establishes district agricultural associations *(Business and Professions Code Section 19622.1).*

2) Authorizes an association to pay membership fees to participate in affairs of any organization that has the following purposes *(Food and Agriculture Code Section 4056)*:

   a) Interchange of information that relates to livestock, poultry, and other agricultural animals and products.

   b) Conduct and manage fairs.

c) Conduct horseracing meetings.

3) Authorizes an association to pay membership fees, join, and participate in affairs of any similar organization that deals with subjects related to powers and duties of the association *(Food and Agriculture Code, Section 4056).*

This bill authorizes an association to pay sponsorship fees and join and participate in affairs of any similar organization that deals with subjects related to the powers and duties of the association.

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

SUPPORT: (Verified 8/1/22)

None received

OPPOSITION: (Verified 8/1/22)

None received

ARGUMENTS IN SUPPORT: According to the author:

> California's fairs operate under the guidelines of the Department of Food and Agriculture - Division of Fairs and Expositions. Collectively they host events that are attended by nearly ten million Californians and tourists annually. While current law authorizes fairs to pay membership fees to an association that manages a fair, horse racing program, or livestock show, AB 2487 clarifies that fairs can also pay sponsorship fees which are fees collected from the sale of any and all title, signage, billboard, and secondary advertisements.

ASSEMBLY FLOOR: 61-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wilson, Wood, Rendon

NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Friedman, Gallagher, Cristina Garcia, Gipson, Levine, McCarty, Medina, Villapudua, Waldron, Wicks

Prepared by: Reichel Everhart / AGRI. /(916) 651-1508
8/4/22 10:10:25

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

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

THIRD READING

Bill No: AB 2493
Author: Chen (R)
Amended: 6/30/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-0, 6/22/22
AYES: Cortese, Durazo, Laird, Newman
NO VOTE RECORDED: Ochoa Bogh

SENATE JUDICIARY COMMITTEE: 10-0, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, Jones, McGuire, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas

ASSEMBLY FLOOR: 68-0, 5/2/22 - See last page for vote

SUBJECT: County employees' retirement: disallowed compensation: benefit adjustments

SOURCE: Association of Orange County Sheriff's Department
California Professional Firefighters

DIGEST: This bill makes several changes to the County Employees Retirement Law of 1937 ('37 Act) regarding pension calculation adjustments arising from erroneous inclusion of disallowed compensation, including requiring participating county employers to do the following: (1) reimburse their respective retirement system for pension overpayments made to peace officer and firefighter retirees arising from erroneous employer reporting of disallowed compensation, and (2) pay affected retirees a lump sum amount equal to 20 percent of the actuarial equivalent present value of a retiree's "lost" pension going forward due to the system's recalculation of the retiree's benefit to exclude the disallowed compensation.

ANALYSIS:

Existing law:

1) Provides, among other things under the California Constitution that, "the members of the retirement board of a public pension or retirement system shall discharge their duties with respect to the system solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administrating the system." (Section 17, Art. XVI, Cal. Const.)

2) Establishes the County Employees Retirement Law (CERL) that governs 20 independent county retirement associations and provides for retirement systems for county and district employees in those counties adopting its provisions. Currently, 20 counties operate retirement systems under the CERL and these systems are commonly referred to as "1937 Act system" or "'37 Act systems." These systems are regulated by, and administer the CERL, that is also commonly referred to as the "'37 Act." (Government Code § 31450 et seq.)

3) Establishes that the purpose of the CERL is to recognize a public obligation to county and district employees who become incapacitated by age or long service in public employment and its accompanying physical disabilities by making provision for retirement compensation and death benefit as additional elements of compensation for future services and to provide a means by which public employees who become incapacitated may be replaced by more capable employees to the betterment of public service without prejudice and without inflicting a hardship upon the employees removed. (GC §31451)

4) Establishes the Public Employees' Pension Reform Act of 2013 (PEPRA) – a comprehensive reform of public employee retirement that, among other things, increased contributions towards retirement, decreased benefit formulas, and increased the age of retirement that apply to new members of the system first hired on or after January 1, 2013, and made changes that apply to all members towards resolving unfunded liabilities, the manipulation of compensation for purposes of calculating a retirement allowance (i.e., pensions spiking), double-dipping, and other prescribed best practice measures. (GC § 7522.02 et seq.)

5) Defines, under the CERL, "compensation" to mean the remuneration paid in cash out of county or district funds, plus any amount deducted from a member's wages for participation in a deferred compensation plan, as provided, but does

not include the monetary value of board, lodging, fuel, laundry, or other advantages furnished to the member. (GC § 31460)

6) Defines, pursuant to the CERL, "compensation earnable" by a member to mean the average compensation as determined by the board, for the period under consideration upon the basis of the average number of days ordinarily worked by persons in the same grade or class of positions during the period, and the same rate of pay. Among other things, "compensation earnable" expressly does not include certain types or forms of compensation paid to, and when they were paid that, enhance a member's retirement benefit under the system. (GC § 31461)

7) Establishes that when a county or district reports compensation to the system, it must identify the pay period in which the compensation was earned regardless of when it was reported or paid, and prescribes the reporting requirements and limitations on compensation earnable. (GC § 31542.5)

8) Establishes that "compensation earnable" must not include overtime premium pay other than premium pay for hours worked within the normally scheduled or regular working hours that are in excess of the statutory maximum workweek or work period applicable to the employee under federal law, as specified. (GC § 31461.6)

9) Defines "final compensation" to mean the average annual compensation earnable by a member during any three years elected by a member at or before the time they file an application for retirement, or, if they fail to elect, during the three years immediately preceding their retirement. If a member has less than three years of service, their final compensation must be determined by dividing their total compensation by the number of months of service credited to them and multiplying by 12. (GC § 31462)

10) Prescribes how a '37 Act system determines final compensation, including final compensation based on compensation for one year (if adopted by a county), and in relation to intermittent members, subject to certain conditions where applicable. (GC §§ 31462.05, 31462.1, and 13462.2)

This bill:

1) Defines the following terms for purposes of the bill's provisions:

a) "Agreement" means a memorandum of understanding or collective bargaining agreement.

b) "Alameda" means the Supreme Court case of Alameda County Deputy Sheriff's Association v. Alameda County Employees' Retirement Association (2020) 9 Cal.5th 1032 or its holding.

c) "Disallowed compensation" means compensation reported for a sworn peace officer or firefighter of the retirement system that the system subsequently determines is not in compliance with PEPRA, Alameda, Section 31461, or the system's administrative regulations, through no fault of the sworn peace officer or firefighter.

d) "Employer" means the appropriate applicable county, agency, or district standing in relationship between the employee and the system.

e) "PEPRA" means the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1).

f) "System" means a retirement association or system established by the 1937 County Employees Retirement Act.

2) Mandates a '37 Act retirement system require a system-participating employer to discontinue reporting disallowed compensation if the system determines that the compensation the employer reported for a sworn peace officer or firefighter is disallowed compensation.

3) Provides that for *active* peace officer or firefighters, all contributions made on disallowed compensation must be credited against future contributions to the benefit of the employer or agency that reported the disallowed compensation, and any paid by, or on behalf of, that member must be returned to the member by the employer or agency that reported the disallowed compensation, except as specified.

4) Allows a system that has initiated a process prior to July 1, 2022, to recalculate an *active* sworn peace officer or firefighter's reportable compensation to exclude disallowed compensation and return contributions, either directly to the member, indirectly through the employer, or by some other reasonable manner, to continue to use that process provided that it is consistent with PEPRA as it read on July 1, 2022, and with Alameda, in lieu of the process provided by this bill.

5) Provides that for *retired* sworn peace officers or firefighters, their survivors, or beneficiaries, whose final compensation at the time of retirement was predicated upon the disallowed compensation, the contributions made on the compensation must be credited against future contributions, to the benefit of the employer or agency that reported the disallowed compensation and the retirement system must permanently adjust the benefit of the affected retired member, survivor, or beneficiary to reflect the exclusion of the disallowed compensation, and includes repayment and notice requirements provided that the following conditions are satisfied:

   a) The employer reported the compensation to the system and made contributions on that compensation while the sworn peace officer or firefighter was actively employed for at least three years prior to the member's final compensation.

   b) The system determined after the date of retirement that the compensation was disallowed.

   c) The sworn peace officer or firefighter was not aware that the compensation was disallowed at the time the employer reported it.

6) Requires the employer to do the following if the disallowed compensation meets the above conditions:

   a) Pay to the system, as a direct payment, the full cost of any overpayment of the prior paid benefit made to an affected retired member, survivor, or beneficiary resulting from the disallowed compensation.

   b) Pay to the affected retired member, survivor, or beneficiary, as appropriate, 20 percent of the amount calculated by the system representing the actuarial equivalent present value of the difference between the monthly allowance that was predicated on the disallowed compensation and the adjusted monthly allowance calculated excluding the disallowed compensation for the duration the system projects to pay that allowance to the retired member, survivor, or beneficiary.

7) Requires the employer to begin payment within six months of notice from the system but permits the employer up to three years to complete the payment.

8) Requires the system to provide a written notice to the employer that reported contributions on the disallowed compensation and to the affected retired member, survivor, or beneficiary, including, at a minimum, all of the following:

a) The overpayment amount that the employer shall pay to the system.

b) The actuarial equivalent present value that the employer owes to the retired member, survivor, or beneficiary.

c) Written disclosure of the employer's obligations to the retired member, survivor, or beneficiary pursuant to this section.

9) Allows a system that has initiated a process prior to July 1, 2022, to permanently adjust the benefit of the affected *retired* member, survivor, or beneficiary to reflect the exclusion of the disallowed compensation to continue to use that process provided that it is consistent with PEPRA as it read on July 1, 2022, and with Alameda, in lieu of the process provided by this bill.

10) Requires the system to, upon the employer's request, provide the employer or agency with contact information or data in its possession of a retired member, their survivors, or beneficiaries, so that the employer or agency can fulfill its obligations to those individuals, and that the contact information remain confidential.

11) Authorizes an employer to submit to the system for review an additional compensation item that a party to a proposed agreement requests be included, contained, adopted, or a entered into that agreement, on and after January 1, 2022, that is intended to form the basis of a pension benefit calculation, in order for the system to review consistency of the proposal with PEPRA, Alameda, Section 31461, and the system's administrative regulations.

12) Requires the employer to include with the submission to the system all supporting documents or requirements the system deems necessary to complete its review.

13) Requires the system to provide guidance regarding the submission within 90 days of the receipt of all information required to make a review.

14) Authorizes, but does not require, the system to periodically publish a notice of the proposed compensation language submitted to the system pursuant to this section for review and the guidance it provided.

15) Clarifies that the bill does not alter or abrogate an employer's responsibility to meet and confer in good faith with the employee organization regarding the impact of the disallowed compensation or the effect of any disallowed compensation on the rights of the employees and the obligations of the employer to its employees, including any employees who, due to the passage of

time and promotion, may have become exempt from inclusion in a bargaining unit, but whose benefit was the product of collective bargaining.

16) Provides that the bill does not affect or otherwise alter a party's right to appeal any determination regarding disallowed compensation made by the system after July 30, 2020.

17) Makes legislative findings and declarations relating to the necessity of limiting public access to information that may be shared among public agencies to effect the bill's purpose.

18) Prohibits the bill from being interpreted to alter the Legislature's intent in enacting the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1) of, and Section 31461 of, the Government Code, to alter a retirement system's corresponding implementing administrative regulations, or to alter the holding in Alameda County Deputy Sheriff's Association v. Alameda County Employees' Retirement Association (2020) 9 Cal.5th 1032. States that the Legislature intends this bill to be consistent, not in conflict, with those laws, regulations, and the Alameda holding.

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

SUPPORT: (Verified 7/14/22)

Association of Orange County Sheriff's Department (co-source)
California Professional Firefighters (co-source)
Barstow Professional Firefighters Association Local 2325
California Fraternal Order of Police
Contra Costa County Professional Firefighters Local 1230
Kern County Firefighters Local 1301 Union
Lathrop-Manteca Firefighters Local 4317
Long Beach Police Officers Association
Marin Professional Firefighters Local 1775
Orange County Professional Firefighters Association, Local 3631
Peace Officers Research Association of California
Sacramento County Deputy Sheriffs' Association
San Bernardino County Firefighters Local 965
San Bernardino County Safety Employees' Benefit Association
San Bernardino County Sheriff's Employees' Benefit Association
Ventura County Professional Firefighters Association Local 1364

OPPOSITION: (Verified 7/14/22)

California Special Districts Association
California State Association of Counties
County of Kern
County of San Joaquin
County of Santa Barbara
County of Tulare
Rural County Representatives of California
San Bernardino County Employees' Retirement Association
Urban Counties of California

ARGUMENTS IN SUPPORT: According to the California Professional Firefighters:

> "These important protections align with recently enacted legislation to protect retirees from disallowed compensation at CalPERS. That law, SB 278 by Senator Leyva, has started to provide important protection to retirees and this measure will provide that same level of protection to retirees in 1937 Act Retirement Systems.
>
> "It is patently unfair to force a retiree who has dedicated a lifetime of service to the people of California to lose a large portion of their fixed income over a disallowed pay item that was not their fault. If the employer promises and pays for a benefit that is disallowed after the fact, the retiree living on a fixed income who is budgeting according to that fixed income should not have to pay the price for that broken promise."

According to the Association of Orange County Deputies:

> "Oftentimes retirees make the decision to retire based on the retirement dollar amount provided to them. Retirees should not bear the heavy burden from errors that, through no fault of their own, result in a clawback of retirement funds as well as significantly reduced monthly payments going forward. This creates a substantial hardship for retirees that budget based on fixed income. AB 2493 would protect the retirement security of sworn peace officers and firefighters by ensuring that any compensation agreed to by their employer and paid for by the employer and the retiree cannot be subsequently and retroactively deducted from the retired member's pension allowance because of a disallowed pay item."

ARGUMENTS IN OPPOSITION: According to the California State Association of Counties:

> "Over the last two years, the impacted '37 Act systems have been working to comply with Alameda and recalculate retirement benefits for members who retired after January 1, 2013.
>
> "AB 2493 unfairly places the financial consequences of the Court's decision on counties by requiring '37 Act system employers to pay a "penalty" equal to 20 percent of the current actuarial value of retiree benefits deemed unlawful. The penalty, which will result in affected counties owing tens of millions of dollars in unbudgeted dollars to retirees for what the Court found to be an illegal benefit, implies counties made the decision to misapply the law. In reality, counties simply complied with the pension agreements established between employees, employers, and retirement systems.
>
> "For the reasons stated above, we must oppose AB 2493. The fiscal impact on affected counties will place a significant strain on general fund dollars, resulting in reductions to critical programs including public safety, transportation, and behavioral health."

According to the San Bernardino County Retirement System:

> "The language of AB 2493 takes aim at all pay items that were disallowed as a direct result of Alameda. These are not "once in a blue moon" errors; these are numerous corrections that range from very small to large adjustments. The SBCERA Board did not require the recoupment of any overpaid amounts from retirees for the period preceding Alameda. Should AB 2493 pass as currently written, SBCERA anticipates that over 2,000 actuarial calculations will need to be performed for public safety members at a potential costs of millions of dollars.
>
> "In addition, the language of AB 2493 imposes additional duties for the retirement systems to meet and confer with employee organizations regarding the impact of disallowed compensation items. The retirement systems are not parties to labor negotiations between employers and their employees. Finally, AB 2493 requires county retirement systems to follow CalPERS regulations that define 'compensation earnable.' Some of those rules are different from those authorized under the County Employees' Retirement Law, both regarding their inclusions in, and exclusions from, retirement allowance determinations, and is unclear from AB 2493 how those differences are to be reconciled."

ASSEMBLY FLOOR: 68-0, 5/2/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Mia Bonta, Calderon, Megan Dahle, Gallagher, Gipson, Levine, Medina, Quirk-Silva, Waldron

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
7/28/22 10:38:36

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

SENATE RULES COMMITTEE AB 2503
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2503
Author: Cristina Garcia (D), et al.
Amended: 8/1/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 10-1, 6/21/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Laird, McGuire, Stern, Wiener
NOES: Jones

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 54-15, 5/23/22 - See last page for vote

SUBJECT: Landlords and tenants: California Law Revision Commission: study

SOURCE: Apartment Association of Orange County

DIGEST: This bill directs the California Law Revision Commission (CLRC) to study how and whether to establish consistent terminology in statutes governing the rental of residential real property without disturbing existing caselaw and contracts.

ANALYSIS:

Existing law:

1) Establishes the CLRC. (Gov. Code § 8280.)

2) Directs the CLRC to study any topic that the Legislature, by concurrent resolution or statute, refers to it for study. (Gov. Code § 8293(a).)

This bill:

1) States the Legislature's intent to do the following:

a) Establish consistent terminology to describe the parties to an agreement to rent residential property; and
b) Determine if continued use of the terms "landlord" and "tenant" in the California Codes is useful and appropriate.

2) Directs the California Law Revision Commission (Commission) to, on or before December 31, 2024, deliver to the Legislature a study regarding all of the following:
   a) Establishment of consistent terminology across the California Codes to describe the parties to an agreement, lease, or other contract for the rental of residential real property, including in mobilehome parks, that meets all of the following criteria:
3) The terminology chosen should preserve legal distinctions currently recognized in statute, regulation, caselaw, and contracts, including the distinction between month-to-month rental agreements and leases for agreed-upon periods of time;
      (1) ii) The study should address whether the continued use of the terms "landlord" and "tenant," including related terms like "cotenant" and "subtenant," is useful and appropriate in Code provisions that involve the rental of residential real property;
      ii) If continued use of the terms "landlord" and "tenant" is no longer useful and appropriate, then the study should suggest replacement terms that are reasonably concise, given the frequency with which these terms are currently used in statute, regulation, litigation, caselaw, and contracts; and
      iii) Suggested replacement terms should not affect the usage of the terms "landlord" and "tenant" elsewhere in real property law, including in the terms "joint tenants" and "tenants in common."
   b) Terminology used in the laws of other states;
   c) Any effect that adoption of terminology under (2)(a), above, will have on caselaw established using existing terminology; and
   d) Any effect that adoption of terminology under (2)(a) will have on contracts made under existing terminology.

4) Directs the Commission, if it determines that adopting a statutory scheme that meets the criteria above is prudent and practicable, to do both of the following:
   a) Recommend a comprehensive statutory scheme that meets those criteria;
   b) Identify provisions of the California Code of Regulations involving the hiring of residential real property that may need to be amended in order to conform to the terminology in the recommended statutory scheme.

Comments

Legislative authority to assign topics to the CLRC for study. The California Law Revision Commission (CLRC) was established in 1953. (AB 35 (Shaw, Ch. 1445, Stats. 1953; Gov. Code § 8280.) The CLRC's enabling statute recognizes two types of topics the CLRC is authorized to study: (1) those that the CLRC identifies for study and lists in the Calendar of Topics that it reports to the Legislature; and (2) those that the Legislature assigns to the CLRC directly, by statute or concurrent resolution.

The CLRC study proposed by this bill. Because of the fundamental role that the quality and availability of shelter plays in Californian's health and safety, residential rental housing is a highly regulated industry. Laws governing standards, procedures, and costs of residential rental housing appear throughout the California Codes, including the Civil Code, Code of Civil Procedure, Government Code, and Health and Safety Code. Those laws find further expression in the California Code of Regulations.

Currently, these statutes and regulations utilize a variety of terms to refer to the parties involved in residential rental housing. For example, landlords may also be called "housing owners," "lessors," "property owners," "management," "owners," or any number of variations on those terms. Tenants may also be mentioned as "occupants," "lessees," "renters," among other things.

Where the Legislature or administrative body promulgating the regulation intends this use of different terminology to indicate substantive differences in the legal rights or responsibilities of landlords and tenants, such variation is helpful. In practice, however, most of the variation appears to derive from nothing more than different drafting choices with no obvious substantive meaning. To borrow an example raised during the Assembly Judiciary Committee's consideration of this bill, it is unclear why Civil Code Section 1940.8 uses the term "landlord of a residential dwelling unit" and the immediately-adjacent Section 1940.8.5 uses the term "owner of residential rental property"—when both provisions deal with pest control in rental housing.

This bill tasks the CLRC with studying the variation in terminology in California's residential rental housing law and, if the CLRC determines it would be prudent and practicable, proposing changes that would render that terminology more consistent.

At the same time, the bill directs the CLRC to consider whether the terms "landlord" and "tenant" are outdated and ought to be replaced altogether. The word "landlord," in particular, apparently derives from medieval England and has a feudal ring to it.

No changes to substantive law. This bill underscores that the task assigned to the CLRC is purely semantic. If the CLRC recommends any changes in terminology after studying the issue, this bill directs the CLRC to make certain that those changes will not alter the nature of any contractual relationships or the substance of the laws that govern residential rental housing in California.

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

SUPPORT: (Verified 8/9/22)

Apartment Association of Orange County (source)
East Bay Rental Housing Association

OPPOSITION: (Verified 8/9/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "There are 160 years of California Code and case law surrounding the terms of "landlord" and "tenants." The use of these terms dates back centuries. Over time, these terms have changed, are outdated, and could be considered offensive to some individuals. Because this is such a complex and impactful area of law, if we were to update or change the terms, we must ensure we have the correct terms and preserve over [a century] of case law. In recognition of the herculean task that would be changing all 'landlord' and 'tenant' terms, I have instead amended the bill to ask the Law Revision Commission to review the many terms in the California Codes that relate to different parties in agreements to rent property. The Commission would establish consistent terminology to describe the parties, determine if the use of the term 'landlord' or 'tenant' are appropriate, and report back to the Legislature on how best to unify the terms in the Code."

As sponsor of this bill, the Apartment Association of Orange County writes, "We believe the CLC is the appropriate body to conduct study that will, in the end, provide us with neutral terminology that will eliminate antiquated law and bring us forward to modern times without any effect on case law or existing contracts."

ASSEMBLY FLOOR: 54-15, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Davies, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Choi, Megan Dahle, Flora, Fong, Gallagher, Kiley, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Mia Bonta, Bryan, Chen, Lackey, Mayes, McCarty, O'Donnell, Blanca Rubio

Prepared by: Timothy Griffiths / JUD. / (916) 651-4113
8/10/22 14:24:45

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

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THIRD READING

Bill No: AB 2521
Author: Santiago (D), et al.
Amended: 6/20/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 7-2, 6/15/22
AYES: Pan, Eggman, Gonzalez, Hurtado, Leyva, Limón, Wiener
NOES: Melendez, Grove
NO VOTE RECORDED: Roth, Rubio

SENATE JUDICIARY COMMITTEE: 9-0, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, McGuire, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas, Jones

ASSEMBLY FLOOR: 57-0, 5/26/22 - See last page for vote

SUBJECT: Transgender, Gender Nonconforming, or Intersex Fund

SOURCE: The California TGI Policy Alliance

DIGEST: This bill renames the Transgender Wellness and Equity Fund the Transgender, Gender Nonconforming, or Intersex Wellness and Equity Fund and defines the terms transgender, gender non-conforming, and intersex.

ANALYSIS:

Existing law:

1) Requires the California Department of Public Health (CDPH) to establish an Office of Health Equity (OHE) in order to achieve the highest level of health and mental health for all people, work collaboratively with the Health in All Policies (HIAP) Task Force, advise and assist other state departments in their mission to increase access to, and the quality of, culturally and linguistically

competent health and mental health care and services, and improve the health status of all populations and places. [HSC §131019.5]

2) Requires OHE to administer the Transgender Wellness and Equity (TWE) Fund for the purpose of funding grants to organizations serving people that identify as transgender, gender noncomforming, or intersex (TGI), to create or fund TGI-specific housing programs and partnerships with hospitals, health care clinics, and other medical providers to provide TGI-focused health care and related education programs for health care providers. Requires such grants to go to TGI-serving organizations, which are defined as an organization with a mission statement that centers around serving TGI people, and where at least 65% the organization's clients are TGI. [HSC § 150900]

This bill:

1) Changes the name of the TWE Fund to the Transgender, Gender Nonconforming, or Intersex Wellness and Equity Fund.

2) Defines "transgender" as inclusive of all gender identities different from the gender a person was assigned at birth. Defines "gender nonconforming" as an individual who may experience a gender that is neither exclusively male nor female or is in between or beyond both of those genders, including nonbinary, gender fluid, agender or without gender, third gender, genderqueer, gender variant, Two-Spirit, Hijra, Kathoey, Mak nyah, Muxe, Waria, Mahū, and Fa'afafine. Defines "intersex" as a person whose anatomy, hormones, or chromosomes fall outside the strict male and female binary.

Comments

1) *Author's statement.* According to the author, in 2020, California established the first-in-the-nation TWE Fund to ensure that TGI Californians have equal access to healthcare regardless of their gender identity. This bill will rename the TWE Fund to the TGI Wellness and Equity Fund to properly represent the TGI individuals that the Fund will serve.

2) *Demographic and health characteristics of transgender adults in California.* The Williams Institute at the University of California, Los Angeles (UCLA) School of Law, which conducts independent research on sexual orientation and gender identity law and public policy, estimates that in the state of California, at least 218,400 individuals identify as transgender. In October 2017, the UCLA Center for Health Policy Research and the Williams Institute published a report on the demographics, health, and health care access among transgender adults

in California who participated in the 2015-2016 California Health Interview Survey (CHIS). According to the report, transgender adults experience disparities in mental health, disability status, and health care access.

a) *Health indicators.* Compared to cisgender adults, transgender adults are more than three times more likely to have ever thought about suicide, nearly six times more likely to have ever attempted suicide, nearly four times more likely to have experienced serious psychological distress, and more than three times more likely to have emotions that interfere with their relationships, social life, ability to do chores, and work performance. Research suggests that this higher prevalence is, at least in part, related to the stress that results from stigma and discrimination, to delaying health care due to fear of discrimination, and to not receiving medically necessary transition-related health care.

   In regard to general health, 24% of transgender adults reported their health as fair or poor, which was similar to cisgender adults (20%). Transgender adults were significantly more likely than cisgender adults to report having a disability due to a physical, mental, or emotional condition (60% versus 27%). The report also found that transgender adults appear more likely to be living with HIV.

b) *Access to health care.* The report states that prior national research has found that transgender adults experience barriers to accessing health care, including being less likely to have health insurance coverage, having a lack of health care providers, and experiencing mistreatment by health care providers. The report found that transgender adults are nearly three times more likely than cisgender adults to delay getting medicine prescribed to them by a doctor or to not get the medicine at all.

   Less is known about gender nonconforming adults, though an article published in May 2021 in the medical journal Andrology using a number of data sources found some distinctions: nonbinary persons were less likely to access transgender-related health care providers or clinics than transgender persons; nonbinary participants were more likely to be insured compared to transgender women; nonbinary persons were more likely to have avoided care due to cost compared to transgender persons. It also found that nonbinary persons experience more chronic health conditions than transgender persons.

   Little is known about the general health indicators or access to health care of intersex adults from a demographic perspective. However, according to the

Fenway Institute, intersex individuals have experienced high levels of medical trauma due to attempts to "correct" atypical genitalia, mismatch between "corrected" genitalia and an individual's gender identity, and unnecessary and objectifying medical examinations. Nondisclosure about their medical information also leads to increased shame and stigma.

3) *TWE Fund.* AB 2218 (Santiago, Chapter 181, Statutes of 2020) establishes the TWE Fund within OHE, for the purpose of funding grants to organizations serving people that identify as TGI, to create or fund TGI-specific housing programs and partnerships with hospitals, health care clinics, and other medical providers to provide TGI-focused health care, as defined, and related education programs for health care providers. The 2021-22 State Budget allocated $13 million to the TWE Fund.

   CDPH has not yet distributed grants from the TWE Fund. According to CDPH, it will continue program design through Fall 2022, including extensive stakeholder engagement. CDPH will begin contract and grant solicitation processes immediately upon budget authorization. After program design is complete and the first contractor comes aboard, CDPH will provide application assistance and organizational development support to potential grantees followed by the release of the first round of requests for application in winter 2023. CDPH projects the first grant awards to be announced in spring 2023 followed by future awards through winter 2023. CDPH also notes that it expect that applicants to the fund will need considerable technical assistance as many of the eligible organizations are very small and some are staffed with volunteers.

Related/Prior Legislation

AB 2218 (Santiago, Chapter 181, Statutes of 2020) established the TWE Fund within OHE, for the purpose of funding grants to organizations serving people that identify as TGI, to create or fund TGI-specific housing programs and partnerships with hospitals, health care clinics, and other medical providers to provide TGI-focused health care, as defined, and related education programs for health care providers.

AB 673 (Perez, Chapter 639, Statutes of 2011) extended the duties of the Office of Multicultural Health (now OHE) to the LGBT community.

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

SUPPORT: (Verified 6/30/22)

The California TGI Policy Alliance (source)
ACLU California Action
AFSCME
AIDS Healthcare Foundation
Alianza Translatinx
APLA Health
Asian American Liberation Network
California TRANscends
Central California LGBTQIA+/2S Collaborative
Children's Hospital Los Angeles
Chispa
County Behavioral Health Directors Association
El/La Para TransLatinas
GLIDE
Inclusive Action for the City
interACT: Advocates for Intersex Youth
Mirror Memoirs
MPact: Global Action for Gay Health & Rights
San Diego Pride
San Francisco AIDS Foundation
San Joaquin Pride Center
TG/ENBY Project
The Trevor Project
Trans Can Work
TransFronteras San Diego
Transgender Law Center
Transgender, Gender-Variant, & Intersex Justice Project
TransLatin@ Coalition
Unique Woman's Coalition
United Food and Commercial Workers
Western Center on Law and Poverty
Williams Institute at the UCLA School of Law

OPPOSITION: (Verified 6/30/22)

None received

ARGUMENTS IN SUPPORT: The California TGI Policy Alliance writes that the Fund already provides funding to support TGI people across the state of

California and the updated name provides necessary visibility and representation to gender non-conforming and intersex communities. The renaming of the Fund is necessary to acknowledge all TGI people in budget discourse. They acknowledge a lack of local and state data collection efforts on the experiences of gender non-conforming and intersex people, which contributes to the erasure of the community's experiences of marginalization. Experts estimate that approximately 2% of the world's population is intersex. According to GLAAD's 2017 survey, Accelerating Acceptance, due to societal acceptance, more people are becoming comfortable self-identifying as genders outside of the strict binary in a manner falls under the Fund's definition of gender non-conforming. In fact, 8% of people age 18-34 are agender, bigender, genderqueer, or gender fluid, 3% of people 36-51, 1.5% of 52-71, and 1% of people ages 72 and older. Despite the fact that many Californians are gender-nonconforming and intersex, and despite healthcare disparities and needs for culturally competent services reported widely by activists and community members, statistics on gender non-conforming and intersex peoples' interactions with the healthcare system in California have not been widely reported. This is due, in part, to a lack of visibility and representation for these communities, which we are aiming to correct. By amending the TWE Fund to be named the TGI Wellness and Equity Fund, California will provide explicit support to members of gender non-conforming and intersex communities in the title of the fund and set the standard nationally.

ASSEMBLY FLOOR: 57-0, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Bigelow, Chen, Choi, Megan Dahle, Daly, Davies, Flora, Fong, Gallagher, Grayson, Kiley, Lackey, Mathis, Mullin, Nguyen, O'Donnell, Patterson, Seyarto, Smith, Voepel

Prepared by: Jen Flory / HEALTH / (916) 651-4111
7/28/22 10:33:05

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

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THIRD READING

Bill No: AB 2552
Author: McCarty (D), et al.
Amended: 6/27/22 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/8/22
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: 5-1, 6/13/22
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Jones
NO VOTE RECORDED: Bates

ASSEMBLY FLOOR: 57-14, 5/25/22 - See last page for vote

SUBJECT: Firearms: gun shows and events

SOURCE: Brady Campaign California

DIGEST: This bill requires the inclusion of additional notices on signs posted at the public entrance of gun shows.

Senate Floor Amendments of 6/27/22 authorize the Department of Justice to inspect any firearm precursor part vendors participating in a gun show, and clarify that, commencing July 1, 2023, the department is required to annually conduct enforcement and inspections at *a minimum* of one-half of all gun shows or events in the state.

ANALYSIS:

Existing law:

1) Provides that bringing or possessing a firearm within any state or local public building is punishable by imprisonment in a county jail for not more than one year, or in the state prison, unless a person brings any weapon that may be

lawfully transferred into a gun show for the purpose of sale or trade. (Pen. Code §§ 171b (a), 171b (b)(7)(A).)

2) Prohibits the sale, lease, or transfer of firearms without a license, unless the sale, lease, or transfer is pursuant to operation of law or a court order, made by a person who obtains the firearm by intestate succession or bequest, or is an infrequent sale, transfer, or transfer, as defined. (Pen. Code § 26500, 26505, 26520.)

3) Excludes persons with a valid federal firearms license and a current certificate of eligibility issued by the Department of Justice (DOJ) from the prohibitions on the sale, lease, or transfer of used firearms, other than handguns, at gun shows or events. (Pen. Code § 26525.)

4) Permits licensed dealers to sell firearms only from their licensed premises and at gun shows. (Pen. Code § 26805.)

5) States that a dealer operating at a gun show must comply with all applicable laws, including California's waiting period law, laws governing the transfer of firearms by dealers, and all local ordinances, regulations, and fees. (Pen. Code § 26805.)

6) States that no person shall produce, promote, sponsor, operate, or otherwise organize a gun show, unless that person possesses a valid certificate of eligibility from the DOJ. (Pen. Code § 27200.)

7) Specifies the requirements that gun show operators must comply with at gun shows, including entering into a written contract with each gun show vendor selling firearms at the show, ensuring that liability insurance is in effect for the duration of a gun show, posting visible signs pertaining to gun show laws at the entrances of the event, and submitting a list of all prospective vendors and designated firearms transfer agents who are licensed firearms dealers to the DOJ, as specified. (Pen. Code §§ 27200, 27245.)

8) Requires that before commencement of a gun show or event, the producer thereof shall, upon written request of a local law enforcement agency with jurisdiction over the venue, make available to that agency a list of entities that will be selling, leasing, transferring or processing the sale of firearms at the event, as specified. (Pen. Code §27205.(a).)

9) Requires the producer and facility's manager of a gun show or event to prepare an annual event and security plan and schedule, as specified, and submit that

plan to the DOJ and the law enforcement agency with jurisdiction over the facility. (Pen. Code §27210.)

10) Requires the producer of a gun show to post signs in a readily visible location at each public entrance to the show containing various specified notices. (Pen. Code §27240.)

11) Makes a willful failure to comply with any of the gun show requirements a misdemeanor and renders the producer ineligible for a gun show producer license for one year from the date of the conviction. Multiple violations arising from more than one gun show or event are grounds to suspend a producer's certificate of eligibility pending adjudication of the violations. (Pen. Code, § 27245.)

12) Requires all gun show or event vendors to certify in writing to the producer that they will abstain from specified conduct and are aware of or will comply with specified regulations. (Pen. Code §27305.)

13) Authorizes, commencing July 1, 2022, the DOJ to inspect any firearms dealers, ammunition vendors, or manufacturers participating in a gun show or event in order to ensure that it is being conducted in accordance with applicable state and federal laws. (Pen. Code §27310.)

This bill:

1) Adds additional notice requirements for signs posted at the public entrance of a gun show or event, including nine notices that are also required to be posted at a firearms licensees business premises. They include:

    a) Firearms must be handled responsibly and securely stored to prevent access by children and other unauthorized users. California has strict laws pertaining to firearms, and you may be fined or imprisoned if you fail to comply with them. Visit the internet website of the California Attorney General at https://oag.ca.gov/firearms for information on firearm laws applicable to you and how you can comply;

    b) Children may be unable to distinguish firearms from toys and may operate firearms, causing severe injury or death. If you keep a firearm within any premises under your custody or control, and a person under 18 years of age gains access to the firearm and carries it off-premises, you may be guilty of a misdemeanor, unless you stored the firearm in a locked container, or locked the firearm with a locking device;

c) You may be guilty of a misdemeanor, including a significant fine or imprisonment, if you keep a firearm where a minor is likely to access it or if a minor obtains and improperly uses it, or carries it off of the premises to a school or school-sponsored event, unless you stored the firearm in a locked container of locked the firearm with a locking device;

d) If you negligently store or leave a firearm within any premises under your custody or control where a person under 18 years of age is likely to access it, you may be guilty of a misdemeanor, including a significant fine, unless you stored the firearm in a locked container or locked the firearm with a locking device;

e) Discharging firearms in poorly ventilated areas, cleaning firearms, or handling ammunition may result in exposure to lead, a substance known to cause birth defects, reproductive harm, and other serious physical injury. Have adequate ventilation when discharging or cleaning firearms or handling ammunition. Wash hands thoroughly after exposure;

f) Federal regulations provide that if you do not take physical possession of the firearm that you are acquiring ownership of within 30 days after you complete the initial background check paperwork, then you must complete the background check process a second time in order to take physical possession of that firearm;

g) No person shall make an application to purchase more than one handgun or semiautomatic centerfire rifle within any 30-day period and no delivery shall be made to any person who has made an application to purchase more than one handgun or semiautomatic centerfire rifle within any 30-day period; and,

h) If a firearm you own or possess is lost or stolen, you must report the loss or theft to a local law enforcement agency where the loss or theft occurred within five days of the time you knew or reasonably should have known that the firearm had been lost or stolen.

2) Increases the fine for willful failure by a gun show producer to comply with specified requirements not involving signage from $2,000 to $4,000 and increases the time for which the producer will be ineligible for a gun show producer license from one year to two years.

3) Increases the maximum fine for willful failure by a gun show producer to post specified signs from $1,000 to $2,000 for the first offense and from $2,000 to $4,000 for the subsequent or subsequent offense.

4) Increases the time for which a gun show producer will be ineligible for a gun show producer license for a failure to post specified signs from one year to two years.

5) Requires firearm precursor part transfers or sales at a gun show to be conducted in accordance with applicable state and federal laws.

6) Authorizes the DOJ to inspect firearm precursor part vendors at a gun show to ensure compliance with the requirement above.

7) Requires, commencing July 1, 2023, the DOJ to annually conduct enforcement and inspection of a minimum of one-half of all gun shows or events in the state to ensure compliance, as specified.

8) Requires the DOJ to post specified violations by a firearm dealer or ammunition vendor discovered during an inspection of a gun show or event on its internet website for a period of 90 days after an inspection.

9) Requires the DOJ, no later than May 1, 2024, and annually thereafter, to prepare and submit a report to the Legislature summarizing their enforcement efforts pursuant to this bill's provisions.

10) Requires gun show or event vendors to certify in writing to the gun show producer that they will not display, possess, or offer for sale either of the following:

    a) Any unserialized frame or receiver, including an unfinished frame or receiver.

    b) Any attachment or conversion kit designed to convert a handgun into a short-barreled rifle or into an assault weapon.

11) Provides that any second or subsequent violation of specified gun show provisions is punishable by imprisonment in county jail not to exceed six months, by a fine of $1,000, or both. Additionally, for a second or subsequent violation, the DOJ shall prohibit the violator from participating as a gun show vender at any gun show or event for a period of one year.

12) Provides that any person who commits an act the person knows to be a violation of specified gun show provisions shall, for a first offense, be punished by imprisonment in county jail not to exceed six months, by a fine of $2,000, or both, and shall be prohibited from participating as a vendor at any gun show for a period of a year.

Comments

According to the author:

> Gun shows are trade show events where the purchase, sale, and trading of firearms and accessories occur. According to the federal Bureau of Alcohol, Tobacco, Firearms & Explosives, over 1,000 firearms are purchased or sold over the course of a weekend at a gun show. In any given year, up to 100 shows occur annually in California.
>
> In 1999, California enacted the nation's broadest legislation to increase oversight at gun shows. Despite these regulations, many public safety concerns remain given the sheer volume of firearms, accessories and ammunition that are available for purchase at these gun shows. According to a report published by UC Davis has found that gun show are a significant source of firearms that are funneled into the illegal market. Furthermore, past research had found that gun shows are a critical moment in the chain of custody for many firearms.
>
> Furthermore, contrary to the opposition claims that there is no evidence for a need for "stricter laws" and enforcement, there have been recent examples of gun show vendors and attendees engaging in unlawful activity. Earlier this year, the Attorney General and the Department of Justice announced charges against a man that illegally purchased illegal firearms and ammunition at a San Bernardino gun show, despite being on the prohibited persons list. Specifically, this individual – which is prohibited from owning any firearm or ammunition for life – purchased an AR-15 style ghost gun kit, and after obtaining a search warrant, agents recovered an unserialized handgun, an unserialized short-barreled rifle, ammunition and the ghost gun kit. This single incident alone demonstrates that there are bad actors at gun shows, and in the wrong hands, can create a significant public safety concern in the communities in which these shows occur.
>
> AB 2552 will improve the safety of gun shows, and the communities in which they occur, by improving notices of gun safety laws at gun shows, ensuring proper enforcement of regulations by the California Department of Justice, and

updating penalties for violations of gun show regulations by gun show producers and vendors.

AB 295 (Corbett, Chapter 247, Statutes of 1999), the Gun Show Enforcement and Security Act of 2000 (Act), enacted some of the nation's most extensive regulations related to gun shows. In California, a person who promotes, sponsors, operates, or otherwise organizes a gun show must obtain a certificate of eligibility from the DOJ. To obtain a certificate of eligibility, a promoter must undergo a background check, certify that he or she is familiar with existing law regarding gun shows, obtain at least $1 million of liability insurance, and provide an annual list of gun shows the applicant plans to promote. Existing state law also requires gun show organizers to pay an annual fee; make available to local law enforcement a complete list of all entities that have rented any space at the show; submit an event and security plan; submit a list to the DOJ of prospective vendors and designated firearms transfer agents who are licensed dealers; provide photo identification of each vendor and vendor's employee; require all firearms carried onto the premises of a show to be checked, cleared of ammunition, secured in a way that they cannot be operated, and have an identification tag or sticker attached.

Among various other restrictions and requirements, existing law also requires gun show producers to post readily visible signs at public entrances to the event, which must contain specific verbiage. Additionally, gun show vendors must certify to the event producers that they will abstain from engaging in certain prohibited practices and will abide by specified rules, and provided for a number of penalties for a gun show producer's willful failure to comply with the specified requirements.

As noted above, existing law requires gun show organizers to post readily visible signs at public entrances to the event, which must include specific language as prescribed by statute.[1] Existing law also requires licensed gun dealers to post nine specific notices within their licensed business premises, which are wholly distinct from the notices that must be posted at gun show entrances.[2] This bill requires that signs posted at the public entrances of gun shows include the nine specific notices that must also be posted within the business premises of a licensed gun dealer. For the language of these nine notices, see Page 3 of this analysis.

As noted above, existing law requires all gun show vendors to certify in writing to the producer of the event that they will abide by certain rules and restrictions.[3] This bill adds to that list of written certifications that a vendor will not display, possess

[1] Penal Code §27240
[2] Penal Code §26835.
[3] Penal Code §27305

or offer for sale any unserialized frame or receiver, including an unfinished frame or receiver, or any attachment or conversion kit designed to convert a handgun into a short-barreled rifle or into an assault weapon

Existing law, effective July 1, 2022, authorizes, but does not require, the DOJ to inspect firearms dealers, ammunition vendors, or manufacturers participating in a gun show in order to ensure compliance with applicable state and federal laws. This bill instead requires the DOJ, commencing July 1, 2023, to annually conduct enforcement and inspect of one-half of all gun shows in the state. According to the author, up to 100 gun shows can occur in California in any given year, though committee staff could not find any information to verify this figure. In addition, this bill requires the DOJ to post any violation discovered during a gun show inspection on its agency website for a period of 90 days after the inspection, and to prepare and submit a report to the Legislature detailing its inspection-related enforcement efforts by no later than May 1, 2024.

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

According to the Senate Appropriations Committee, the DOJ reports costs of $133,000 in Fiscal Year (FY) 2022-23, $349,000 in FY 2023-24, $269,000 in FY 2024-35, and $189,000 annually thereafter (Special Fund – Dealer's Record of Sale Fund, General Fund).

SUPPORT: (Verified 6/13/22)

Brady Campaign California (source)
Giffords Law Center to Prevent Gun Violence
March for Our Lives Action Fund
NeverAgainCA
San Diegans for Gun Violence Prevention

OPPOSITION: (Verified 6/13/22)

California Rifle & Pistol Association
California Sportsman's Lobby
Outdoor Sportsmen's Coalition of California
Safari Club International – California Chapters

ASSEMBLY FLOOR: 57-14, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley,

Cunningham, Daly, Davies, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NOES: Bigelow, Chen, Megan Dahle, Flora, Fong, Gallagher, Kiley, Lackey, Patterson, Salas, Seyarto, Smith, Voepel, Waldron

NO VOTE RECORDED: Berman, Choi, Cooper, Gray, Mathis, Nguyen, O'Donnell

Prepared by: Alex Barnett / PUB. S. /
6/28/22 14:30:49

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2559
Author: Ward (D)
Amended: 6/23/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-2, 6/21/22
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, McGuire, Stern, Wiener
NOES: Borgeas, Jones

ASSEMBLY FLOOR: 54-8, 5/16/22 - See last page for vote

SUBJECT: Reusable tenant screening reports

SOURCE: Author

DIGEST: This bill introduces the concept of reusable tenant screening reports into law, specifies what content must be included, and sets forth the conditions under which landlords may voluntarily elect to accept them in lieu of individual applications.

ANALYSIS:

Existing law:

1) Defines "landlord" as an owner of residential rental property. (Civ. Code § 1950.6(g).)

2) Defines "applicant" as any entity or individual who makes a request to a landlord or their agent to rent a residential housing unit, or an entity or individual who agrees to act as a guarantor or cosignor on a rental agreement. (Civ. Code § 1950.6(i).)

3) Defines "application screening fee" as any nonrefundable payment charged by a landlord or their agent to an applicant in order to purchase a consumer credit

report and to validate, review, or otherwise process an application for the rent or lease of residential rental property. (Civ. Code § 1950.6(h).)

4) Provides that a landlord or their agent may, but is not required to, accept and rely upon a consumer credit report presented by an applicant. (Civ. Code § 1950.6(a).)

5) Specifies that when a landlord or their agent receives a request to rent a residential property from an applicant, they may charge that applicant an application screening fee to cover the costs of obtaining information about the applicant which may include, but is not limited to, personal reference checks and consumer credit reports. (Civ. Code § 1950.6(a).)

6) Provides that rental application screening fees cannot be greater than the actual out-of-pocket costs of gathering information concerning the applicant including the cost of using a tenant screening service or a consumer credit reporting service, and the reasonable value of time spent in obtaining information on the applicant. Specifies that in no case can the amount of the application screening fee be greater than thirty dollars ($30) per applicant which may be adjusted annually, beginning on January 1, 1998, to correspond to increases in the Consumer Price Index. (Civ. Code § 1950.6(b).)

7) Requires a landlord or their agent to provide an applicant with a receipt for the fee paid by the applicant, itemizing the out-of-pocket expenses and time spent to obtain and process the information about the applicant. (Civ. Code § 1950.6(d).)

8) Provides that, if a landlord or their agent does not perform a personal reference check or does not obtain a consumer credit report, they must return any amount of the screening fee that is not used for the purposes authorized by this section to the applicant. (Civ. Code § 1950.6(e).)

9) Provides that, if an application screening fee has been paid by the applicant, and the applicant so requests, then the landlord or their agent must provide a copy of the consumer credit report to the applicant. (Civ. Code § 1950.6(f).)

10) Defines a “consumer credit report” as any written, oral, or other communication of any information by a consumer credit reporting agency bearing on a consumer’s credit worthiness, credit standing, or credit capacity, which is used or is expected to be used, or collected in whole or in part, for the

purpose of determining eligibility for specified uses including hiring of a dwelling unit. (Civ. Code § 1785.3(c).)

11) Defines "criminal history information" under FEHA as any record that contains individually identifiable information and describes an individual's criminal history or contacts with a law enforcement agency. Includes information describing an individual's arrests; information that an individual has been charged; information that an individual has been questioned, apprehended, taken into custody or detained, or held for investigation by a law enforcement, police, military, or prosecutorial agency; records from any jurisdiction; and records that are not prepared strictly for law enforcement purposes, such as investigative consumer reports. (2 C.C.R. § 12264.)

12) Defines "consumer report" as any written, oral, or other communication of any information by a consumer reporting agency, bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for credit or insurance to be used for personal, family or household purposes; employment; a legitimate business interest, or other specified purposes. (15 U.S.C. § 1681a(d).)

This bill:

1) Defines "reusable tenant screening report" as a consumer report that satisfies all of the following criteria:
   a) it was prepared within the previous 30 days by a consumer reporting agency at the request and expense of an applicant;
   b) it is made directly available to a landlord for use in the rental application process or is provided through a third-party website that regularly engages in the business of providing a reusable tenant screening report and complies with all state and federal laws pertaining to use and disclosure of information contained in a consumer report by a consumer reporting agency; and
   c) it is available to the landlord at no cost to access or use.

2) Requires a reusable tenant screening report to include all of the following information regarding an applicant:
   a) name;
   b) contact information;

c) verification of employment;
d) last known address;
e) the results of an eviction history check for the seven years preceding the date on which the consumer reporting agency received the request for the reusable screening report; and
f) the date through which the information contained in the report is current, stated prominently.

3) Provides that a landlord may elect to accept reusable tenant screening reports and may require an applicant to state that there has not been a material change to the information in the reusable screening report.

4) Provides that, despite existing law allowing a landlord to charge an applicant screening fee under specified conditions, if an applicant provides a reusable tenant screening report to a landlord that accepts reusable tenant screening reports, the landlord must not charge the applicant either a fee for the landlord to access the report or an application screening fee.

6) Declares that this bill does not affect any other applicable law related to the consideration of criminal history information, among other things, in housing.

7) Provides that an ordinance, resolution, regulation, administrative action, initiative, or other policy adopted by a city, county, or city and county that conflicts with this section shall apply if it provides greater protections to applicants.

8) Clarifies that this bill does not require a landlord to accept reusable tenant screening reports.

Comments

Background on the high cost of securing rental housing. California is in the midst of a housing affordability crisis and a related epidemic of homelessness. An often overlooked barrier to rehousing is the cost of securing a rental home in the first place. There are the common and obvious big ticket items like first and last month's rent as well as a security deposit. But searching for a new place to live uses up other resources as well: gas or public transit money to visit each potential rental; time taken off of work; childcare; and myriad small charges like stamps, envelopes, access to a printer, and making copies of application documents. There is also the opportunity cost of the time and energy that the prospective tenant has to pour into the endeavor.

On top of this, there are application fees. There do not appear to be any studies on what percentage of California landlords charge a fee to apply for a rental, but it is a common practice, particularly in the case of apartment complexes where the application process tends to be more regimented and management companies place a premium on cost recovery.

These application fees add up. Although California law currently caps those fees at just over $50, that limitation on rental application fees only applies to each individual landlord. (Civ. Code § 1950.6(b).) When tenants must apply to multiple locations in order to secure housing, the fees can quickly add up into the hundreds of dollars. The dynamic is especially punishing in a tight rental market, of course. The author points out that the dynamic is also particularly punitive for would-be tenants who are struggling to obtain housing, since they will usually have to submit a larger volume of applications in their quest to find a place that will accept them. In other words, the ones paying the greatest amount in application fees will often be those least able to afford it.

Enter the reusable tenant screening report. Against this backdrop, this bill introduces the concept of reusable tenant screening reports into California law. As the name implies, reusable tenant screening reports are documents containing key information about the tenant that a tenant can order from a credit reporting agency. The tenant can then submit the document to each prospective landlord or give the landlord the means with which to access it.

The general concept is not totally new. Washington State and Maryland already have laws on the books facilitating and regulating the use of reusable tenant screening reports. (*See* Wash. Rev. Code Section 58.19.257; Md. Code Ann., Real Property Section 8-218.) It also appears that a few companies in the tenant screening business have begun to embrace the idea. For example, the website Zillow offers an online product through which tenants pay a one-time $29 fee for a screening report which they can then use to apply to an unlimited number of participating rentals for 30 days. Accessing the report is free for landlords.[1] Similarly, the online company MyScreeningReport.Com sells tenants a report valid for 30 days for between $31.95 and $49.95, depending on the level of detail included.[2] Absent state laws defining what constitutes a reusable tenant screening

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[1] *See Online Rental Applications FAQ*. Zillow **https://www.zillow.com/z/rental-manager/rental-applications-faq/** (as of June 4, 2022).
[2] *See MyScreeningReport.com Services.* MyScreeningReport.com **https://www.myscreeningreport.com/services/** (as of June 4, 2022).

report and requiring or incentivizing landlord's acceptance of them, however, the adoption of reusable tenant screening reports is unlikely to take off in California on its own.

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

SUPPORT: (Verified 6/23/22)

None received

OPPOSITION: (Verified 6/23/22)

None received

ASSEMBLY FLOOR: 54-8, 5/16/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lee, Levine, Maienschein, Mayes, McCarty, Medina, Mullin, O'Donnell, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Choi, Megan Dahle, Nguyen, Patterson, Seyarto, Voepel, Waldron
NO VOTE RECORDED: Chen, Cunningham, Davies, Flora, Fong, Gallagher, Lackey, Low, Mathis, Muratsuchi, Nazarian, Quirk-Silva, Blanca Rubio, Smith, Ting, Valladares

Prepared by: Timothy Griffiths / JUD. / (916) 651-4113
6/28/22 18:39:09

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

SENATE RULES COMMITTEE AB 2568
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2568
Author: Cooley (D)
Introduced: 2/18/22
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 11-0, 6/6/22
AYES: Roth, Archuleta, Bates, Becker, Dodd, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Melendez, Eggman, Hurtado

SENATE INSURANCE COMMITTEE: 8-0, 6/22/22
AYES: Rubio, Jones, Bates, Dodd, Hertzberg, Hueso, Portantino, Roth
NO VOTE RECORDED: Borgeas, Glazer, Hurtado, Melendez

ASSEMBLY FLOOR: 70-0, 5/2/22 (Consent) - See last page for vote

SUBJECT: Cannabis: insurance providers

SOURCE: California Department of Insurance

DIGEST: This bill provides that it is not a crime for a licensed individual or firm to provide insurance or related services to persons licensed to engage in commercial cannabis.

ANALYSIS:

Existing law:

1) Enacts the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) to establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of both medicinal cannabis and cannabis products, and adult-use cannabis and cannabis products for adults 21 years of age and over. (Business and Professions Code (BPC) § 26000, et seq.)

2) Establishes the Department of Cannabis Control (Department) and requires the Department to administer and enforce the provisions of BPC § 26000, et seq. (BPC §§ 26010 – 26018)

3) Establishes a comprehensive regulatory program for the insurance industry, including insurance agents and brokers, administered by the Insurance Commissioner (Commissioner) as head of the California Department of insurance (CDI). (Insurance Code (INS.) §§ 1 *et seq.*)

4) Provides for the licensing and regulation of insurance agents and brokers, either as individuals or as a business organization, by CDI. (Insurance Code (INS.) §§ 1 et seq.)

This bill specifies that it is not a crime for a licensed individual or firm to provide insurance or related services to persons licensed to engage in commercial cannabis.

Background

History of Cannabis Regulation in *California.* In 1996, California first legalized cannabis for medical consumption via Proposition 215, also known as the Compassionate Use Act (the Act). Proposition 215 protected qualified patients and primary caregivers from prosecution related to the possession and cultivation of cannabis for medicinal purposes. In 2003, the Legislature authorized the formation of medical marijuana cooperatives—nonprofit organizations that cultivate and distribute marijuana for medical uses to their members through dispensaries.

In 2015, the Legislature passed the Medical Cannabis Regulation and Safety Act (MCRSA). For the first time, MCRSA established a comprehensive, statewide licensing and regulatory framework for the cultivation, manufacture, transportation, testing, distribution, and sale of medicinal cannabis.

Shortly following the passage of MCRSA in November 2016, California voters passed Proposition 64, the "Control, Regulate and Tax Adult Use of Marijuana Act" (MAUCRSA), which legalized adult-use cannabis. Less than a year later in June 2017, the California State Legislature passed a budget trailer bill, SB 94 (Committee on Budget and Fiscal Review, Chapter 27, Statutes of 2017), that integrated MCRSA with Proposition 64 to create MAUCRSA, the current regulatory structure for both medicinal and adult-use cannabis.

Federal Legalization Status. Federally, cannabis remains a schedule I drug and is illegal. In 2013, the Obama Administration took a passive approach by letting state's enact their own rules. In a memorandum from then-Attorney General James M. Cole, the Obama Administration announced they would not enforce cannabis federal law as outlined above. The memorandum stated, the United States Justice Department is "committed to using its limited investigative and prosecutorial resources to address the most significant threats in the most effective, consistent and rational way. Then, three days after MAUCRSA was in effect, the Trump Administration rescinded the Obama-era guidance. Then-Attorney General Jefferson Sessions issued a memorandum writing, "Given the Department's well-established general principles, previous nationwide guidance specific to marijuana enforcement is unnecessary and is rescinded, effective immediately. Following the Sessions guidance, the following Attorney General under the Trump Administration, William Barr, stated he disagreed with the Session's cannabis guidance and would "not go after companies" that were abiding by the Obama-era guidance.

More recently, the Biden Administration announced the intent to decriminalize cannabis; however, as of today, the federal laws has not changed. The House of Representatives passed a measure removing cannabis from the list of scheduled substance and establish a process to expunge prior convictions as well establishing an excise tax. The measure is now pending with the United States Senate.

Availability of Insurance to Cannabis Licensees. Cannabis retailers primarily utilize surplus line insurers in California. Surplus line insurers offer insurance to businesses or persons that might be too high risk for licensed insurers. In the surplus line market, brokers are licensed by CDI, but insurance companies are not. Prior to placing insurance coverage with a surplus line insurer, brokers must ensure that insurance is not generally available from admitted insurers qualified to write that type of insurance. The availability of surplus line insurance fills a market gap for purchasers, the majority of which are commercial entities. Surplus line insurance can provide, for instance, coverage for liability, earthquake, and errors and omissions, among other risks.

While there are many surplus line insurers, these policies only cover the retail market and do not cover cultivation or testing, which would require the cooperation of admitted insurers to provide a product. CDI reports there is only one admitted insurer providing insurance for cannabis businesses. As a result from the lack of admitted insurance providers, there is a shortage in the marketplace of

providers available to cannabis businesses, especially those primarily engaged in cultivation or testing.

Because of the unclear federal regulations, and cannabis still classified as a schedule I substance, there is an increased risk to provide insurance. Admitted insurers hesitancy is causing market gap. This bill seeks to rectify this issue by providing assurances insurers will not be in violation of any regulations and encourage them to provide insurance products in California, helping to alleviate this shortage of providers in the marketplace available to cannabis businesses.

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

SUPPORT: (Verified 6/28/22)

California Department of Insurance (source)
Origins Council
The Parent Company
United Food and Commercial Workers Western States Council

OPPOSITION: (Verified 6/28/22)

None received

ARGUMENTS IN SUPPORT: According to the California Department of Insurance, "…we must provide commercial cannabis businesses with multiple, affordable options for insurance as they pursue and maintain state licensure. In addition, we must help to promote reliable insurance coverage for all aspects of these cannabis businesses to ensure that these businesses can continue to flourish just like any other business in this state, especially during this pandemic. The clarity in law being pursued in AB 2568 should provide assurances to admitted insurance carriers that they will not be in violation of California law solely for providing insurance or related services to a commercial cannabis business."

United Food and Commercial Workers Western States Council writes in support, "Cannabis businesses currently face serious and multifaceted challenges related to insurance accessibility and affordability. Insurance products are currently limited to those operating retail locations. But this insurance is costly, and with a struggling legal market, creating a pathway for numerous insurance entities to protect these businesses at a competitive and affordable price, is the right thing to do to protect both consumers and workers, and bolster the legal market. UFCW

represents workers in many sectors of the industry – from retail to cultivation to delivery - all of whom demonstrate the need for affordable insurance.

“Unfortunately, many insurance companies continue to be reluctant to provide insurance products to commercial cannabis businesses due to the complexities of existing federal law. Currently, there are only a handful of admitted carriers within California offering some aspect of an insurance product approved by the Department of Insurance. AB 2568 would create a safe harbor for insurance companies by clarifying that writing insurance for commercial cannabis businesses does not constitute a crime.”

ASSEMBLY FLOOR: 70-0, 5/2/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Mia Bonta, Calderon, Megan Dahle, Gallagher, Gipson, Medina, Waldron

Prepared by: Alexandria Smith Davis / B., P. & E.D. /
6/28/22 14:30:48

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

SENATE RULES COMMITTEE AB 2574
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2574
Author: Salas (D)
Amended: 6/14/22 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 13-0, 6/20/22
AYES: Roth, Melendez, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Archuleta

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-0, 5/5/22 (Consent) - See last page for vote

SUBJECT: Optometry

SOURCE: California Optometric Association

DIGEST: This bill corrects a cross-reference between the clinical laboratory director definition related to optometrists in the Optometry Practice Act (Act) and reauthorizes and requires an optometrist in an emergency to stabilize, if possible, and immediately refer any patient who has an acute attack of angle-closure glaucoma to an ophthalmologist.

ANALYSIS:

Existing law:

1) Defines the practice of optometry to include the diagnosis, prevention, treatment, and management of disorders and dysfunctions of the visual system, as authorized, as well as the provision of habilitative or rehabilitative optometric services, including laboratory tests or examinations performed in an optometrist office classified as waived under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), as specified. (Business and

Professions Code (BPC § 3041(a)(5)(E)(ii))

2) Authorizes an optometrist to treat specified glaucomas using antiglaucoma agents if the optometrist has obtained a therapeutic pharmaceutical agents certification and completed specified glaucoma coursework. (BPC §§ 3041(a)(5)(C), 3041(c), 3041.3)

3) Provides for the licensure, registration, and regulation of clinical laboratories and various clinical laboratory personnel by the California Department of Public Health (CDPH). (BPC §§ 1200-1327)

4) Authorizes an optometrist to serve as the laboratory director for a laboratory classified as waived under the CLIA (42 U.S.C. Sec. 263a; Public Law 100-578) that only performs clinical laboratory tests authorized under the Optometry Practice Act. (BPC § 1209(a)(2)(D))

This bill:

1) Corrects an outdated code reference pertaining to optometrists operating as a laboratory director.

2) Reinstates a provision in the optometry practice act, which requires an optometrist, in an emergency, to stabilize a patient if possible and immediately refer any patient who has an acute attack of angle closure to an ophthalmologist.

3) Makes other technical and clarifying changes.

Background

Federal and State Regulation for Clinical Laboratory Testing. A facility that performs laboratory tests on human specimens for diagnosis or assessment must be certified under CLIA. CLIA certification requirements vary depending on the complexity of the laboratory tests performed.

Clinical laboratories or other testing sites need to know whether each test system used is waived, moderate, or high complexity. In general, the more complicated the test, the more stringent the requirements, including increased training and licensing of laboratory personnel. At a minimum, all laboratories must have a licensed clinical laboratory director. The US Food and Drug Administration (FDA) determines the complexity of CLIA laboratory tests. Waived tests are simple tests

with a low risk for an incorrect result. They include tests listed in the CLIA regulations, tests cleared by the FDA for home use, and tests approved for waiver by the FDA using the CLIA criteria. Tests not classified as waived are assigned a moderate or high complexity category based on seven criteria given in the CLIA regulations, including ease of use, knowledge required, and types of materials tested. For commercially available FDA-cleared or approved tests, the test complexity is determined by the FDA during the pre-market approval process.

Optometrists are authorized to direct a laboratory that performs waived testing. However, the clinical laboratory laws require an update to correct a cross-reference that is no longer applicable due to chaptering language between AB 691 (Chau, Chapter, Statutes of 2021) and AB 407 (Salas, Chapter 652, Statutes of 2021) which amended that code section. This bill makes that update.

Last year, AB 407 (Salas, Chapter 652, Statutes of 2021) revised the current scope of practice for licensed optometrists by authorizing additional tests related to conditions of the eye, authorized the treatment of specified conditions of the eye, authorized the utilization of light therapy, and permitted the use of new FDA-approved technologies. As noted by the Sponsor, there was a drafting error last year, which inadvertently struck out the requirements for emergency treatment by an optometrist related to acute angle closure glaucoma, which stated, *in an emergency, an optometrist shall stabilize, if possible, and immediately refer any patient who has an acute attack of angle closure to an ophthalmologist.* This bill adds that requirement back into the Act.

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

SUPPORT: (Verified 8/2/22)

California Optometric Association (source)

OPPOSITION: (Verified 8/2/22)

None received

ARGUMENTS IN SUPPORT: The California Optometric Association writes in support and notes, "The bill reinstates the ability of an optometrist to be a lab director for CLIA waived testing. Without this authority, optometrists will not be able to diagnose certain eye diseases with point of-care testing. They also will not be able to detect/rule out other conditions that effect the eye, like diabetes. The authority to direct CLIA waived labs needs to be restored immediately so that optometrists can continue to use point-of-care testing that they have been doing

since 2012. The bill also reinstates the ability to stabilize a patient with an acute attack of angle closure glaucoma. The authority to stabilize a patient with acute angle closure was added in 2008 with SB 1406 (Correa) and there has been no reported issues or concerns. The authority was accidentally deleted in the end-of-session amendments to AB 407."

ASSEMBLY FLOOR: 61-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Friedman, Gallagher, Cristina Garcia, Gipson, Levine, McCarty, Medina, Villapudua, Waldron, Wicks

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
8/4/22 13:58:16

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

SENATE RULES COMMITTEE AB 2582
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2582
Author: Bennett (D), Berman (D) and Gipson (D)
Amended: 5/2/22 in Assembly
Vote: 21

SENATE ELECTIONS & C.A. COMMITTEE: 4-1, 6/21/22
AYES: Glazer, Hertzberg, Leyva, Newman
NOES: Nielsen

ASSEMBLY FLOOR: 49-15, 5/12/22 - See last page for vote

SUBJECT: Recall elections: local offices

SOURCE: Author

DIGEST: This bill requires a local recall election to include only the question of whether the elected officer sought to be recalled shall be removed from office. In addition, this bill requires the office, if a local officer is recalled, to become vacant until it is filled in accordance with existing law.

ANALYSIS:

Existing law:

1) States, pursuant to the California Constitution, that the power to recall and remove an elective officer is reserved to the electorate. Requires the Legislature to provide for the recall of local officers, but provides that this provision does not affect counties and cities whose charters provide for recall.

2) Defines the following terms, for the purposes of the state's recall laws:

   a) "Local officer" to mean an elective officer of a city, county, school district, community college district, or special district, or a judge of a trial court.

b) “Governing board" to mean a city council, the board of supervisors of a county, the board of trustees of a school district or community college district, or the legislative body of a special district. Provides in the case of the recall of a trial court judge that the term "governing board" means the board of supervisors.

3) Prohibits recall proceedings from commencing against an officer of a city, county, special district, school district, community college district, or county board of education if any of the following are true:

   a) The officer has not held office during the current term for more than 90 days.

   b) A recall election has been determined in the officer's favor within the last six months.

   c) The officer's term ends within six months or less.

   Provides that these limitations do not apply to an officer appointed in lieu of an election as specified.

4) Prohibits a person whose recall is being sought from being a candidate to succeed themselves at a recall election nor to succeed any other member of the same governing board whose recall is being sought at the same election.

5) Requires at every recall election (other than a landowner voting district election) the following question to be asked: "Shall [name of officer sought to be recalled] be recalled (removed) from the office of [title of office]?” Requires to the right of this question the words “Yes” and “No” on separate lines with an enclosed voting space to the right of each.

6) Requires a recall election to include the question of whether the officer sought to be recalled shall be removed from office and an election for the officer’s successor in the event the officer is removed from office.

7) Provides that if a majority of the votes on a recall proposal are “Yes,” the officer is removed and, if there is a candidate, the candidate who receives the highest number of votes is the successor to the unexpired term of the recalled officer.

8) Provides that if one-half or more of the votes on a recall proposal are "No," the officer sought to be recalled shall continue in office.

This bill:

1) Requires a local recall election to include only the question of whether the local elected officer should be removed from office, instead of asking two questions: 1) should the elected official be removed from office, and 2) who should replace the recalled official in the event that the elected official is removed from office.

2) Prohibits an election for a successor in a recall of a local elected officer, and requires the office, if a local officer is recalled, to become vacant until the position is filled according to existing law.

3) Makes corresponding changes.

Background

Informational Recall Hearings. Last fall and earlier this year, the Assembly Elections Committee and the Senate Elections & Constitutional Amendments Committee held a series of joint informational hearings to review California's recall process following last September's gubernatorial recall election.

At the first hearing, on October 28, 2021, the committees heard from current and former elected officials, elections experts, and academics about their perspectives on the state's recall process and different reform proposals, including increasing the number of signatures for qualifying a statewide recall and changing the method for selecting the successor to a recalled official.

At the second hearing, on December 6, 2021, the committees heard from two panels of expert witnesses. The first panel of academics examined a limitation, used in several states, which only allows recalls to be initiated against an official for certain enumerated causes. The second panel of experts and local elected officials discussed the use of the recall at the local level, along with potential options for reform.

At the third and final recall informational hearing, on February 1, 2022, the committees heard from the Secretary of State (SOS) who shared recommendations for improvements on the state recall process based on her consultation with outside experts and stakeholders. The committees also received an overview from Dr.

Mark Baldassare, the President and Chief Executive Officer of the Public Policy Institute of California (PPIC), regarding its January 2022 statewide survey in which the PPIC asked Californians about their views on the recall process. Dr. Baldassare presented new data from their statewide survey, and discussed whether and how the views of California voters about the recall process have changed since statewide surveys that PPIC conducted in July and November of last year.

One of the major takeaways from the committee's first two hearings was that many of the recall reform proposals would require voter approval in order to take effect. In particular, proposals to make significant structural changes to the recall process at the state level generally require an amendment to the California Constitution. By contrast, changes to the process for recalling local elected officials and certain procedural changes to the state process can be made through statutory changes alone. The third hearing generally reinforced the importance of continuing to evaluate California's recall processes and that California voters generally support reform of the recall process, but are against any changes to the recall procedure or process that diminish or decrease the voter's power to recall an elected official.

Local Recalls. Section 13, Article II of the California Constitution defines a recall as "the power of the electors to remove an elective officer," and Section 19 of Article II requires the Legislature to provide for the recall of local officers, with the exception of counties and cities whose charters provide for recall. For most local jurisdictions, the relevant recall procedures are set out in state statute. However, some charter cities and counties, which have greater autonomy and authority to structure and organize their government under the state Constitution, have adopted different recall procedures in their charters.

Under current law, recall elections ask voters two questions: First, should the targeted elected official be recalled? Second, which candidate should replace the recalled official? On the first question, the Constitution requires a majority vote in order for the recall to succeed, and for the elected official to be removed from office. For the second question, if the targeted official is recalled, the California Constitution provides that the replacement candidate who receives the most votes (i.e. a plurality, which may be less than a majority) is elected to succeed the recalled official.

This bill modifies the local recall process. Specifically, this bill removes the second question that asks voters to vote for a replacement candidate, and instead only requires the local recall process to ask voters the first question, whether or not the elected official should be removed from office. If a majority of voters vote to

remove the elected official from office, the office would become vacant and be filled in accordance with existing law.

Some critics argue that California's format for conducting recall elections has the potential to lead to fundamentally undemocratic outcomes because it creates a situation where an elected official who enjoys the support of a plurality of voters can be replaced by a candidate who receives a smaller number of votes. An elected official who is the target of a recall effectively must obtain a majority of the vote in the recall election in order to remain in office. If the recall succeeds, however, a replacement candidate can be elected with only a plurality of the vote. Additionally, some experts contend that this type of recall process may encourage the use of the recall as a political tool to exploit turnout differentials and provide an opportunity for a minority of voters to overturn the will of the majority by recalling an elected official and replacing them with a candidate who would be unlikely to win in a regular election. Such a situation could allow a replacement candidate who is unrepresentative of the preferences of voters generally to win with narrow support.

State Recall Process vs Local Recall Process. While this bill makes significant changes to the local recall process, it does not make any changes to the state recall process. The major framework governing the recall process for state officers is enshrined in the California Constitution and most changes to the process require a constitutional amendment. However, the local recall process is in state statute and therefore may be modified through passage of a bill. If this bill is signed into law, the local recall process will be significantly different than the state process. That being said, differences already exist between the local and state recall processes. Additionally, the number of signatures needed to qualify a local recall petition is based on the number of registered voters in the electoral jurisdiction, while the number needed to qualify a state recall is based on the number of people who voted in the last election for the office.

Comments

1) According to the author, California is one of at least 30 states that allows residents to recall a local official. This ability to recall local officials is important, and necessary, for ensuring that the electorate has a means of holding elected officials accountable. However, for this tool of democracy to be used effectively, it must be focused so that it isn't abused or used by special interests to win by a recall election what they cannot win in a regularly scheduled election. AB 2582 allows local recalls to focus solely on the merits of recalling a local official, instead of potentially requiring voters to consider

the recall while also evaluating other candidates. This would allow voters to truly evaluate the cause for the recall, without being distracted by partisan politics, or focusing on potential replacement candidates. Under this bill, should a recall be successful the seat would be treated as vacant, and allow local governments the flexibility to fill that seat as they would any other vacancy. AB 2582 is a sensible good government reform that preserves an important tool of our democracy, while making it more focused and effective.

Related/Prior Legislation

AB 2584 (Berman, 2022) increases the total number of proponents required to be included on a notice of intention to recall an elected officer, establishes a public display period for local recall petitions, authorizes a voter to seek a writ of mandate or injunction requiring any or all of the statement of the proponents or answer of the officer to be amended or deleted on a recall petition, requires a petition for the recall of a school board member to contain a fiscal estimate of the cost for conducting the recall election, and changes the timeframe for when a qualified local recall election is held.

SCA 3 (Allen, 2022) eliminates the first question on the recall ballot that asks whether a state official should be recalled, and instead automatically places the incumbent's name on the recall ballot along with any potential replacement candidates running for the office. If the incumbent receives a plurality of the vote, the recall fails, and if a replacement candidate receives a plurality, the recall succeeds and that candidate is elected.

SCA 6 (Newman, 2022) eliminates the second question on the recall ballot that asks which candidate should replace the recalled official, and instead generally requires the office, if the state officer is recalled, to become vacant and to be filled in accordance with existing law.

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

SUPPORT: (Verified 6/21/22)

League of Women Voters of California

OPPOSITION: (Verified 6/21/22)

California Policy Center
Howard Jarvis Taxpayers Association

ARGUMENTS IN SUPPORT: In a letter supporting AB 2582, the League of Women Voters of California (League) states, in part, the following:

> The League supports states taking a strong role to facilitate voting and legislation that safeguards the voting process. Many states, in addition to local jurisdictions in California, already run their recall elections in the manner this bill proposes. This method is less likely to result in a situation in which a recalled official could lose by a narrow margin and a candidate in a crowded field on the same ballot could win by a plurality of the vote smaller than that by which the official was recalled. This has the appearance of being an undemocratic result. Having the recall and the replacement election on the same ballot can also be confusing or overwhelming to voters. This bill would create a better and more consistent standard for local recall elections.

ARGUMENTS IN OPPOSITION: In a joint letter opposing AB 2582, the Howard Jarvis Taxpayers Association and the California Policy Center states, in part, the following:

> [This bill] would deprive voters of their right to elect a successor if the incumbent local officer is recalled for misconduct in office. Simply having the officer next in line violates the principle of the recall – to go a dramatically different direction in policy and personnel, not anoint someone who is different in minor degrees. The current process also allows for potential successors and candidates to offer an alternative vision and impetus for a recall, or upon reflection, convince the public that a recall is unnecessary.

ASSEMBLY FLOOR: 49-15, 5/12/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Villapudua, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Megan Dahle, Flora, Fong, Gallagher, Mathis, Nguyen, O'Donnell, Patterson, Seyarto, Smith, Voepel, Waldron

NO VOTE RECORDED: Boerner Horvath, Cunningham, Daly, Davies, Gray, Grayson, Kiley, Lackey, Lee, Mayes, Quirk-Silva, Blanca Rubio, Valladares, Ward

Prepared by: Scott Matsumoto / E. & C.A. / (916) 651-4106
6/22/22 14:49:34

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

SENATE RULES COMMITTEE AB 2594
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2594
Author: Ting (D), et al.
Amended: 8/1/22 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 17-0, 6/28/22
AYES: Newman, Bates, Allen, Archuleta, Becker, Cortese, Dahle, Dodd, Hertzberg, Limón, McGuire, Melendez, Min, Rubio, Skinner, Wieckowski, Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 5/25/22 - See last page for vote

SUBJECT: Vehicle registration and toll charges

SOURCE: Author

DIGEST: This bill makes numerous changes to the administration of bridge and toll roads.

ANALYSIS:

Existing law:

1) Requires every vehicle using a toll bridge or toll highway to be liable for any tolls or other charges that may be prescribed and prohibits a person from evading or attempting to evade the payment of those tolls or charges.

2) Requires toll operators, or processing agencies, to issue a notice of toll evasion violation to the registered owner of the vehicle within 21 days of the violation if a vehicle is found, by automated devices (including cameras), by visual observation, or otherwise, to have evaded a toll. Prescribes toll evasion penalties to include any late payment penalty, administrative fee, fine, assessment, and costs of collection. Limits toll evasion violation penalties to $100 for the first offense, $250 for a second violation within one year, and $500 for each additional violation within one year.

3) Establishes a process for contesting a notice of toll evasion violation. Within 21 days from the issuance of the notice or within 15 days from the mailing of the notice, whichever is later, a person may contest the notice in which case the toll operator is required to conduct an administrative investigation. If the person is not satisfied with the results of the investigation, he or she may, within 15 days of the mailing of the results and after paying the penalty for toll evasion, request an administrative hearing. If the person is not satisfied with the results, he or she may, within 20 days of the mailing of the results, appeal to the court.

4) Authorizes the Department of Motor Vehicles (DMV) to make vehicle registration contingent upon compliance with a toll evasion violation.

5) Requires a person, if after applying for or receiving a driver's license moves to a new residence, or acquires a new mailing address to notify DMV within 10 days of the address change.

6) Requires the application for an original driver's license or renewal of a driver's license to contain specified information, including the applicant's name, age, gender category, mailing address, and residence address.

7) Defines "pay-by-plate toll payment" as an issuing agencies' use of on-road vehicle license plate identification recognition technology to accept payment of tolls in accordance with policies adopted by the issuing agency.

This bill:

1) Requires, generally, implementation of the provisions of the bill to become operative on July 1, 2024, except as specified.

2) Requires DMV, commencing January 1, 2027, to include a statement as part of an application for an original or renewal driver's license informing the person that they may also need to change their address for purposes of their vehicle registration. Also requires DMV to give the same information orally if the driver's license application or renewal is done in person.

Toll notices for bridges

3) Requires, for toll bridges, an issuing agency that permits pay-by-plate toll payment, as defined, that permits payment by a transponder or other electronic toll payment device to send an invoice by mail for any unpaid toll to the registered vehicle owner. Requires the invoice to include a notice to the registered owner that, unless the registered owner pays the toll by the due date

shown on the invoice, a toll evasion penalty will be assessed. Requires the invoice due date shall not be less than 30 days from the invoice date.

4) Stipulates, for toll bridges, that if a toll invoice is not paid by the due date shown on the invoice, the nonpayment shall be deemed an evasion of tolls and the issuing agency, or processing agency as the case may be, shall mail a notice of toll evasion violation to the registered owner, as specified.

Caps on penalties

5) Limits, for toll bridges, toll penalties to $25 for the notice of violation (1st), $50 for the notice of delinquency of evasion (2nd) for a cumulative total of $50 for each individual toll evasion violation. Allows the penalties to include any administrative fee, fine, or assessment imposed by the state in addition to the cumulative $50 limit per each individual toll evasion violation.

6) Limits, for toll roads and express lanes, toll penalties to $60 for the notice of violation (1st), with a maximum cumulative toll evasion penalty not to exceed $100 for each individual toll evasion violation.

7) Requires that if the registered owner, by appearance or by mail, makes a payment to the processing agency within 15 days of the mailing of the notice, the amount owed shall consist of the amount of the toll without any additional penalties, administrative fees, or charges.

8) Authorizes the toll penalties amounts to be adjusted by the California Consumer Price Index.

9) Requires an issuing agency to waive the toll evasion penalty for a first violation if the person contacts the customer service center within 21 days from the mailing of the notice, and the person is not currently an accountholder with the issuing agency, signs up for an account, and pays the outstanding toll.

Contesting tolls violations

10) Makes changes to existing provisions for contesting tolls violations, including allowing 30 days, instead of 15 days, from the mailing of the notice for a person to contest the toll violation; requires the processing agency or issuing agency to review evidence of the alleged violation, including photographs; allows the agency to email, in addition to mail, the results; requires a person that qualifies under the payment plan only be required to pay the toll amount, not the penalty, while awaiting an administrative review.

Payment Plans

11) Requires issuing agencies to make a payment plan option available to a person whose monthly income is 200% of the current poverty guidelines, or less, as specified.

12) Stipulates that the agency is not be required to offer more than one payment plan to a person at any given time, nor to offer a person more than two payment plans in a six-year period.

13) Requires the issuing agency, for purposes of verifying a person's eligibility, to accept all of the following: an unexpired proof of enrollment of participation in the CalFresh program, Medi-Cal, or another low-income program with the same or more exacting low-income requirement; or an unexpired county benefit eligibility letter. Allows for other evidence of the persons' income may also be accepted, as determined by the issuing agency.

14) Requires the payment plan option apply to toll evasion penalties in excess of $100; the payment of no more than $25 per month for total outstanding toll evasion penalties $600 or less; include no prepayment penalty for paying off the balance prior to the payment period expiring; and include a process for removal of any DMV registration hold. Stipulates that the agency is not be required to offer a payment plan if the person has more than $2,500 in outstanding toll evasion penalties.

15) Requires information regarding the issuing agency's payment plan to be posted on an Internet website.

16) Stipulates that the agency may go above the payment plans required minimums.

17) Contains an operative date, for payment plans, July 1, 2023, for toll bridges, and July 1, 2024, for toll roads.

18) Requires DMV to not make vehicle registration contingent upon compliance with a toll evasion violation if the person is entered into a payment plan, as specified, and has made the first payment. If the person is delinquent on the payment plan for more than 10 business days, requires DMV to refuse to renew vehicle registration until the terms of the payment plan are satisfied, and the toll agency has notified DMV.

Toll collection options and customer service

19) Requires an issuing agency that operates an electronic toll collection system that permits payment by a transponder or other electronic toll payment device to, directly or through a third-party vendor, make the transponder or other electronic toll payment device available for acquisition online, by mail, and in person at a retail outlet, the office of an issuing agency or processing agency, as defined, or customer service center. Requires at least one retail outlet, kiosk, or customer service be located within the jurisdiction of the issuing agency.

20) Requires the issuing agency to post on an internet website related to its electronic toll collection system locations where tolls may be paid with cash, and locations at which a transponder or other electronic toll payment device may be acquired. Requires the price of the transponder or other electronic toll payment device to not exceed the reasonable cost to the issuing agency based on the estimated cost to procure and distribute the device.

21) Defines "retail outlet" to include a store managed by the issuing agency, a cash payment location, or other locations not managed by the issuing agency.

22) Requires that if issuing agency offers a transponder or other electronic toll payment device, a person be allowed to acquire a transponder or other electronic toll payment device with cash, or with a credit or debit card, and be allowed to load a minimum of one hundred dollars ($100) onto the associated account with cash or with a credit or debit card. Stipulates, there shall be no additional transaction fee charged to acquire the transponder or other electronic toll payment device except, as specified. Prohibits issuing agency from assessing any additional transaction fee to the amount a person is charged by a cash payment network company to load funds to an account using cash through a cash payment network.

23) Requires the issuing or processing agency's offices or customer service centers, subject to extenuating circumstances and holidays, to be open at least five hours per week between the hours of 6 a.m. to 8 a.m. or 5 p.m. to 7 p.m., or on a Saturday. Stipulates that a person shall be able to conduct all of the following transactions: (a) acquire the issuing agency's transponder or other electronic toll payment device; (b) load money onto an account with the issuing agency; (c) pay a toll notice, including fines and penalties; and (d) register or remove a license plate to or from a transponder or other electronic toll payment device account with the issuing agency for payment of tolls.

Stipulates the issuing agency cannot charge persons paying cash an additional transaction fee for any transaction listed.

24) Requires at least one issuing or processing agency's office or customer service center within the issuing agency's jurisdiction and have two or more physical locations within each county in which a toll facility operated for purposes of conducting the transactions, as specified.

25) Requires the issuing agency, or through a third-party vendor, subject to extenuating circumstances and holidays directly, to maintain a customer service telephone line that shall be operated by a live person for at least 35 hours per week between the hours of 8 a.m. to 5 p.m. and an additional 5 hours per week between the hours of 6 a.m. to 8 a.m., from 5 p.m. to 7 p.m., or on a Saturday. Requires the customer service telephone line to be available to address questions related to acquiring a transponder or other electronic toll payment device, paying toll notices, disputing tolls and penalties, setting up payment plans, and registering the license plate of a vehicle to a transponder or other electronic toll payment device account. Requires the customer service telephone line to provide language interpreter services and assistance for deaf or hard-of-hearing individuals.

Rental car companies

26) Requires an issuing agency to allow a driver of a rental vehicle to register the rental vehicle to a transponder or other electronic toll payment device account with the issuing agency prior to traveling on the issuing agency's toll facility for the purpose of paying all tolls with a credit or debit card. Authorizes the issuing agency to require the use of a transponder for this purpose.

27) Requires public entities operating or planning to implement a toll facility in this state to cooperate to publish an internet website at which the public and rental car agencies can view and download, or that provides direct links to, information about how to open an account or acquire a transponder or other electronic toll payment device, for use of each issuing agency's toll facility.

28) Requires the rental car agency to provide the customer with a written or electronic notice, including the electronic link for the internet website. Requires the notice to be separate from the rental contract and, if an electronic notice, emailed to the rental customer.

One-time waiver

29) Requires, commencing July 1, 2023, an issuing agency to provide a one-time waiver of outstanding toll evasion penalties for toll evasion violations on a toll bridge occurring from March 20, 2020, to January 1, 2023, inclusive, upon request, for those individuals whose monthly income is 200% of the current poverty guidelines. Requires the issuing agency to verify eligibility using the same criteria as the payment plans, as specified. Requires eligible applicants to pay the total amount of the outstanding tolls, and any related fees, fines, or assessments imposed by DMV; and the agency may require the applicant to open an account and acquire a transponder or other electronic toll payment device. Clarifies that this only applies to vehicles registered in California. Requires the issuing agency to include information about the availability of the one-time waive program on an internet website and direct its customer service center to inform the public about the availability of the program when responding to inquiries about toll evasion violations incurred, as specified.

Comments

1) *Purpose of this bill.* According to the author, "As toll agencies have shifted from in person toll payment to a mailed invoice, the process must change to accommodate this reform. Several circumstances can hinder a person's ability to pay the fines associated with an unpaid toll. One outstanding issue with the switch to electronic payment is its direct impact on people who do not have a debit or credit card to pay their invoice online. The Metropolitan Transportation Commission's (MTC) data shows that between January and August of 2021, 5.1 million second notice violations were sent out and only 12 percent were actually paid. Under current law, agencies have the authority to charge hundreds of dollars in fines. Such penalties create significant financial burden and consequences such as a DMV hold on an individual's vehicle registration. Those most impacted are lower income individuals, people of color, and non-English speaking Californians. AB 2594 provides a comprehensive solution to address toll penalties by creating a process to instill equity in the payment process, and addressing the needs of unhoused and unbanked drivers."

2) *Tolls in California.* Individuals may encounter tolls on bridges, toll roads, and express lanes while driving in California. Revenue from these tolls is used to pay for maintenance and other costs, such as debt service, improvements to the corridor, and seismic retrofitting of bridges. There are 13 tolling agencies in the state that administer at least one and in some cases two types of tolls: (a) tolls to

use bridges and (b) tolls for using express lanes or toll roads. The two types of tolls are distinct from each other in that generally bridges cannot be avoided by choosing an alternate route. In contrast, the use of express lanes is optional, intended to ease congestion, and provides a faster travel option to those who pay the toll.

Toll systems rely on a few methods for registering a person's use of a toll facility and payment of the tolls. First, is via a vehicle-mounted toll tag or sticker transponder that is read by antennae and associated electronically to a person's FasTrak account. Second, license plate readers are cameras that are positioned in various entrances and/or exits to the toll lane or bridge to record images of your license plate as a vehicle passes and tolls are assessed electronically to a person's account or to a one-time payment transaction. Additionally, on a handful of toll bridges, if a person has no transponder, the license plate information can be used to send a toll invoice to the registered owner of the vehicle.

3) *Impact of toll fines and penalties.* The cost of fines and fees associated with tolls has steadily increased over the last few decades. For tolls, after notice of an unpaid toll violation, toll agencies are allowed to use the DMV to collect unpaid debt. DMV can require payment in full for unpaid tolls in order to renew vehicle registration. This can cause the cost of a person's vehicle registration to increase to potentially unaffordable levels. Drivers who do not renew their vehicle registration, lose access to their main commute option or risk breaking the law and driving an unregistered vehicle.

   In November 2021, SPUR released a report called *Bridging the Gap* that looked at tolls in the Bay Area and their impacts on low-income people. According to SPUR, there are four key problems with the current system for dealing with unpaid tolls: mailing address errors, accessibility barriers, high fines and fees, and a lack of payment plan options. SPUR found that in 2019 there were 5 million unpaid tolls resulting in fines and fees in the Bay Area and 70% were sent to the DMV or collection agencies, with each violation accruing at least $70 in fines and fees for a $6 toll.

   The cost from being late on payment of a toll could easily spiral out of control. For example, in Orange County each violation is assessed a $57.50 penalty in addition to the toll amount due, therefore an unpaid $3.50 toll could wind up costing a person $61. If you fail to pay the first violation a second notice would be mailed with an additional $42.50 penalty.

If the Orange County Transportation Authority then were to ask DMV to collect the unpaid debt, DMW would add the entire cost of the outstanding toll and fines ($103.50) to vehicle registration fees. If someone were unable to pay the outstanding amount all at once on top of their vehicle registration fees, then late fees for vehicle registration increase by 60% of the original fee for payments over 30 days late, which can increase the registration fee as much as $100. If a person is then pulled over for having an unregistered vehicle, the fine for driving unregistered vehicles is currently $285.

4) *AB 2594 updates the current toll collection and payment systems.* AB 2594 attempts to address many of the concerns raised by SPUR and others in order to develop more equitable and usable tolling collection and payment systems. Recent amendments to the bill represent the culmination of discussions with the toll agencies, DMV, and reform supporters. As noted, California has no-choice toll facilities, such as bridges, and choice facilities, such as HOT lanes. The bill treats these facilities differently for some of the fines and penalties. Overall, the bill delays implementation for a year and a half, until July 1, 2024. Specifically, the bill addresses the following areas:

   - *Up-to-date contact information.* Ensuring that contact information for drivers is up-to-date could help to reduce the number of inadvertently unpaid tolls. As many of the toll agencies use license plate reader technology, having accurate address is critical. The bill requires DMV, starting January 1, 2027, as part of the application for a new or renewal driver's license, to provide a statement informing the person that they also need to change their address for purposes of vehicle registration. The bill also requires this information to be communicated orally if the driver's license renewal is done in person. The implementation for this piece of the bill is delayed until 2027, as DMV is currently undergoing an update of its legacy IT systems that is expected to be completed by then.

   - *Invoices and notifications.* To allow for an increased amount of time for the payment of bridge tolls before penalties are incurred, the bill provides a process for the mailing of invoices for notification of toll use and violations. Specifically, a person would be mailed an invoice for use of the toll bridge. If it is not paid in 30 days, the person would be sent a second notice, constituting a first notice of toll violation. If that is paid in full within 15 days, the person only has to pay the toll amount. If it is not paid, a penalty of maximum of $25 can be attached to the toll amount. If the person still has not paid, in no less than 30 days, a 3rd notice is sent. Within the first 15 days of receipt of the notice of delinquent toll evasion, only the toll and the second penalty assessed of maximum of $25 would be due. If the total is

not paid in 15 days, the toll agency can charge another fee, capped at $50 cumulative, and the agency may contact the DMV to place a hold on the person's vehicle registration.

- *Penalties.* As mentioned, the bill caps penalties for each individual toll violation for bridges at a maximum of $25 for the first notice of toll evasion and a cumulative total of $50. For toll roads, the bill caps penalties at a maximum of $60 for the first notice of toll evasion and a cumulative total of $100. The bill allows for the penalties to be adjusted by the California CPI.
- *Contesting toll violations.* The bill makes various changes to the existing appeals process for contesting toll violations, including doubling the amount of time, from 15 days to 30 days, to contest the toll. The bill also requires the toll agency to review evidence of the violation, including photographs. It also allows agencies to email, instead of just mail, the results of the process.
- *Toll collection options and customer service.* The bill makes it easier for people to either purchase a transponder or other electronic toll payment device for toll collection or pay tolls and penalties by codifying the location and operating hours of physical locations within a service area and operating hours for customer service telephone lines. Toll agencies would also be required to make the transponders available for purchase online, by mail, or through a third party retail vendor.
- *Payment plans.* The bill requires the toll agencies to set up payment plans for low income individuals, defined as 200% of the federal poverty level to be verified using relevant state program participation. The payment plan must be available for people with at least $100 in toll penalties to a maximum of $2,500. People can pay $25 a month for all outstanding penalties of $600 or less. The bill also puts a stop to a DMV hold on vehicle registration if the person is participating in and keeping up with a payment plan.
- *Rental car and toll payment.* To help make sure people who are renting cars don't inadvertently not pay for the use of toll facilities, the bill requires toll agencies to allow people to register a rental vehicle to their existing transponder or other electronic toll payment device account prior to travel. It also requires the toll agencies to cooperate to publish an internet website at which the public and rental car companies can view and download information about how to open an account or acquire a payment device. The rental car companies would provide customers with written or electronic

notice to direct people to the website or include information regarding the tolls when renting a car.

5) *One time waiver*. In early June 2022, BATA announced it would try to collect more than $180 million in unpaid bridge tolls, about $50 million comes from unpaid tolls and $130 million in late fees, after its Oversight Committee voted to crack down on more than 400,000 drivers. According to the author, "Bay Area drivers should not be penalized because BATA chose to remove their operators from the tolls at Bay Area bridges as a result of the COVID-19 pandemic."

   In reaction to this announcement, the bill requires a one-time waiver of outstanding toll evasion violation penalties on a toll bridge occurring March 20, 2020, to January 1, 2023, for low income people, defined the same as the payment plans, that request the waiver. It requires the applicant to pay the only outstanding toll amount and any related DMV fees.

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

SUPPORT: (Verified 8/8/22)

Metropolitan Transportation Commission
Western Center on Law & Poverty, Inc.

OPPOSITION: (Verified 8/8/22)

None received

ARGUMENTS IN SUPPORT: The Western Center on Law & Poverty, Inc. states, "AB 2594 is a very important reform to current state law when it comes to collecting tolls and punishing violators. While toll agencies have expanded in recent decades in California, the law related to collecting tolls and ensuring there is due process have remained stagnant. In short, California has virtually no legal standards when it comes to how toll violations are collected (outside of limited notice requirements). There are no payment plans, no ability to pursue a review without paying up front and excessive fines for relatively small toll amounts. AB 2594 will create statewide, uniform standards and payment levels to insure that low income Californians are not subject to egregious penalties or loss of a vehicle."

ASSEMBLY FLOOR: 76-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi,

Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Melissa White / TRANS. / (916) 651-4121
8/10/22 14:24:57

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

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

THIRD READING

Bill No: AB 2595
Author: Jones-Sawyer (D)
Amended: 3/30/22 in Assembly
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 4-0, 6/13/22
AYES: Hurtado, Cortese, Kamlager, Pan
NO VOTE RECORDED: Jones

SENATE JUDICIARY COMMITTEE: 9-1, 6/21/22
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, McGuire, Stern, Wiener
NOES: Borgeas
NO VOTE RECORDED: Jones

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 58-9, 5/25/22 - See last page for vote

SUBJECT: Juveniles: dependency: jurisdiction of the juvenile court

SOURCE: Los Angeles Dependency Lawyers, Inc.

DIGEST: This bill requires the California Department of Social Services (CDSS) to update all regulations, all-county letters (ACLs), and other instructions relating to the investigation of alleged child abuse or neglect, to ensure the investigating social worker treats a parent's or guardian's use or possession of cannabis in the same manner they would treat a parent's or guardian's use or possession of alcohol and legally prescribed medication.

ANALYSIS:

Existing law:

1) Establishes a state and local system of child welfare services, including foster care, for children who have been adjudged by the court to be at risk of abuse

and neglect or to have been abused or neglected, as specified. (Welfare and Institutions Code (WIC) §202)

2) Establishes a system of juvenile dependency for children for specified reasons, and designates that a child who meets certain criteria is within the jurisdiction of the juvenile court and may be adjudged as a dependent child of the court, as specified. (WIC §300 et seq.)

3) States that the purpose of foster care law is to provide maximum safety and protection for children who are currently being physically, sexually, or emotionally abused, neglected, or exploited, and to ensure the safety, protection, and physical and emotional well-being of the children who are at risk of harm. (WIC §300.2)

4) Designates a child as within the jurisdiction of the juvenile court, which may adjudge that person to be a dependent child of the court, if the child comes within certain descriptions, including, but not limited to:

   a) The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted non-accidentally upon the child by the child's parent or guardian;

   b) The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of the child's parent or guardian to adequately supervise or protect the child; or by the inability of the parent or guardian to provide regular care for the child due to the parent's or guardian's mental illness, developmental disability, or substance abuse;

   c) The child is suffering serious emotional damage as a result of the conduct of the parent or guardian;

   d) The child has been sexually abused, or there is a substantial risk that the child will be sexually abused by the child's parent or guardian or a member of the child's household; or,

   e) The child's parent or guardian caused the death of another child through abuse or neglect. (WIC §300)

5) Provides that a positive toxicology screen at the time of the delivery of an infant is not in and of itself a sufficient basis for reporting child abuse or neglect. Further states that if other factors are present that indicate risk to a child that

relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, then a report shall be made to a county welfare or probation department. (Penal Code §11165.13)

6) Requires a social worker, whenever the social worker has cause to believe that there was or is within the county a dependent child of the juvenile court, to immediately make any investigation they deem necessary to determine whether child welfare services should be offered to the family and whether proceedings in the juvenile court should be commenced. Further requires the social worker, if they determine that it is appropriate to offer child welfare services to the family, to make referral to those services, as specified. (WIC §328)

7) Requires a social worker, upon delivery of a child who has been taken into temporary custody, to immediately investigate the circumstances of the child and the facts surrounding the child being taken into custody and attempt to maintain the child with the child's family through the provision of services. (WIC §309(a))

This bill requires CDSS to update all regulations, ACLs, and other instructions relating to the investigation of a child or youth who may be described as a dependent of the juvenile court to ensure that investigations of alleged child abuse or neglect treat the parent's or guardian's use or possession of cannabis in the same manner as a parent's or guardian's use or possession of alcohol and legally prescribed medication.

Background

According to the author, "California has found that cannabis use, whether medical or recreational, is acceptable for adults. Thus, cannabis use alone should not be a basis for state intervention into family life. As is the case with alcohol and prescription medication, parents and guardians should be allowed to safely and legally use cannabis without fear of having their children permanently removed from their care, provided there are no other concerns regarding the child's safety. As such, AB 2595 directs the Department of Social Services to update its regulations to ensure that cannabis is treated as any other legal substance for the purposes of child custody and dependency courts."

Child Abuse and Neglect Investigations. Suspicion of child abuse or neglect can be reported to either law enforcement or a county child welfare agency, usually through the Child Protective Services (CPS) hotline. Through the hotline, which is staffed 24 hours, trained social workers are available to receive calls on suspected

abuse cases. These reports are often made by mandated reporters who, because of their profession, are legally required to report any suspicion of child abuse or neglect. In California, mandated reporters include: teachers, doctors, social workers, mental health professionals, and child care providers, among others. In addition to mandated reporters, any individual who believes a child may be suffering abuse or neglect can make a report to law enforcement or the county child welfare agency.

Calls received by the CPS hotline are screened by social workers who attempt to determine if the caller is reporting alleged abuse, neglect, or exploitation. Based on the information gathered in the report, CPS determines if the report warrants an in-person visit from a county social worker to investigate the allegations. If an in-person visit substantiates the allegations, the social worker may determine the family is in need of services to ensure the child's well-being and avoid court involvement, or determine it is in the child's best interests to be removed from the home. If removal is determined to be in the best interest of the child, the county petitions the court to adjudicate the child as a dependent of the court, which enters the child into the state's foster care system.

Current statute describes various circumstances under which a child is determined to have suffered abuse or neglect and the juvenile court may decide that the child is a dependent of the court. Instances of abuse include, but are not limited to, when the child has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted non-accidentally by the child's parent or guardian; when the child is suffering, or is at risk of suffering, substantial emotional damage as a result of the conduct of the parent or guardian; when the child has been sexually abused, or there is a substantial risk that the child will be sexually abused by the parent or guardian or a member of their household; or the parent or guardian has failed to adequately protect the child from sexual abuse when the parent or guardian knew or reasonably should have known that the child was in danger of sexual abuse. Instances of neglect include, but are not limited to: when the child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness as a result of the failure or inability of the parent or guardian to adequately supervise or protect the child or by the willful or negligent failure of the parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment; or by the inability of the parent or guardian to provide regular care for the child due to the parent's or guardian's mental illness, developmental disability, or substance abuse.

In 2021, there were 416,313 reports of possible child abuse or neglect recorded in California. Out of these 416,313 reports, 117,088 were allegations of sexual or physical abuse, 201,942 were allegations of severe or general neglect, and 48,968 were allegations of emotional abuse. The remaining cases fall into the following categories: 537 were reports of exploitation; 3,548 were allegations of caretaker absence or incapacity; and 44,194 were allegations of a child being at risk because a sibling was alleged to be abused or neglected. Additionally, of the 416,313 reports of possible child abuse or neglect, 297,539 were investigated. Of the total allegations, there was a 56,784 were substantiated following the investigation and out of those substantiated cases 21,174 children entered foster care.

Child Welfare Services (CWS). The purpose of California's CWS system is to protect children from abuse and neglect and provide for their health and safety. When children are identified as being at risk of abuse, neglect or abandonment, county juvenile courts hold legal jurisdiction; these children are served by the CWS system through the appointment of a social worker. Through this system, there are multiple opportunities for the custody of the child, or their placement outside of the home, to be evaluated, reviewed and determined by the judicial system, in consultation with the child's social worker, to help provide the best possible services to the child. The CWS system seeks to help children who have been removed from their homes reunify with their parents or guardians, whenever appropriate. However, the court may determine that an alternate permanent placement is more fitting and give preference to relatives or nonrelative extended family members. As of January 1, 2022, there were 55,539 children in California's CWS system.

Substance Use and CWS. Existing law specifies that substance use can be a cause of a neglect, causing a child to fall under the jurisdiction of the juvenile dependency court. (Penal Code Section 11165.13) However, the existing law is clear that substance use alone should not result in the removal of a child, and California courts have repeatedly held that drug use by a parent, absent other factors "is typically inadequate to establish dependency jurisdiction." (*See In re A.G.* (2020) 2020 Cal. App. Unpub LEXIS 5276)

Federal law, the Child Abuse Prevention and Treatment Act, requires states to have policies for health care providers to notify CWS agencies of all infants born and identified as impacted by substance abuse, withdrawal symptoms resulting from prenatal drug exposure, or a Fetal Alcohol Spectrum Disorder. When an infant is born with an exposure to either illegal or legal substances, including prescription opioids or other drugs, an assessment of needs and indicators of risk to the child's

health and safety is conducted. ACLs issued by CDSS on this subject note "… the CWS agency's responsibility is to assess for safety and risk and determine whether child welfare involvement is necessary to protect the child. A notification to child welfare of the substance affected infant meets the requirement for reporting, but this does not automatically result in a substantiated allegation of child maltreatment or an open child welfare case." (*ACL 20-122*) This is further supported by California court decisions, such as *In re J.A.*, in which an infant tested positive for mother's "use of medical marijuana." The court stated that even if they were to conclude the evidence supported a finding of substance use that rose to the level of substance abuse "…there is insufficient evident that this abuse gave rise to a substantial risk of harm to the children." (*In re J.A.* (2020) 47 Cal.App.5th 1036)

Additionally, last year the Legislature passed AB 788 (Calderon, Chapter 201, Statutes of 2021) allowing for reunification services to be provided to a parent with substance use issues who had experienced a relapse. This codified a California Court decision, in which the court noted "a relapsed parent is far from hopeless. It is decidedly not fruitless to offer services to a parent who genuinely made an effort to achieve sobriety but slipped up on the road to recovery." (*In re B.E.* (2020) 46 Cal.App.5th 932, 941.) In that case, and other instances impacted by the passage of AB 788, the CWS system was involved with the child because there was substantiated allegations of abuse or neglect and the parent was seeking reunification services to help them address their substance use or other challenges. Prior to the passage of AB 788, parents or guardians could be denied reunification services if they had a history of extensive, abusive, and chronic use of drugs or alcohol and had relapsed (i.e. passively resisted treatment) during a three-year period prior to the filing of the petition that brought the child to the court's attention.

This bill requires CDSS to update all regulations, ACLs, and other instructions relating to a child abuse or neglect investigation to ensure that, when a social worker is investigating the alleged abuse or neglect, a parent's or guardian's use or possession of cannabis is not treated differently than the parent's or guardian's use or possession of alcohol and legally prescribed medication.

Related/Prior Legislation

SB 1085 (Kamlager, 2022) provides that a parent or guardian's condition of financial difficulty, including, but not limited to, poverty, homelessness, lack of access to medical care or resources, or the inability to afford food, clothing, home

or property repair, or childcare, is not itself a sufficient basis for bringing the child into the foster care system. SB 1085 is pending a hearing in the Assembly Judiciary Committee.

AB 788 (Calderon, Chapter 201, Statutes of 2021) clarified the meaning of "resisted" for the purposes of existing law. This change allows for the provision of reunification services for a parent who has a history of drug or alcohol abuse and has recently relapsed despite court-ordered treatment.

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

SUPPORT: (Verified 8/2/22)

Los Angeles Dependency Lawyers, Inc. (source)
California NORML
National Association of Social Worker, California Chapter
The Parent Company

OPPOSITION: (Verified 8/2/22)

None received

ASSEMBLY FLOOR: 58-9, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Megan Dahle, Fong, Mathis, Nguyen, Patterson, Seyarto, Smith, Voepel
NO VOTE RECORDED: Berman, Chen, Choi, Davies, Flora, Gallagher, Kiley, Lackey, O'Donnell, Valladares, Waldron

Prepared by: Marisa Shea / HUMAN S. / (916) 651-1524
8/3/22 14:38:22

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

SENATE RULES COMMITTEE AB 2604
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(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2604
Author: Calderon (D)
Amended: 6/13/22 in Senate
Vote: 21

SENATE INSURANCE COMMITTEE: 11-0, 6/22/22
AYES: Rubio, Jones, Bates, Borgeas, Dodd, Glazer, Hertzberg, Hueso, Melendez, Portantino, Roth
NO VOTE RECORDED: Hurtado

SENATE HEALTH COMMITTEE: 10-0, 6/29/22
AYES: Pan, Melendez, Eggman, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Gonzalez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 73-0, 5/25/22 (Consent) - See last page for vote

SUBJECT: Long-term care insurance

SOURCE: Association of California Life & Health Insurance Companies
National Association of Insurance and Financial Advisors – California

DIGEST: This bill requires long-term care (LTC) insurance providers certified by the California Partnership for Long-Term Care Program (Partnership) to provide a lower-cost inflation adjustment option.

ANALYSIS:

Existing law:

1) Establishes the Partnership, administered by the State Department of Health Care Services (DHCS).

2) Provides for the regulation of LTC insurance by the California Department of Insurance (CDI) and prescribes various requirements and conditions governing the delivery of individual or group LTC insurance in the state.

3) Establishes the Medi-Cal program, administered by the DHCS, under which low-income individuals are eligible for LTC services.

4) Requires DHCS to claim against the estate of a deceased Medi-Cal beneficiary an amount equal to the payments for medical and LTC services received up to the value of the estate (known as estate recovery), subject to certain exceptions.

5) Establishes the partnership within the DHCS to link private LTC insurance with Medi-Cal and In-Home Supportive Services (IHSS) program eligibility requirements and Medi-Cal estate recovery.

6) Requires that policies certified by the Partnership program be approved by CDI as compliant with most, but not all, provisions the Insurance Code applicable to LTC insurance.

7) Disregards an equivalent value of qualified benefits received under a certified Partnership policy for the purposes of determining eligibility in the Medi-Cal or IHSS programs and in determining the amount subject to estate recovery (known as "asset protection").

8) Requires that policies and plans certified by the partnership also contain the following benefits or features:

   a) Individual assessment and case management by a coordinating entity designated and approved by DHCS.

   b) Inflation protection (existing regulations require a minimum 5% annual compound inflation escalator).

   c) A periodic explanation of insurance payments or benefits paid that count toward Medi-Cal asset protection.

   d) Compliance with applicable regulations adopted by DHCS or DSS.

This bill:

1) Adjusts requirements for policies to get Partnership certification. Specifically adds a lower-cost inflation protection option to provide, at a minimum, protection against inflation that automatically increases benefit levels by three percent each year over the previous year.

2) Creates, additionally, a one-percent inflation protection adjuster for policyholders who are 70 years or older. Requires insurers to offer this protection in certain circumstances (see 4)g) below).

3) Allows a policy to maintain partnership certification if it is converted to a nonforfeiture benefit or contingent benefit upon lapse of the policy.

4) Requires, if a premium increases, insurers to offer policyholders specified options to reduce coverage or lower premiums. These are:

   a) To reduce the daily benefit to 70 percent of the average daily private pay rate for a nursing facility, as identified by the department, on the date the offer is sent or provided.

   b) Reduce the daily benefit by 25 percent, rounded up or down to the closest daily benefit level on the insurer's approved rate schedule.

   c) Reduce the benefit duration to the lowest duration on the insurer's approved rate schedule, but not below 12 months.

   d) Reduce the benefit duration to the next highest duration on the insurer's approved rate schedule, relative to the current duration, but not below 12 months.

   e) Increase the elimination period to 90 days for a policy or certificate with an elimination period of less than 90 days. (Elimination is the length of time between injury and illness and the beginning of receiving benefit payments.)

   f) Convert a policy or certificate to a minimum coverage policy, if the insurer offers such a policy for sale in California.

   g) Reduce the protection against inflation to a lower-cost option that automatically increases benefit levels by three percent each year over the previous year. If the policyholder or certificate holder is 70 years of age or older and has experienced a 50-percent or greater increase in premium over the life of the policy or certificate, the insurer shall also offer protection against inflation that automatically increases benefit levels by one percent each year over the previous year.

5) Requires an offer made pursuant to 4) above to reduce protection against inflation to allow a policyholder or certificate holder, regardless of the issue date, issue age, or present age, to retain the accrued daily, weekly, monthly, and lifetime benefit amounts in effect at the time of the reduction.

6) Makes other technical changes.

Comments

According to the author:

> Expenses related to long-term care often become financially burdensome for individuals and their families. This is especially true for those who do not qualify for Medi-Cal, but who also aren't able to afford long-term care expenses out-of-pocket. AB 2604 clarifies existing law by requiring long-term care insurance providers participating in the Partnership to provide low-cost policies with a 3% compound inflation rider. In addition, AB 2604 provides ways for existing policyholders to mitigate a premium increase while retaining Partnership status.

Partnership. Early in the 1990s, four states (California, Connecticut, Indiana and New York) joined with the federal government to establish the four original partnership programs. The federal Deficit Reduction Act of 2005 opened the door for more states to establish their own programs and currently most states operate partnership programs. In California, the Partnership is jointly administered by CDI and DHCS as stated above under existing law.

Through the Partnership, individuals can purchase LTC insurance that provides certain benefits with respect to the state's Medi-Cal program. LTC insurance policies are issued by participating private insurance companies, not the state.

Partnership policies were intended to target middle-class consumers whose pension and savings are adequate for retirement so long as they do not experience a serious chronic disability. This approach was intended to encourage financial planning and gave consumers a way to preserve some assets if their LTC insurance coverage runs out and the consumer becomes impoverished and qualifies for Medi-Cal.

Unfortunately, middle class consumers the program was intended to help now have trouble affording the policies. The inflation protection standards required by DHCS regulations make partnership policies unaffordable to all but the most affluent retirees. In 2007, the US Government Accountability Office released a study of the original partnership states and concluded that many of the consumers who could afford to purchase a partnership policy would never qualify for or use Medi-Cal, which undermines the purpose of the Partnership.

Originally, the first four partnership states required a five percent compound escalator to adjust for inflation, but now there are a variety of options in other

states. For example, the New York State partnership program, one of the original partnership states, offers a three percent inflation escalator.

Related/Prior Legislation

AB 567 (Calderon, Chapter 746, Statutes of 2019) established the Long Term Care Insurance Task Force in the CDI to explore the feasibility of developing and implementing a culturally competent statewide insurance program for long term services and supports.

SB 1384 (Liu, Chapter 487, Statutes of 2016) established a taskforce to advise DHCS on the operation of the Partnership and revised the requirements for partnership policies. SB 1384 required Partnership policies to provide consumers with at least two inflation protection options (five percent annual compound inflation protection or a less expensive inflation protection option). It required insurers offering Partnership policies to provide the consumer with graph illustrations identifying the difference in premium expenses and benefit levels associated with each inflation protection option.

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

SUPPORT: (Verified 7/28/22)

Association of California Life and Health Insurance Companies (co-source)
National Association of Insurance and Financial Advisors – California (co-source)
AARP
California Department of Insurance
California Retired Teachers Association

OPPOSITION: (Verified 7/28/22)

None received

ARGUMENTS IN SUPPORT: The Association of California Life and Health Insurance Companies and the National Association of Insurance and Financial Advisors – California, sponsors of this bill, write in a joint letter:

> Existing statutes require California Partnership for Long-Term Care (CA LTC) policies to contain a 5% compound inflation rider. Such policies have become unaffordable for many, especially for lower and middle-income families. The result is that sales have ceased, and many insurance companies have stopped participating in the program.

For the good of existing policyholders and future policyholders, the Partnership needs to provide less expensive inflation options for their policies to become once again saleable and protect Californians. Legislation passed in 2016 (SB 1384) required Partnership policies to offer a lower-cost inflation protection at the time of application, in addition to a minimum 5% compound inflation escalator currently required. However, a question remains as to what is a "lower cost option" and whether these alternative policies will maintain their Partnership status.

Also in support, the California Retired Teachers Association, "believes retirees should be given reasonable options if long-term care policy changes are needed. This measure will empower retirees with more options."

ASSEMBLY FLOOR: 73-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Bloom, Irwin, O'Donnell, Blanca Rubio

Prepared by: Brian Flemmer / INS. / (916) 651-4110
8/8/22 16:07:16

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

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

THIRD READING

Bill No: AB 2608
Author: Berman (D)
Amended: 4/7/22 in Assembly
Vote: 27 - Urgency

SENATE ELECTIONS & C.A. COMMITTEE: 4-1, 6/21/22
AYES: Glazer, Hertzberg, Leyva, Newman
NOES: Nielsen

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 57-19, 5/25/22 - See last page for vote

SUBJECT: Elections: vote by mail ballots

SOURCE: Secretary of State Shirley N. Weber, Ph.D.

DIGEST: This bill repeals various provisions of the Elections Code related to vote by mail (VBM) ballot applications, and makes various conforming changes to reflect the state law requirement that every active registered voter be mailed a ballot for all elections in which the voter is eligible to vote.

ANALYSIS:

Existing law:

1) Requires an elections official to mail a ballot to every active registered voter for every election in which the voter is eligible to participate. Requires the elections official to begin mailing VBM ballots not later than 29 days before the election, as specified.

2) Provides all of the following with respect to applications for VBM ballots:

   a) Requires an application for a VBM ballot to be made in writing to the elections official having jurisdiction over the election between the 29th and the seventh day prior to the election, except as specified.

b) Requires the Secretary of State (SOS) to prepare a uniform VBM ballot application, and a uniform electronic application for a VBM ballot, as specified.

c) Requires a VBM ballot application to inform the voter that if the voter has declined to disclose a preference for a political party, the voter may request a VBM ballot for a particular political party for a partisan primary election, if that political party has adopted a party rule authorizing that vote, as specified. Requires the application to contain a checkoff box with a conspicuously printed statement, as specified. Requires the name of the political party to be personally affixed by the voter.

3) Requires a county elections official, prior to each partisan primary election, to mail to every voter who has declined to disclose a preference for a political party and whose name appears on the permanent VBM voter list, a notice and application regarding voting in the primary election. Requires the notice to inform the voter that the voter may request a VBM ballot for a particular political party for the primary election, if that political party adopted a party rule, duly noticed to the SOS, authorizing that vote. Requires the application to contain a checkoff box with a conspicuously printed statement, as specified. Requires the name of the political party to be personally affixed by the voter.

4) Permits an elections official to deliver a voter's VBM ballot to the voter's spouse, child, parent, grandparent, grandchild, or sibling, or a person residing in the same household as the voter, but prohibits the ballot from being delivered to someone under 16 years of age. Requires the person who is receiving the voter's VBM ballot to sign a statement attested to under penalty of perjury that provides the name of the voter and the person's relationship to the voter, affirms that the person is 16 years of age or older, and is authorized by the voter to deliver the VBM ballot.

5) Permits a voter who, after the deadline for requesting a VBM ballot, is unable to go to the polls, to request in a written statement, signed under penalty of perjury, that a ballot be delivered to the voter. Requires the elections official to deliver this ballot to the voter's authorized representative who presents this written statement to the elections official. Requires the elections official to compare the signature on the request with the signature on the voter's affidavit of registration before that VBM ballot is canvassed.

6) Permits a voter who is unable to return the voter's completed VBM ballot to designate another person to return the ballot to the elections official who issued the ballot, to the precinct board at a polling place or vote center within the

state, or to a VBM ballot drop-off location. Requires that the VBM ballot identification envelope contain spaces for the name, signature, and relationship to the voter of the person authorized by the voter to return that voter's ballot.

7) Requires a county that does not conduct an election pursuant to the California Voter's Choice Act (CVCA) to provide at least two VBM ballot drop-off locations within the jurisdiction where the election is held or at least one drop-off location for every 30,000 registered voters within the jurisdiction where the election is held, whichever results in more drop-off locations. Provides, notwithstanding this requirement, that a jurisdiction with fewer than 30,000 registered voters have at least one drop-off location, and that the elections official make a reasonable effort to provide a drop-off location in the jurisdiction where the election is held.

8) Requires a county elections official, prior to each partisan primary election, to mail a notice and application regarding voting in the primary election to every voter who is a permanent VBM voter and who has declined to disclose a preference for a political party. Requires the notice to inform the voter that the voter may request a VBM ballot for a particular political party for the primary election, if that political party adopted a party rule, duly noticed to the SOS, authorizing these voters to vote in their primary. Requires the notice to contain a toll-free telephone number, established by the SOS, which the voter may call to access information regarding which political parties have adopted such a rule. Requires the application to contain a checkoff box with a conspicuously printed statement, as specified. Requires the name of the political party to be personally affixed by the voter.

9) Makes it an infraction, punishable by a $200 fine, for a person to willfully submit a VBM ballot application electronically for another voter.

10) Makes it a misdemeanor for an individual, group, or organization to knowingly distribute a VBM ballot application that does not conform to state law.

11) Makes it a misdemeanor for a person to willfully do any of the following:

    a) Interfere with the prompt delivery of a completed VBM ballot application.

    b) Retain a completed VBM ballot application, without the voter's authorization, for more than three days excluding weekends and state holidays, or by the deadline for return of applications, whichever is earlier.

c) Deny an applicant the right to return the applicant's own completed VBM ballot application to the local elections official having jurisdiction over the election.

12) Permits a military or overseas voter who returns to the county of their residence to appear before the elections official to make application for registration, as specified. Requires the elections official to register the voter, if the voter is not registered, and deliver to the voter a vote by mail ballot which may be voted in the elections official's office or voted outside the elections official's office on or before the close of the polls on the day of election and returned as are other vote by mail ballots.

13) Permits a military or overseas voter who is unable to appear at their polling place because of being recalled to service to appear before the elections official in the county in which the military or overseas voter is registered or, if within the state, in the county in which the voter is recalled to service. Requires the elections official to deliver to the voter a VBM ballot which may be voted in the elections official's office or voted outside the elections official's office on or before the close of the polls on the day of election and returned as are other VBM ballots. Requires the ballot shall be returned to the elections official's office in person, by facsimile transmission, or by an authorized person on or before the close of the polls on the day of the election to be counted. Provides that if the military or overseas voter appears in the county in which the voter is recalled to service, rather than the county to which the voter is registered, the elections official shall coordinate with the elections official in the county in which the military or overseas voter is registered to provide the ballot that contains the appropriate measures and races for the precinct in which the military or overseas voter is registered.

This bill:

1) Repeals provisions of law that specify the process for applying for a VBM ballot or for returning completed VBM ballot applications; the format, contents, and processing of VBM ballot applications; and the preservation of VBM ballot applications after an election. Makes corresponding changes by repealing provisions of law that establish fines and criminal penalties for misconduct related to VBM ballot applications.

2) Repeals provisions of law that govern the application for permanent VBM status and the processing and maintenance of the list of permanent VBM voters.

3) Repeals a requirement that a VBM ballot identification envelope contain a space for the relationship to the voter of a person who is authorized to return that voter's VBM ballot. Makes other technical and conforming changes to the contents of the VBM ballot identification envelope. Permits county elections officials to continue using existing supplies before printing new identification envelopes that reflect the changes made by this bill.

4) Requires an elections official to provide a second VBM ballot to a voter's representative upon receipt of a written request, on a form prescribed by the SOS, signed by the voter under penalty of perjury, requesting that a ballot be provided to the representative. Prohibits a ballot from being provided to the representative until the elections official compares the signature on the written request with the signature or signatures in the voter's registration record and the authorized representative signs an acknowledgment of receipt of the voter's ballot. Repeals two related provisions of law that establish procedures for a voter's VBM ballot to be provided to an authorized representative of the voter for delivery to the voter.

5) Specifies that for the purpose of determining the number of VBM ballot drop-off locations that are required in counties that do not conduct elections pursuant to the CVCA, the determination shall be made based on the number of registered voters in the jurisdiction as determined on the 88th day before the election.

6) Deletes a requirement that, when a voter who has declined to disclose a political party preference requests the ballot of a political party in a partisan primary election, the voter must personally affix the name of the political party for which the voter is requesting a ballot. Requires the SOS to prepare and distribute to county elections officials a uniform application for a voter who has declined to disclose a political party preference to request a political party's ballot at the next partisan primary election if the political party has so authorized.

7) Permits a military or overseas voter who returns to the county of their residence to appear before the elections official to make application for registration after the seventh day prior to the date of the election, as specified.

8) Permits a military or overseas voter who is unable to appear at their polling place because of being recalled to service to appear before the elections official after the seventh day prior to the date of the election, but before 5 p.m. on the day before the day of the election to receive a VBM ballot, as specified.

9) Makes technical, clarifying, and conforming changes.

10) Contains an urgency clause, allowing this bill to take effect immediately upon enactment.

Background

VBM Ballot Use in California and Previous Legislation. Since 2012, a majority of ballots cast in every California statewide election were VBM ballots. Recently, California has taken steps to ensure that every voter receives a ballot in the mail for each election in which the voter is eligible to participate. This policy was first enacted as an accommodation to facilitate voting in 2020 due to concerns that conducting in-person voting during the spread of COVID-19 could threaten the health and safety of voters, election workers, and the public generally. Notably, AB 860 (Berman, Chapter 4, Statutes of 2020) required county elections officials to mail a ballot to every active registered voter for the November 3, 2020 statewide general election, among other provisions. SB 29 (Umberg, Chapter 3, Statutes of 2021) continued that policy for all elections conducted in 2021. AB 37 (Berman, Chapter 312, Statutes of 2021) made that policy permanent for all future elections, and made other changes to VBM processes, procedures, and requirements, including requiring that counties provide VBM ballot drop-off locations for all elections that they conduct.

Ballot Drop-Off Locations. One provision of AB 37 required that county elections officials provide VBM ballot drop-off locations at all elections, including elections that are not conducted pursuant to the CVCA. The number of drop-off locations required by AB 37 depends on the number of registered voters in the jurisdiction where the election is being held, but AB 37 did not specify the date on which the number of registered voters was to be determined. This bill requires that the number of drop-off locations be based on the number of registered voters as of the 88th day before the election.

No Party Preference (NPP) Voters and Primary Elections. Under California's presidential primary system, a voter who is registered with a political party receives a ballot for that party's presidential primary election. A voter who declined to disclose a political party preference when registering to vote (also known as an NPP voter) has the option of requesting the ballot of a political party that has notified the SOS that it will allow those voters to participate in its presidential primary election. This is commonly referred to as a "crossover" ballot. An NPP voter who does not request a crossover ballot receives a nonpartisan ballot that does not list candidates for president.

AB 37 required that every active registered voter be mailed a ballot for every election in which the person is eligible to vote. This bill updates the procedure for NPP voters to request a crossover ballot and any NPP voter who does not request a crossover ballot will receive a notice with the ballot that is mailed to the voter that informs the voter of the right and the process for requesting a crossover ballot.

VBM Ballots and Voters' Authorized Representatives. Two different provisions of existing law expressly authorize a voter to designate a representative to pick-up a VBM ballot for the voter—one provision that applies generally (Elections Code Section 3009(b)) and one provision that applies after the deadline for requesting a VBM ballot by mail (Elections Code Section 3021). The procedures in these provisions of law differ slightly, including differences in who may be authorized to pick-up a ballot for the voter and in the documentation that is required from the voter and the voter's authorized representative. This bill consolidates those into a single procedure, where a voter may designate any person to pick up a ballot for the voter. The voter would need to designate the authorized representative in a written statement signed under penalty of perjury, and the authorized representative would be required to sign an acknowledgment of receipt of the voter's ballot.

State law also allows a voter to designate another person to return the voter's VBM ballot, and requires the VBM ballot identification envelope to include a space for the name, signature, and relationship to the voter of that designated person. The requirement for the identification envelope to include the authorized representative's relationship to the voter was established when California law allowed a person to return another voter's ballot only if that person had a specified relationship with the voter. Subsequently, state law was amended to allow a voter to designate *any person* to return the voter's ballot. This bill makes a corresponding change to state law by deleting the requirement for the VBM ballot identification envelope to include a space for that relationship.

Comments

According to the author, we have learned that when voters get a ballot in the mail, they vote. After our experiment in November 2020 resulted in the highest voter turnout in California since Harry Truman was president, I was pleased to author AB 37, to ensure that every active registered voter in California will receive a ballot in the mail before every future election. Now that we have transitioned to mailing a ballot to every active registered voter, there are a number of references in the code that are either obsolete or necessitates clarification. AB 2608 would make those necessary updates.

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

SUPPORT: (Verified 8/1/22)

Secretary of State Shirley N. Weber, Ph.D. (source)
California Association of Clerks and Elections Officials

OPPOSITION: (Verified 8/1/22)

None received

ASSEMBLY FLOOR: 57-19, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Scott Matsumoto / E. & C.A. / (916) 651-4106
8/3/22 14:38:25

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

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

THIRD READING

Bill No: AB 2626
Author: Calderon (D), et al.
Amended: 8/1/22 in Senate
Vote: 27 - Urgency

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-3, 6/13/22
AYES: Roth, Becker, Dodd, Eggman, Hurtado, Leyva, Min, Newman, Pan
NOES: Melendez, Bates, Jones
NO VOTE RECORDED: Archuleta, Ochoa Bogh

SENATE HEALTH COMMITTEE: 8-2, 6/30/22
AYES: Pan, Eggman, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NOES: Melendez, Grove
NO VOTE RECORDED: Gonzalez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 56-15, 5/23/22 - See last page for vote

SUBJECT: Medical Board of California: licensee discipline: abortion

SOURCE: Author

DIGEST: This bill prohibits the Medical Board of California (MBC), the Osteopathic Medical Board (OMBC), the Board of Registered Nursing (BRN), and the Physician Assistant Board (PAB) from suspending or revoking the certificate, or denying an application for licensure, of a physician and surgeon, nurse practitioner (NP), certified nurse-midwife (CNM), or physician assistant (PA) solely for performing an abortion in accordance with existing California law. This bill would also prohibit these boards from imposing such discipline on the aforementioned licensees if they are disciplined or convicted in another state in which they are licensed or certified solely for performing abortions in that state.

ANALYSIS:

Existing law:

1) Establishes various practice acts in the Business and Professions Code (BPC) governed by various boards within the Department of Consumer Affairs (DCA) which provide for the licensing and regulation of health care professionals including: physicians and surgeons (under the Medical Practice Act); osteopathic physicians and surgeons (under the Osteopathic Medical Practice Act); NPs and CNMs (under the Nursing Practice Act); and PAs (under the Physician Assistant Practice Act). (BPC §§ 2000 et seq.; 2099.5 et seq.; 2700 et seq.; 3500 et seq.)

2) Establishes the Reproductive Privacy Act which finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions, and states that it is the public policy of the State of California that:

   a) Every individual has the fundamental right to choose or refuse birth control;

   b) Every woman has the fundamental right to choose to bear a child or to choose and to obtain an abortion, except as specifically limited by law; and,

   c) The state cannot deny or interfere with a woman's fundamental right to choose to bear a child or to choose to obtain an abortion, except as specifically permitted by law. (Health and Safety Code (HSC) § 123462)

3) Defines the following for purposes of the Reproductive Privacy Act:

   a) "Abortion" means any medical treatment intended to induce the termination of a pregnancy except for the purpose of producing a live birth;

   b) "Pregnancy" means the human reproductive process, beginning with the implantation of an embryo;

   c) "State" means the State of California, and every county, city, town and municipal corporation, and quasi-municipal corporation in the state; and,

   d) "Viability" means the point in a pregnancy when, in the good faith medical judgment of a physician, on the particular facts of the case before that physician, there is a reasonable likelihood of the fetus' sustained survival outside the uterus without the application of extraordinary medical measures. (HSC § 123464)

4) Provides that the State may not deny or interfere with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the woman. (HSC § 123466)

5) Provides that failure to comply with the Reproductive Privacy Act in performing, assisting, procuring or aiding, abetting, attempting, agreeing or offering to procure an illegal abortion constitutes unprofessional conduct. (BPC § 2253 (a))

This bill:

1) Prohibits the MBC and the OMBC from suspending or revoking the certificate of a physician and surgeon solely for performing an abortion in accordance with the provisions of the Medical Practice Act and the Reproductive Privacy Act.

2) Prohibits the BRN and PAB from suspending or revoking the certification or license of an NP, CNM, or PA, solely for performing an abortion so long as they performed the abortion in accordance with the provisions of the Nursing Practice Act or the Physician Assistant Practice Act, and the Reproductive Privacy Act.

3) Prohibits these boards from denying an application for licensure or certification, or from suspending, revoking, or otherwise imposing discipline upon a physician and surgeon, NP, CNM, or PA licensed or certified in California for either of the following:

   a) The individual is licensed or certified to practice medicine, midwifery, nursing, or physician assistantship in another state and was disciplined in that state solely for performing an abortion in that state.

   b) The individual is licensed or certified to practice medicine, midwifery, nursing, or physician assistantship in another state and was convicted in that state for an offense related solely to the performance of an abortion in that state.

4) States that it is an urgency statute necessary to take effect immediately because in response to the draft opinion of the United States Supreme Court stating that it would overrule the *Roe v. Wade* decision, several states around the nation are poised to allow professional boards to take disciplinary action against a health care provider for coordinating or providing abortion care, and it is to protect physicians, surgeons, CNMs, NPs, and PAs.

Background

The Reproductive Privacy Act codified the constitutional principles of *Roe v. Wade* and replaced in its entirety the Therapeutic Abortion Act. In 1967, Governor Ronald Reagan signed the Therapeutic Abortion Act, which expanded legal abortion in California under very restrictive criteria. Most of those restrictions were subsequently ruled unconstitutional in the 1972 California Supreme Court case, *People v. Barksdale* (1972) 8 Cal.3d 320, 105 Cal.Rptr 1. The United States Supreme Court issued its landmark *Roe v. Wade* (1973) 410 U.S. 959, 35 L.Ed.2d 694, and *Doe v. Bolton*, decisions in 1973, which invalidated two of the three remaining provisions of the Therapeutic Abortion Act.

Although *Roe* and *Barksdale* rendered much of the Therapeutic Abortion Act obsolete, the Therapeutic Abortion Act itself was not repealed by the Legislature until 2003, pursuant to SB 1301 (Kuehl, Chapter 385, Statutes of 2002) the Reproductive Privacy Act. One rationale for the passage of this Act was the concern that the United States Supreme Court may overturn *Roe v. Wade*, and it would, therefore, be important to have a state law which would protect reproductive rights in the State of California. The Reproductive Privacy Act expressly granted every woman in California with the fundamental right to choose to bear a child or to choose and to obtain an abortion. Under the Reproductive Privacy Act, the state may not deny or interfere with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the woman.

The Supreme Court ruled to overturn *Roe* in *the Dobbs v. Jackson Women's Health Organization* decision on June 24, 2022, but even prior to this controversial ruling, recent judicial action in the United States cast uncertainty on the security of the protections memorialized in *Roe*. In 2021, the Texas Legislature passed Senate Bill 8, referred to as the Texas Heartbeat Act. This bill criminalized abortion after the detection of embryonic or fetal cardiac activity, essentially banning abortion after approximately six weeks. The constitutionality of this bill was challenged in *Whole Woman's Health v. Jackson*, which sought to enforce the *Roe* precedent and overturn Senate Bill 8. However, the Court declined to enjoin the law, which many pro-choice advocates viewed as portents of the recent decision by the Court to overturn the protections outlined in *Roe*. Now with *Roe* overturned by the Court, protections for reproductive rights must be decided solely by the states.

Since the overturning of *Roe*, 14 states now have full or six-week abortion bans in place, two states have 15 or 18 week gestational limits for abortion (Florida and

Utah), and three states (Idaho, Indiana, and Tennessee) are expected to ban abortion in the near future. Bans on abortion have been temporarily blocked in five states. Abortion is still tentatively legal in seven states, and legally protected in 21 states (including California) and the District of Columbia. In most states where abortion is banned, performing an abortion is considered a punishable felony, where health practitioners may be sued or fined, lose their license, and potentially face imprisonment.

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

SUPPORT: (Verified 8/8/22)

California Attorney General Rob Bonta
California Lieutenant Governor Eleni Kounalakis
California State Controller Betty Yee
Access Reproductive Justice
Advancing New Standards in Reproductive Health
American College of Obstetricians and Gynecologists District Ix
Board of Registered Nursing
California Academy of Family Physicians
California Latinas for Reproductive Justice
California Legislative Women's Caucus
California Medical Association
California Nurse Midwives Association
California Nurses Association
California State Council of Service Employees International Union
California Women's Law Center
Citizens for Choice
City of Los Angeles
Essential Access Health
Los Angeles County Democratic Party
Medical Board of California
NARAL Pro-Choice California
National Council of Jewish Women-California
Planned Parenthood Affiliates of California
Stanford Health Care
University of California
Women's Foundation California

OPPOSITION: (Verified 8/8/22)

Right to Life League

ARGUMENTS IN SUPPORT: Supporters state that this bill is necessary because California medical licensees who perform abortions and hold out-of-state licenses in states with restricted abortion access may face revocation or suspension of their out-of-state medical license. Current California law allows for California healthcare practitioner boards to discipline California licensees for out-of-state discipline. Supporters assert that this bill will ensure that health practitioners are able to continue to provide reproductive health care, such as abortion, in California even if licensees face discipline in other states for providing these services.

Supporters note that "Should the Court overturn Roe, over 36 million women and other people who may become pregnant will lose access to abortion care nationwide. Furthermore, 26 states are certain or more likely to ban abortion, increasing the number of out-of-state individuals of reproductive age who would find their nearest clinic in California from 46,000 to 1.4 million – a nearly 3,000 percent increase. AB 2626 remedies these issues by prohibiting the removal or suspension of medical licenses for performing abortions within California or out-of-state."

ARGUMENTS IN OPPOSITION: The Right to Life League writes in opposition and notes, "AB 2626 treats abortion as a sacred cow, as untouchable. That is because California is fast becoming the Abortion Tourism destination of the nation.

"In the California Senate Business, Professions and Economic Development Committee, on Monday, June 27, 20221, Lori Kime, Vice President of Business Development for Planned Parenthood of the Pacific Southwest, testified that Planned Parenthood operates 19 centers in Imperial, Riverside and San Diego counties, providing 250,000 patient visits each year. She stated that California Planned Parenthood centers are 'seeing on average 1500 patients from out of state every month on top of typical patient volume.'

"Using her figures, we can safely say that Planned Parenthood alone performs at least 18,000 abortions every year just in one region of our state. That's very big business. Polls show that 58% of Americans oppose or strongly oppose using tax payer dollars to fund abortion on demand."

ASSEMBLY FLOOR: 56-15, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low,

Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NOES: Bigelow, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Voepel, Waldron

NO VOTE RECORDED: Berman, Mia Bonta, Chen, Choi, Cunningham, O'Donnell, Blanca Rubio

Prepared by: Hannah Frye & Sarah Mason / B., P. & E.D. /
8/10/22 14:12:32

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

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

THIRD READING

Bill No: AB 2629
Author: Santiago (D)
Amended: 5/23/22 in Assembly
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/28/22
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

ASSEMBLY FLOOR: 51-20, 5/26/22 - See last page for vote

SUBJECT: Juveniles: dismissals

SOURCE: Anti-Recidivism Coalition
Fresh Lifelines for Youth
Pacific Juvenile Defender Center

DIGEST: This bill clarifies that the juvenile court may dismiss a petition at any time after it has been filed and requires a court, at the time the court terminates jurisdiction or any time after, to consider and afford great weight to evidence offered to prove that mitigating circumstances are present which weigh in favor of dismissing the petition, except as specified.

ANALYSIS:

Existing law:

1) Provides that a minor between 12 and 17 years of age, inclusive, who violates any federal, state, or local law or ordinance, and a minor under 12 years of age who is alleged to have committed murder or a specified sex offenses, is within jurisdiction of the juvenile court, which may adjudge the minor to be a ward of the court. (Welf. & Inst. Code, § 602.)

2) Provides that a juvenile court judge in which a petition was filed may dismiss the petition, or may set aside the findings and dismiss the petition, if the court finds that the interests of justice and the welfare of the person who is the subject

of the petition require that dismissal, or if it finds that he or she is not in need of treatment or rehabilitation. Provides that the court has jurisdiction to order dismissal or setting aside of the findings and dismissal regardless of whether the person who is the subject of the petition is, at the time of the order, a ward or dependent child of the court. Provides that this provision of law shall not be interpreted to require the court to maintain jurisdiction over a person who is the subject of a petition between the time the court's jurisdiction over that person terminates and the point at which his or her petition is dismissed. (Welf. & Inst. Code, § 782.)

This bill:

1) Requires the court, when exercising its discretion at the time the court terminates jurisdiction or at any time thereafter, to consider and afford great weight to evidence offered by a person to prove mitigating circumstances are present, including, but not limited to, satisfactory completion of a term of probation, that rehabilitation has been attained to the satisfaction of the court, that dismissal of the petition would not endanger public safety, or that the underlying offense is connected to mental illness, prior victimization, or childhood trauma.

2) Provides that proof of the presence of one or more mitigating circumstances weighs greatly in favor of dismissing the petition.

3) Provides that "satisfactory completion of a term of probation" has the same meaning as it does in Section 786.

4) Provides that "rehabilitation has been attained to the satisfaction of the court" has the same meaning as it does in Section 781.

5) Provides that "mental illness," "childhood trauma," "prior victimization," and "endanger public safety" have the same meaning as it does in Section 1385 of the Penal Code.

6) Provides that the great weight standard is not be applicable in cases where an individual has been convicted in criminal court of a serious or violent felony. Provides that "violent felony" means any offense defined in subdivision (c) of Section 667.5, and "serious felony" means any offense defined in subdivision (c) of Section 1192.7, of the Penal Code.

7) Provides that the absence of the great weight standard does not affect the court's authority to dismiss a petition.

8) Requires the reasons for a decision to be stated orally on the record. Requires the court to set forth the reasons in an order entered upon the minutes if requested by either party or in any case in which the proceedings are not being recorded electronically or reported by a court reporter.

9) Clarifies that the court has authority to exercise discretion to dismiss a petition at any time after the filing of the petition. Clarifies that the court has authority to exercise discretion to dismiss a petition regardless of whether a petition was sustained at trial, by admission, or plea agreement.

10) Provides that dismissal of a petition, or setting aside of the findings and dismissal of a petition, pursuant to section 782, after the person was declared a ward, does not alone constitute a sealing of records as defined in Section 781 or 786. Provides that any unsealed records pertaining to the dismissed petition may be accessed, inspected, or used by the court, the probation department, the prosecuting attorney, or counsel for the minor in juvenile court proceedings commenced by the filing of a new petition.

11) Provides that dismissal of the petition, or setting aside the findings and dismissal of the petition, does not relieve a person from the obligation to pay unfulfilled victim restitution ordered pursuant a civil judgment under Section 730.6.

Background

Under current law, the juvenile court may dismiss a juvenile delinquency petition if the court finds that dismissal serves the interests of justice and the welfare of the minor, or if the court finds that the minor does not need treatment or rehabilitation. (Welf. & Inst. Code, § 782.) In general, a dismissal pursuant to section 782 can occur at any time. (*In re Greg F.* (2012) 55 Cal.4th 393, 419.)

This bill clarifies that the juvenile court has broad discretion to dismiss a petition at any time, including after a disposition. Second, it clarifies that the juvenile court's discretion under section 782 can be exercised regardless of whether the sustained adjudication was the result of a trial, admission, or plea bargain. Finally, this bill creates a great weight standard in favor of dismissal when the juvenile court terminates jurisdiction, or any time thereafter. The proponents of the bill contend that the existing statute does not provide any guidance in how to exercise the

court's discretion. To that end, this bill requires the court to consider and afford great weight to evidence offered by a person to prove mitigating circumstances are present, including, but not limited to, satisfactory completion of a term of probation, that rehabilitation has been attained to the satisfaction of the court, that dismissal of the petition would not endanger public safety, or that the underlying offense is connected to mental illness, prior victimization, or childhood trauma. This bill further provides that proof of the presence of one or more mitigating circumstances weighs greatly in favor of dismissing the petition.

This bill additionally provides that the great weight standard is not be applicable in cases where an individual has been convicted in criminal court of a serious or violent felony, as defined in the Penal Code. This bill further provides that dismissal of a petition, or setting aside of the findings and dismissal of a petition, does not by itself constitute a sealing of the juvenile record. Finally, this bill provides that dismissal of the petition, or setting aside the findings and dismissal of the petition, does not relieve a person from the obligation to pay unfulfilled victim restitution.

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

SUPPORT: (Verified 6/30/22)

Anti-Recidivism Coalition (co-source)
Fresh Lifelines for Youth (co-source)
Pacific Juvenile Defender Center (co-source)
ACLU California Action
Asian Prisoner Support Committee
Bend the Arc: Jewish Action
California Alliance for Youth and Community Justice
California Attorneys for Criminal Justice
California Catholic Conference
California Public Defenders Association
Californians for Safety and Justice
Communities United for Restorative Youth Justice
Congregations Organized for Prophetic Engagement
East Bay Community Law Center
Ella Baker Center for Human Rights
Freedom 4 Youth
Fresno Barrios Unidos
Fresno County Public Defender's Office
Friends Committee on Legislation of California

Immigrant Legal Resource Center
John Burton Advocates for Youth
Juvenile Court Judges of California
Juvenile Law Center
Law Project of Los Angeles
Los Angeles County District Attorney's Office
Motivating Individual Leadership for Public Advancement
National Association of Social Workers, California Chapter
National Center for Lesbian Rights
National Center for Youth Law
National Institute for Criminal Justice Reform
National Juvenile Justice Network
San Francisco District Attorney's Office
San Francisco Public Defender
San Mateo County Bar Association, Private Defender Program
Santa Cruz Barrios Unidos
Smart Justice California
The Gault Center
Underground Scholars Initiative, UC Berkeley
Underground Scholars Initiative, UC San Diego
Underground Scholars Initiative, UCLA
W. Haywood Burns Institute
Youth Forward
Youth Law Center

OPPOSITION: (Verified 6/30/22)

None received

ASSEMBLY FLOOR: 51-20, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Carrillo, Cervantes, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cooley, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron

NO VOTE RECORDED: Berman, Calderon, Gray, Irwin, Mayes, O'Donnell, Villapudua

Prepared by: Stephanie Jordan / PUB. S. /
7/28/22 10:38:31

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

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

THIRD READING

Bill No: AB 2640
Author: Valladares (R) and Megan Dahle (R), et al.
Amended: 4/19/22 in Assembly
Vote: 21

SENATE EDUCATION COMMITTEE: 6-0, 6/15/22
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, McGuire, Pan
NO VOTE RECORDED: Glazer

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-0, 5/5/22 (Consent) - See last page for vote

SUBJECT: Pupil health: food allergies: California Food Allergy Resource internet web page

SOURCE: Author

DIGEST: This bill requires the California Department of Education (CDE) to create the "California Food Allergy Resource Guide" (Guide) for voluntary use by local educational agencies (LEAs) to protect pupils with food allergies.

ANALYSIS:

Existing law:

1) Permits each public and private school to designate one or more volunteers to receive initial and annual refresher training, based on specified standards, regarding the storage and emergency use of an epinephrine auto-injector from the school nurse or other qualified person designated by an authorizing physician or surgeon. (EC § 49414(d))

2) Requires a school district or county office of education to provide emergency epinephrine auto-injectors to school nurses or trained volunteers, and allows

those individuals to utilize epinephrine auto-injectors to provide emergency medical aid to persons suffering from an anaphylactic reaction. (EC § 49414(a))

3) Requires a school district, county office of education, or charter school to ensure that each employee who volunteers under this section will be provided defense and indemnification by the school district, county office of education, or charter school for any and all civil liability, in accordance with, but not limited to, that provided in Government Code § 810 This information shall be reduced to writing, provided to the volunteer, and retained in the volunteer's personnel file. (EC § 49414(j) and 49414.7(i))

4) Authorizes students to carry and self-administer prescribed inhaled asthma or auto-injectable epinephrine medication while at school. (EC § 49423 and 49423.1)

5) Authorizes each public and private elementary and secondary school in the state to voluntarily determine, as specified, whether or not to make emergency epinephrine auto-injectors and trained personnel available at its school. (EC § 49414(c))

6) Requires the Superintendent of Public Instruction (SPI) to review, every five years, or sooner as deemed necessary by the SPI, standards of training for the administration of epinephrine auto-injectors by consulting with organizations and providers with expertise in administering epinephrine auto-injectors and administering medication in a school environment and set minimum standards for training. (EC § 49414(e)(1) – (3))

7) Provides that no person who in good faith, and not for compensation, renders emergency medical or nonmedical care at the scene of an emergency shall be liable for any civil damages resulting from any act or omission other than an act or omission constituting gross negligence or willful or wanton misconduct. (HSC § 1799.102)

This bill:

1) Declares that this bill may be cited as the Zacky Bill.

2) Require CDE to create the California Food Allergy Resource Internet web page to provide voluntary guidance to LEAs to help pupils with food allergies.

3) Requires the content on the California Food Allergy Resource Internet web to meet the following:

a) Provide LEA, caregivers, and pupils practical information, planning steps, and strategies for reducing allergic reactions to food within schools and early education centers.

b) The Internet web page includes a link to the most recent version of the federal Centers for Disease Control and Prevention "Voluntary Guidelines for Managing Food Allergies in Schools and Early Care Education Programs," as well as other relevant resources, which may include, but are not limited to, best practices fact sheets produced by the Institute of Child Nutrition.

c) A summary of the specific state laws relevant to the issue of pupils with food allergies in schools are included to serve as a complement to the federal laws and regulations included in the federal guidelines.

4) Requires the content of the California Food Allergy Resource Internet web page to include, at a minimum, the following:

a) A compilation of state and federal resources available for pupils with food allergies.

b) Methods and qualifications necessary for pupils, or their parents and guardians, to initiate individualized food allergy management and prevention plans.

c) Potential strategies to minimize the risk of food allergy anaphylaxis in school.

d) Methods to obtain ingredient lists for foods served to pupils at school from each of the school's food service providers.

5) Encourages LEAs to consult the Internet web page and use it as an equitable resource to ensure the inclusiveness of pupils with food allergies at school and is encouraged to make it available annually to pupils, parents, and guardians.

6) Defines, for the purposes of this section, "local educational agency," to mean a school district, county office of education, and charter school.

Background

Food Allergy Among U.S. Children. According to the Food Allergy Research & Education (FARE) Web site, eight foods account for 90 percent of all reactions: milk, eggs, peanuts, tree nuts, soy, wheat, fish, and shellfish. Even trace amounts

of a food allergen can cause a reaction. Researchers estimate that up to 15 million Americans have food allergies. This potentially deadly disease affects one in every 13 children (under 18 years of age) in the U.S., equaling roughly two in every classroom. According to a study released in 2013 by the Centers for Disease Control and Prevention (CDC), food allergies among children increased approximately 50 percent between 1997 and 2011. FARE's Web site state's the economic cost of children's food allergies is nearly $25 billion per year. Teenagers and young adults with food allergies are at the highest risk of fatal food-induced anaphylaxis. California School Board Association (CSBA) has a sample policy that addresses students' food allergies and special dietary needs, including the development of guidelines that address things such as strategies for identifying students at risk for allergic reactions, avoidance measures, education of staff regarding typical symptoms, and actions to be taken in the event of a severe allergic reaction. CSBA notes in the sample policy that it is prohibited to exclude students from school activities or otherwise discriminate against, harass, intimidate, or bully them because of their food allergies.

Are schools required to accommodate students with food allergies? Federal law *requires* schools to provide substitutions or modifications in the National School Lunch Program and School Breakfast Program for students whose disabilities restrict their diets (e.g. the food allergy or food intolerance substantially limits one or more major life activities). Schools are *authorized* to provide special meals and/or accommodations for students who do not have a disability that requires a restricted diet but who do have a food intolerance or other medical condition.

Food allergy management and prevention plans (FAMPP). The CDC encourages each school to have a team leader on the FAMPP; one person whose job it is to ensure all guidelines are being met and all policies implemented appropriately. The FAMPP is designed to ensure a safe and equal learning environment for each student, regardless of allergies. Each FAMPP should be written in plain language, comply with all federal laws (especially Section 504 of the 1973 Rehabilitation Act), and be adaptable to the changing circumstances of food allergies in schools. Moreover, the CDC has laid out five priorities which administrators should keep in mind when drafting an FAMPP.

United States Department of Agriculture. In its guidance for accommodating students with special dietary concerns that when a physician diagnoses a food allergy as impacting a major bodily function or other major life activity, the child's condition meets the definition of disability. In addition, federal law requires school food authorities (SFA) to serve special meals, at no extra charge to children with disabilities, and requires SFAs to make substitutions or modifications in the

National School Lunch Program and School Breakfast Program for children whose disabilities restrict their diets. In California, the CDE notes that SFAs are required to make substitutions to meals for children with a disability that restricts the child's diet on a case-by-case basis and only when supported by a written medical statement from a state licensed healthcare professional.

Related/ Prior Legislation

AB 3064 (Mayes, 2020) would have also established the Zacky Bill and required CDE to develop guideline for LEAs to protect pupils with food allergies. The bill was held in Assembly Education Committee.

SB 1258 (Huff, 2016) would have required each school district, county office of education, and charter school to develop a comprehensive policy to protect students with food allergies. The bill was held on suspense in Senate Appropriations Committee.

SB 738 (Huff, Chapter 132, Statutes of 2015) provided qualified immunity to a physician who issues a prescription for an epinephrine auto-injector to a school district, county office of education, or charter school.

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

SUPPORT: (Verified 6/27/22)

Allergy and Asthma Network
Allergy Strong
California Food Allergy Moms
County of Los Angeles Board of Supervisors
Food Allergy and Anaphylaxis Connection Team
Food Allergy and Research Education
Latino Food Allergy Network
Latitude Food Allergy Medical Care
Nessie Bear Memorial Group
No Nuts Mom
Red Sneakers For Oakley

OPPOSITION: (Verified 6/27/22)

None received

ARGUMENTS IN SUPPORT: According to California Food Allergy Moms "Food allergies impact not only those with them, but those around them. For this

reason, dialogue among parents/guardians and LEAs is necessary. AB 2640 provides a meaningful way for the state to help facilitate that dialogue, by providing parents/guardians and LEAs access to information and resources regarding best practices for pupils with food allergies, accurate labeling of potential allergens, and strategies to minimize exposure. This bill will help make California schools a more inclusive place for all students."

ASSEMBLY FLOOR: 61-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Friedman, Gallagher, Cristina Garcia, Gipson, Levine, McCarty, Medina, Villapudua, Waldron, Wicks

Prepared by: Kordell Hampton / ED. / (916) 651-4105
6/28/22 14:30:47

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

SENATE RULES COMMITTEE AB 2647
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2647
Author: Levine (D)
Amended: 8/4/22 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/29/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

ASSEMBLY FLOOR: 62-0, 5/12/22 - See last page for vote

SUBJECT: Local government: open meetings

SOURCE: Author

DIGEST: This bill exempts local agencies from making materials available for public inspection at the time they distribute them to members of the legislative body less than 72 hours before the meeting, if the agency meets certain requirements.

Senate Floor Amendments of 8/4/22 clarify that public meeting agendas are disclosable public records that must be made available without delay and in compliance with the Brown Act.

ANALYSIS:

Existing law:

1) Guarantees, pursuant to Article I, Section 3 of the California Constitution, that "the people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good." This includes a right to access information concerning the meetings and writings of public officials.

2) Requires, pursuant to the Constitution, local agencies to comply with certain state laws that outline the basic requirements for public access to meetings and public records. If a subsequent bill modifies these laws, it must include

findings demonstrating how it furthers the public's access to local agencies and their officials.

3) Provides, under the Ralph M. Brown Act, guidelines for how local agencies must hold public meetings:

   a) Defines a "meeting" as "any congregation of a majority of the members of a legislative body at the same time and location, including teleconference locations, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body."

   b) Requires local agencies to notice meetings in advance, including the posting of an agenda, and requires these meetings to be open and accessible to the public.

   c) Requires members of the public to have an opportunity to comment on agenda items, and generally prohibits deliberation or action on items not listed on the agenda.

   d) If a member of the public, including the respective district attorney, believes a local agency violated the Brown Act, it must first send an order to the local agency to correct the violation. If the local agency disagrees with the complaint and does not correct it, the submitter can pursue the complaint through the courts. If the court agrees with the complaint, outcomes range from invalidating certain actions of the local agency to a misdemeanor criminal conviction.

4) Provides that agendas of public meetings and any other writings, when distributed to at least the majority of a legislative body's members by any person in connection with a matter subject to discussion or consideration at an open meeting of the body, are disclosable public records under the California Public Records Act (CPRA), unless the CPRA exempts their disclosure, such as records pertaining to pending litigation.

5) Requires that local agencies make meeting materials available to the public upon request without delay. Materials distributed to the legislative body during a meeting must be made available for public inspection at the meeting if the local agency or a member of the legislative body prepares them. If anyone else prepared the materials, the local agency must make them available for public inspection after the meeting.

6) Provides that meeting materials must be made available in appropriate alternative formats if a person with a disability requests it.

7) Provides that, if the record is related to an agenda item for an open session of a regular meeting of the legislative body, and distributed to at least a majority of the legislative body less than 72 hours before the meeting, it must be made available for public inspection at the time it is distributed to at least a majority of the members of the body. To meet this requirement, local agencies must make the record available for public inspection at a public office or location it provides on the agenda, and may also post the materials on its website in a manner that makes it clear it related to an agenda item for an upcoming meeting.

This bill:

1) Exempts local agencies from making materials available for public inspection at a public location the agency designates the same time they distribute them to members of the legislative body less than 72 hours before the meeting, if the agency meets the following requirements:

   a) An initial staff report or similar document containing an executive summary and the staff recommendation, if any, relating to that agenda item is made available for public inspection at the designated office or location at least 72 hours before the meeting;

   b) The local agency immediately posts any writing on the local agency's internet website in a position and manner that makes it clear that the writing relates to an agenda for an upcoming meeting;

   c) The local agency lists the web address of the local agency's internet website on the agendas for all meetings of the legislative body of that agency; and

   d) The local agency makes physical copies available for public inspection, beginning the next regular business hours for the local agency, at the designated public office or location. This clause is satisfied only if the next regular business hours of the local agency commence at least 24 hours before the meeting.

2) Provides that agendas of public meetings are disclosable records under the California Public Records Act, and should be made available to the public upon request, without delay, and in compliance with the Brown Act's provisions for posting agendas before a meeting takes place.

Background

Some local agencies believed they satisfied the Brown Act's requirement to make meeting materials available for public inspection at the same time they provided the materials to the legislative body if they placed such materials in a public office and posted them online even if the office was closed at that time the agency distributed materials to the members of the legislative body. In *Sierra Watch v. Placer County*, 69 Cal. App. 5th 1, 9, 2021, the Third District Court of Appeal held that neither placing the materials in a public office that is closed, nor posting the materials online at the same time the members receive them, satisfy the Brown Act's requirements. While the Court acknowledged that it did not expect an agency's office to remain open and staffed to allow public inspection of documents outside of regular business hours, it still found that not having an office open for public inspection violated a literal reading of the Brown Act.

Comments

1) *Purpose of this bill*. According to the author, "The Brown Act remains an important tool in guaranteeing the public's access to open and accessible meetings. Under the requirements of the Brown Act, any writings or documents that have been distributed to a majority of a local legislative body less than 72 hours before a meeting must also be distributed to the public at the same time. To meet these requirements, some local governments have posted meeting documents and materials online to comply with the Brown Act. However, a recent court ruling found that posting meeting documents online does not meet the requirements of the Brown Act."

2) *Necessary?* Proponents of this bill argue that the Brown Act's current requirements could require local agencies to open up a physical location after regular business hours or over the weekend if they distribute materials less than 72 hours before the meeting. However, local agencies could also wait to provide materials to the members of the legislative body until they are next open or provide them to both the public and the legislative body at the meeting. On the one hand, providing materials to members of the legislative body at the meeting may make it challenging for members to quickly review materials which may inform their decision. On the other hand, if members of the legislative body need more time to review information, and to ensure the public also has sufficient time to review new information in person, why can't the legislative body move the item to its next hearing? If the item requires urgent action, the Brown Act already includes provisions for special meetings or

emergency situations. Do local agencies already have sufficient options to handle meeting materials without making further changes to the Brown Act?

Related/Prior Legislation

SB 1100 (Cortese, 2022) authorizes the presiding member of a legislative body conducting a meeting to remove an individual for disrupting the meeting, and defines "disrupting" for these purposes. The bill is awaiting the Governor's signature.

AB 1944 (Lee, 2022) allows, until January 1, 2030, members of a legislative body of a local agency to use teleconferencing without identifying each teleconference location and making it publicly accessible provided at least a quorum of the members of the body participates in person at a singular physical location and meet additional requirements. The bill is currently pending in the Senate Governance and Finance Committee.

AB 2449 (Blanca Rubio, 2022) allows, until January 1, 2026, members of a legislative body of a local agency to use teleconferencing without identifying each teleconference location and making it publicly accessible provided at least a quorum of the members of the body participates in person at a singular physical location and meet additional requirements. The bill is currently pending on the Senate Floor.

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

SUPPORT: (Verified 8/8/22)

Association of California Healthcare Districts
Association of California School Administrators
Association of California Water Agencies
California Association of Joint Powers Authorities
California Association of Public Authorities for IHSS
California Charter Schools Association
California Special Districts Association
California State Association of Counties
City Clerks Association of California
City of Oceanside
City of Palo Alto
City of Tustin
Desert Water Agency
El Dorado Irrigation District

League of California Cities
Los Angeles Unified School District
Marin County Council of Mayors and Council Members
North Orange County Community College District
Orange County Local Agency Formation Commission
Palmdale Water District
Rowland Water District
Rural County Representatives of California
San Gabriel Valley Council of Governments
Santa Clara Valley Open Space Authority
Solano County Water Agency
South Bay Cities Council of Governments
Urban Counties of California
Valley County Water District
Walnut Valley Water District
Water Replenishment District of Southern California
Yorba Linda Water District

OPPOSITION: (Verified 8/8/22)

None received

ASSEMBLY FLOOR: 62-0, 5/12/22
AYES: Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Villapudua, Voepel, Waldron, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Aguiar-Curry, Boerner Horvath, Cunningham, Davies, Gray, Grayson, Kiley, Lackey, Lee, Nguyen, Quirk-Silva, Luz Rivas, Blanca Rubio, Valladares, Ward, Akilah Weber

Prepared by: Jonathan Peterson / GOV. & F. / (916) 651-4119
8/10/22 14:57:16

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

SENATE RULES COMMITTEE AB 2655
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2655
Author: Blanca Rubio (D), et al.
Amended: 4/21/22 in Assembly
Vote: 21

SENATE HEALTH COMMITTEE: 9-0, 6/8/22
AYES: Pan, Melendez, Eggman, Gonzalez, Grove, Leyva, Limón, Rubio, Wiener
NO VOTE RECORDED: Hurtado, Roth

SENATE JUDICIARY COMMITTEE: 11-0, 6/14/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 73-0, 5/25/22 (Consent) - See last page for vote

SUBJECT: Multicultural health

SOURCE: California Rural Indian Health Board

DIGEST: This bill requires the Department of Public Health (CDPH) enter into a data sharing agreement with the California Tribal Epidemiology Center (CTEC) with access to the California Reportable Disease Information Exchange (CalREDIE) and the California Immunization Registry (CAIR) systems no later than January 1, 2023. This bill prohibits the CTEC from disclosing the information in these systems.

ANALYSIS:

Existing federal law:

1) Establishes the Health Insurance Portability and Accountability Act of 1996 (HIPAA), which among various provisions, mandates industry-wide standards

for health care information on electronic billing and other processes; and, requires the protection and confidential handling of protected health information. [42 U.S.C. §300gg, 29 U.S.C. §1181, et seq., and 42 U.S.C. §1320d, et seq.]

2) Establishes tribal epidemiology centers to collect data, evaluate existing delivery systems that impact Indian health, assist tribes and tribal organizations in identifying high-priority health status objectives and needed services, make recommendations to improve the health care delivery system for Indians, provide technical assistance to tribes and tribal organizations, provide disease surveillance, and assist tribes and tribal organizations to promote public health. [25 U.S.C. § 1621m]

Existing state law:

1) Requires CDPH to establish a list of reportable diseases and conditions to be reported by local health officers (LHOs). Requires CDPH to specify the timeliness requirements related to the reporting of each disease and condition, and the mechanisms required for, and the content to be included in, reports made. Permits the list to include both communicable and non-communicable diseases. Permits the list to be modified at any time by CDPH, after consultation with the California Conference of Local Health Officers. [HSC §120130]

2) Requires, through regulation, every health care provider, knowing of or in attendance on a case or suspected case of any reportable diseases or conditions, to report to the LHO for the jurisdiction where the patient resides. Permits any individual having knowledge of a person who is suspected to be suffering from one of the diseases to make such a report to the LHO for the jurisdiction where the patient resides when there is no health care provider in attendance. Defines "health care provider" as a physician and surgeon, a veterinarian, a podiatrist, a nurse practitioner, a physician assistant, a registered nurse, a nurse midwife, a school nurse, an infection control practitioner, a medical examiner, a coroner, or a dentist. [17 CCR §2500]

3) Requires, through regulation, an administrator of each health facility, clinic, or other setting where more than one health care provider may know of a case, a suspected case or an outbreak of disease within the facility, to establish and be responsible for administrative procedures to assure that reports are made to the LHO. [17 CCR §2500(c)]

4) Requires, through regulation, each clinical laboratory director, or the laboratory director's designee, an approved public health laboratory, or a veterinary laboratory, to report findings of specified communicable diseases and conditions to the LHO of the local health jurisdiction (LHJ) where the health care provider who first submitted the specimen is located. Requires the laboratory, if the patient residence is unknown, to notify the LHO of the jurisdiction in which the health care provider is located. [17 CCR §2505]

5) Requires, through regulation, an administrator of each health facility, clinic, or other setting where more than one health care provider may know of a case, a suspected case or an outbreak of disease within the facility, to establish and be responsible for administrative procedures to assure that reports are made to the LHO. [17 CCR §2500(c)]

6) Requires, through regulation, each clinical laboratory director, or the laboratory director's designee, an approved public health laboratory, or a veterinary laboratory, to report findings of specified communicable diseases and conditions to the LHO of the LHJ where the health care provider who first submitted the specimen is located. Requires the laboratory, if the patient residence is unknown, to notify the LHO of the jurisdiction in which the health care provider is located. [17 CCR §2505]

7) Requires LHOs to immediately report to CDPH every discovered or known case or suspected case of a designated disease. Requires LHOs to make reports that CDPH requires within 24 hours after investigation. [HSC §120190]

8) Allows LHOs to, either separately or jointly with other jurisdictions and in conjunction with CDPH's Immunization Branch, operate immunization information systems containing individuals' immunization information. Further allows the information in these systems to be shared with specified entities, including among other LHOs jointly operating the system. States that individuals have the right to refuse the sharing of their information in these systems and requires that individuals be informed of this right. [HSC §120440]

9) Requires health care providers, local health departments, and CDPH to maintain the confidentiality of patient immunization information in the same manner as other medical record information with patient identification that they possess. Subjects these providers, departments, and contracting agencies to civil action and criminal penalties for the wrongful disclosure of patient immunization information. Limits the use of patient immunization information to providing immunization services to the patient, facilitating provision of

third-party payer payments for immunizations, and compiling and disseminating statistical information of immunization status of groups of patients or populations in California, without patient identifying information. [HSC §120440]

10) Recognizes tribal epidemiology centers as public health authorities pursuant to federal law. [HSC § 128766]

This bill:

1) Requires CDPH to enter into a data sharing agreement with the CTEC for access to and use of the CalREDIE and the CAIR systems no later than January 1, 2023.

2) Prohibits CTEC from disclosing any information it receives pursuant to this section to any person or entity, except in response to a court order, search warrant, or subpoena, or as otherwise required or permitted by the federal medical privacy regulations under HIPAA.

Comments

1) *Author's statement.* According to the author, this bill advances health equity by allowing the CTEC to access CalREDIE. This bill allows the state's only Tribal epidemiology center to access up to the minute public health data through the CalREDIE system in order to inform and alert Tribal communities about important public health issues. During the COVID-19 pandemic, CTEC was forced to continuously submit lengthy requests for "snapshot" data from the CalREDIE system, similar to a research university. As we learned during the pandemic, in order for an epidemiology program to be effective at disease surveillance, data must be as close to "real-time" as possible. Tribal communities were hit unnecessarily hard during the pandemic. CTEC is recognized in state and federal law as a public health authority and should be treated as such by CDPH. This bill makes progress to ensure Tribal communities have the tools needed to protect themselves from future disease outbreaks.

2) *CTEC.* CTEC is housed within the California Rural Indian Health Board, Inc. (CRIHB), and was established in 2005 to assist in collecting and interpreting health information for American Indian Alaska Natives (AIAN) in California. CTEC receives core funding from the Indian Health Service (IHS) and operates on other grants and contracts to provide a full complement of staff. CTEC is one of 12 IHS Division of Epidemiology and Disease Prevention

(DEDP)-funded Tribal Epidemiology Centers (TECs) that provide epidemiologic support to each IHS region and often partner with local IHS area offices to provide these services. TECs were established as part of the federal Indian Health Care Improvement Act (IHCIA) as legislatively mandated and legally required to perform tribal public health activities, including data surveillance and analysis and supporting tribes in their own public health activities. In 2010, when Congress enacted the Patient Protection and Affordable Care Act, it also permanently reauthorized the IHCIA. IHCIA's 2010 reauthorization included a provision designating TECs as public health authorities under HIPAA. As such, TECs have the legal authority to collect, receive, and disseminate public health data as necessary to respond to public health threats, and have the same public health authority designation as the CDC, and state and local health departments.

CTEC's mission is to improve American Indian health in California to the highest level by engaging American Indian communities in collecting and interpreting health information to establish health priorities, monitor health status, and develop effective public health services that respect cultural values and traditions of the communities. CTEC has data sharing agreements with 23 tribal health programs that serve 84 tribes throughout California. CTEC services are available to all tribes in California. CTEC has seven core objectives:

a) Maintain communication and obtain input from the CTEC Advisory Council, CRIHB Board of Directors, California Area Office IHS, CDPH, and AIAN populations;
b) Obtain access to data and assist IHPs in public health activities that are needed to address the AIAN public health priorities;
c) Produce community health profiles for AIAN populations that address two public health priorities;
d) Conduct a Tribal Behavioral Risk Factor Surveillance Survey;
e) Participate in data, research, epidemiology and public health forums and committees;
f) Develop and maintain outbreak response capacity, which is coordinated with the response efforts by local health departments, CDPH and IHS; and,
g) Align CTEC activities to reflect and support IHS priorities.

3) *CalREDIE.* CalREDIE is CDPH's electronic disease reporting and surveillance system, and allows for 24/7/365 reporting and receipt of notifiable conditions. According to CDPH, LHJs and CDPH have access to disease and lab reports in near real-time for disease surveillance, public health investigation, and case

management activities. Coordinated by CDPH's California Disease Emergency Response Program, CalREDIE is used by all 61 of California's LHJs in some capacity, and 58 LHJs use the system for surveillance of all notifiable communicable diseases. Additionally, over 3200 facilities (including clinical and commercial labs, skilled nursing facilities, and schools) electronically submit reportable lab results through CalREDIE Electronic Laboratory Reporting. According to CDPH, although Los Angeles and San Diego Counties do not use CalREDIE for reporting their COVID-19 cases, CDPH captures this data through other mechanisms. In August 2020, the Newsom Administration announced that it would establish a separate data reporting system for COVID-19 cases following issues with CalREDIE that resulted in a backlog and delay in reporting. CDPH entered into a six-month, $15.3 million agreement with OptumInsight, Inc. (using federal funding) to handle the surge in reportable disease cases resulting from the pandemic. The Optuminsight contract was renewed for an additional 12 months, and they continue processing all electronic lab results sent to CalREDIE. CDPH is in the midst of a competitive procurement for CCRS (the system that Optuminsight provides), as the current contract expires in June 2022. CDPH states that they intend to maintain a CCRS system to ensure that CDPH maintains a stable, scalable, modern, sustainable infrastructure for all communicable disease reporting needs ranging from routine to emergency to pandemic. While CalREDIE may have some capacity to identify new viral threats, it remains largely reactive and voluntary, communicating with only a subset of statewide viral surveillance facilities. There is currently no proactive state public health entity communicating automatically and in real-time with all the public, private, and academic labs that conduct some type of viral surveillance.

4) *Immunization Registries.* All 50 states, five cities, the District of Columbia, and eight territories receive immunization program funding through the federal Public Health Services Act *(42 United States Code Section 201 et seq.)*. The immunization information systems are confidential computerized databases that contains all immunization records for individuals within a particular region submitted by participating providers. These systems – commonly known as immunization registries – have varying functionality and are in different stages of maturity. California's immunization registry (CAIR) has recently been updated to consolidate patient records and enable statewide access to immunization records; this new system is called "CAIR2." As originally designed, CAIR only enabled authorized users to access immunization data within their defined region but offered, upon request, authorized users the ability to look up information in other regional registries.

CAIR2 is intended to accomplish certain goals, including consolidating patient data and enabling statewide searches for and retrieval of records.

Use of CAIR is voluntary. Participating health care providers can enter immunization records, so long as the individual or the individual's parent, where applicable, has been notified about the registry and the right to "lock" information in CAIR to ensure that no user, other than his or her health care provider, may access the immunization information. Logging into the registry requires a user identification and password, and users must sign a confidentiality agreement. Individuals authorized to use CAIR include health care providers and plans; schools; county welfare departments; foster care agencies; family child care homes; and child care facilities.

5) *HIPAA Privacy Rule.* The regulations promulgated under HIPAA, known as the Privacy Rule, established requirements for covered entities to protect the privacy of individuals' health information. The Privacy Rule specifies permitted uses and disclosures that allow covered entities to share protected health information. Among the permitted uses that do not require individual authorization for disclosure are public health activities. Covered entities may disclose protected health information, even where there are small numbers, to public health authorities. Public health authorities, including TECs, may collect such information for the purposes of preventing or controlling disease, injury, or disability. The Privacy Rule unequivocally recognizes the importance of public health activities and ensuring that designated public health authorities have access to the data necessary to effectively promote public health. Even HIPAA-covered health departments may share identifiable protected health information with another public health authority for public health purposes, such as for disease reporting, birth and death reporting, public health surveillance, public health investigations and interventions.

6) *Policy comment*. CDPH is still uncertain whether existing privacy laws permit CTEC access to CalREDIE, because the current CalREDIE system cannot limit CTEC access to data for tribal members. CDPH has expressed concern of liability under the California Information Practices Act in particular. If privacy laws prohibit CTEC access to statewide data, then CDPH believes it will not be able to share access to CalREDIE. However, CDPH is currently working on a successor to the CalREDIE system anticipated to go live in early 2026 that will have the flexibility needed to limit data in this manner. There is no such barrier to the CAIR system.

Related/Prior Legislation

AB 1233 (Chesbro, Chapter 306, Statutes of 2013) authorized a tribe, a tribal organization, or a subgroup of such to access the California Healthcare Eligibility, Enrollment, and Retention System (CalHEERS) to facilitate Medi-Cal applications.

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

SUPPORT: (Verified 6/28/22)

California Rural Indian Health Board (source)

OPPOSITION: (Verified 6/28/22)

None received

ARGUMENTS IN SUPPORT: The sponsor of this bill, California Rural Indian Health Board, a network of 19 Tribal Health Programs controlled and sanctioned by 59 federally recognized Tribes, writes that historically, Tribal communities have been devastated by communicable diseases. This issue persists today as it relates to COVID-19, HIV, tuberculosis, and hepatitis. This bill would grant CTEC access to the CalREDIE and CAIR to relay real-time updates to Tribal communities regarding threats from communicable diseases. For an epidemiology program to be successful in disease surveillance, it needs as close to real-time data as possible. This bill will improve health equity in Tribal communities and help protect against public health threats.

ASSEMBLY FLOOR: 73-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Berman, Bloom, Irwin, O'Donnell, Blanca Rubio

Prepared by: Jen Flory / HEALTH / (916) 651-4111
6/29/22 18:44:46

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

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

THIRD READING

Bill No: AB 2657
Author: Stone (D)
Amended: 6/8/22 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 6/21/22
AYES: Bradford, Kamlager, Skinner, Wiener
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 56-18, 5/25/22 - See last page for vote

SUBJECT: Incarcerated person's competence

SOURCE: California Anti-Death Penalty Coalition

DIGEST: This bill changes procedures for determining whether an incarcerated person under judgment of death, whose execution date has been set, is incompetent to be executed; and establishes a procedure for an incarcerated person whose sentence of death has been affirmed on direct appeal, any time prior to the setting of their execution date, to petition a court for relief from a sentence of death on the grounds that they are permanently incompetent to be executed.

ANALYSIS:

Existing law:

1) States that no judge, court, or officer, other than the Governor, can suspend the execution of a judgment of death, except the warden of the State prison to whom the defendant is delivered for execution unless an appeal is taken. (Penal Code § 3700)

2) States that, when a court enters an order setting the defendant's execution date, the warden of the state prison to whom such defendant has been delivered for execution shall notify the Secretary who shall thereupon select and appoint three alienists from CDCR medical staff to examine the defendant and investigate their sanity. (Penal Code § 3700.5)

3) Provides that alienists appointed by the Secretary must examine the defendant and investigate their sanity and report their opinions and conclusions, in writing, to the Governor and the warden of the prison at which the execution is to take place at least 20 days prior to the day appointed for execution. (Penal Code § 3700.5)

4) Requires the warden to furnish a copy of the report prepared by the alienists to counsel for the defendant upon request. (Penal Code § 3700.5)

5) Provides that, if, after delivery to the warden for execution, there is good reason to believe that a defendant, under judgment of death, has become insane, the warden must call such fact to the attention of the district attorney of the county in which the prison is situated, whose duty it is to immediately file in the superior court of such a county a petition, stating the conviction and judgment, and the fact that the defendant is believed to be insane, and asking that the question of his sanity be inquired into. (Penal Code § 3701)

6) Provides that a jury of 12 persons from the regular jury list of the county must be summoned and impaneled to hear the inquiry. (Penal Code § 3701)

7) Requires the district attorney to attend the hearing, and authorizes the district attorney to produce witnesses before the jury. (Penal Code § 3702)

8) Provides that the verdict of the jury must be entered upon the minutes, and thereupon the court enter an order reciting the fact of such inquiry and the result thereof, and when it is found that the defendant is insane, the order must direct that he be taken to a CDCR medical facility, and kept in safe confinement until his reason is restored. (Penal Code § 3703)

9) Provides that, if it is found that the defendant is sane, the warden must proceed to execute the judgment; if it is found that the defendant is insane, the warden must suspend the execution and transmit a certified copy of the order to the Governor, and deliver the defendant, together with a certified copy of such

order, to the superintendent of the medical facility named in the order. (Penal Code § 3704)

10) Provides that, when the defendant recovers his sanity, the superintendent of the medical facility must certify that fact to the judge of the superior court from which the defendant was committed as insane. (Penal Code § 3704)

11) Requires the judge, upon receiving information from the superintendent that the defendant has recovered his sanity, to fix a date for hearing before the judge to determine whether or not the defendant has in fact recovered his sanity. (Penal Code § 3704)

12) Requires the judge to provide 10 days written notice of the hearing to the defendant and the district attorney of the court from which the defendant was originally sentenced and the district attorney of the county from which he was committed to the medical facility. (Penal Code § 3704.)

13) Requires the court, if the defendant appears without counsel, to appoint counsel to represent him at said hearing. (Penal Code § 3704)

14) Requires the judge, upon determining that the defendant has recovered his sanity, to certify that fact to the Governor, who must thereupon issue to the warden his warrant appointing a day for the execution of the judgment, and the warden shall thereupon return the defendant to the state prison pending the execution of the judgment. (Penal Code § 3704)

15) Requires the judge, upon determining that the defendant has not recovered his sanity, to direct the return of the defendant to a CDCR medical facility to be kept in safe confinement until his sanity is restored. (Penal Code § 3704)

This bill:

1) Requires the warden to serve a copy of the report on the incarcerated person's competence to be executed to the Attorney General, to the district attorney of the county in which the person was sentenced, and to the Governor, in addition to counsel for the incarcerated person as required under existing law.

2) Requires the warden to notify, in addition to the district attorney of the county in which the incarcerated person was sentenced, the Attorney General and the incarcerated person's counsel if, after an execution date has been set, there is

good reason to believe that an incarcerated person under judgment of death has become incompetent to be executed.

3) Requires defense counsel, if they have reason to believe that the incarcerated person is incompetent to be executed, to immediately file in superior court a petition that identifies the conviction and judgment, alleges that the incarcerated person is believed to be incompetent to be executed, and asks that the question of the incarcerated person's competence to be executed be inquired into.

4) Requires the Attorney General to file such a petition if counsel for the incarcerated person does not file one, or if the incarcerated person does not have counsel and the warden has notified the district attorney and the Attorney General that there is reason to believe that the incarcerated person is incompetent to be executed.

5) Requires the court, during the course of the proceedings, to consider whether the petitioner is permanently incompetent to be executed, as specified.

6) Provides that an incarcerated person's execution may not proceed until the court's inquiry into the incarcerated person's competence to be executed is complete.

7) Provides that an incarcerated person whose judgment and sentence of death has been affirmed on direct appeal may file, at any time prior to the setting of an execution date, a petition alleging the incarcerated person's permanent incompetence to be executed.

8) Requires an incarcerated person's petition alleging permanent incompetence to be verified and supported by the declaration or report of a qualified expert concluding that the incarcerated person is permanently incompetent, as specified.

9) Provides that an incarcerated person who has submitted a petition, as specified, that did not result in a determination that the incarcerated person is permanently incompetent to be executed may submit a renewed petition.

10) Provides that a renewed petition must identify with specificity a change in the incarcerated person's diagnosis or prognosis or change in the law that arose after the determination of the prior request that supports the renewed petition.

11) Defines "incompetent to be executed" as the inability, "due to mental illness or disorder…to rationally understand either the punishment the incarcerated person is about to suffer or why the incarcerated person is to suffer it."

12) Defines "permanent incompetence to be executed" to mean:

    a) The incarcerated person is presently incompetent to be executed; and
    b) The nature of the mental illness or disorder giving rise to incompetence is such that the incarcerated person's competence to be executed is unlikely to ever be restored.

13) Requires a court to hold a hearing if there is reason to believe the incarcerated person is presently incompetent to be executed or there is reason to believe the incarcerated person is permanently incompetent to be executed.

14) Provides that the court may decline to hold a hearing if the parties stipulate that no hearing is necessary.

15) Provides that, when an incarcerated person proffers an expert opinion that the incarcerated person is incompetent to be executed, another expert's opinion that concludes otherwise is an insufficient basis to deny a hearing.

16) Provides that a claim in a petition for writ of habeas corpus alleging permanent incompetence to be executed that was filed before January 1, 2023, and that is still pending, shall be treated as a petition filed alleging permanent incompetence after the judgment and sentence of death has been affirmed, as specified.

17) Requires a court to proceed to a hearing, as specified, if the court has already concluded that the petition made a prima facie showing of entitlement to relief, unless the parties stipulate otherwise.

18) Provides that a petition filed by an incarcerated person under sentence of death constitutes a petition for writ of habeas corpus and is subject to the requirements of a habeas petition.

19) Provides that a petition filed by an incarcerated person constitutes a claim that the petitioner is ineligible for a sentence of the death.

20) Says that it does not alter, change, or amend any of the statutory provisions of the Death Penalty Reform Act.

21) Authorizes an attorney acting on behalf of the incarcerated person who suspects that the incarcerated person may be incompetent to be executed to obtain an order from the superior court from which the incarcerated person's conviction and sentence arises directing the California Department of Corrections and Rehabilitation (CDCR) to release the incarcerated person's medical and psychiatric records to the attorney or the attorney's representative for use, as specified.

22) Provides that these provisions apply retroactively.

23) Authorizes the prosecuting agency and the incarcerated person under sentence of death to produce witnesses at any hearing held regarding a petition alleging an incarcerated person's permanent incompetence to be executed.

24) Requires a court, when it concludes there is reason to believe the incarcerated person is presently or permanently incompetent to be executed, to hear proof produced by either party.

25) Authorizes a court to compel the attendance of witnesses, by process of subpoena and attachment, and to perform all other acts necessary to a full and fair hearing and determination of the case.

26) Requires the court to issue a statement explaining the legal and factual basis for a decision on a petition alleging an incarcerated person's permanent incompetence to be executed.

27) Requires the court to deny the petition if the court finds by a preponderance of the evidence that the incarcerated person is competent to be executed.

28) Requires the court, if it finds that the incarcerated person is incompetent to be executed but does not find by a preponderance of the evidence that competence is unlikely to be restored, to order the warden to suspend the execution and order that the incarcerated person be taken to a CDCR medical facility and be kept in safe confinement until their competence to be execute is restored.

29) Requires the court, if the prosecuting agency alerts the court that it believes the incarcerated person's competence has been restored, to again initiate the procedure, as specified, and hold a hearing.

30) Provides that the prosecution bears the burden of proving by a preponderance of the evidence that the incarcerated person is competent to be executed.

31) Provides that a decision denying or granting the petition will be subject to review through a petition for a writ of mandate by either party.

32) Makes legislative findings and declarations.

33) Provides that the provisions of the bill are severable.

34) Repeals existing provisions of law that conflict with the provisions of this bill.

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

SUPPORT: (Verified 8/8/22)

California Anti-Death Penalty Coalition (source)
California Attorneys for Criminal Justice
California Catholic Conference
California Public Defenders Association
Californians for Safety and Justice
Californians United for a Responsible Budget
Death Penalty Focus
Disability Rights California
Ella Baker Center for Human Rights
Friends Committee on Legislation of California
Initiate Justice
League of Women Voters of California
Los Angeles County District Attorney's Office
National Alliance on Mental Illness
National Association of Social Workers, California Chapter
Nextgen California
Smart Justice California
The Young Women's Freedom Center

OPPOSITION: (Verified 8/8/22)

None received

ARGUMENTS IN SUPPORT: The California Death Penalty Coalition supports this bill stating:

> The California Anti-Death Penalty Coalition was formed in 2019, following Governor Newsom's bold action to place a moratorium on executions. Our coalition is united by a shared respect for human rights, human dignity and life, and racial justice. We believe the death penalty is a reflection of an inherently punitive system of justice. We seek to promote alternatives that break the cycles of harm and to support those who suffer from violent crime.
>
> The United States Supreme Court has concluded that the Eighth Amendment of the Constitution prohibits the execution of a person who is mentally incompetent[1] -- that is, someone who does not have the cognitive function to understand that they are being executed or the reasons why. Some incompetent people sentenced to death have long suffered from severe mental illness while others became incompetent as the result of severe brain injury. Currently, the most common cause of incompetence among people sentenced to death in California is dementia – a condition that is increasingly prevalent among the aging population sentenced to death in California.
>
> To date, the California Attorney General has recognized that at least seven people sentenced to death are permanently incompetent and has urged the courts to resolve these cases, which the *Los Angeles Times* praised as an effort to "keep the state from wasting time and resources pursuing executions that are constitutionally barred from occurring."[2] Although some courts have vacated a handful of death sentences of permanently incompetent people and resentenced them to life in prison without parole, at least one court has refused to consider a permanent incompetence petition until an execution date has been set.
>
> AB 2657 requires courts to resentence people sentenced to death now if they are permanently incompetent, as established by a preponderance of the evidence, and eliminates the need for an execution date to be set. AB 2657 eliminates pointless litigation of post- conviction proceedings in capital cases in state and federal courts when a person has become

[1] *Ford v. Wainwright*, 477 U.S. 399 (1986); *Panetti v. Quarterman*, 551 U.S. 930 (2007)
[2] "Editorial: A sane approach to dealing with mentally ill death row inmates." (2016, June 11). *The Los Angeles Times*.

permanently incompetent, thus saving California and federal government from wasting significant resources on futile litigation.

ASSEMBLY FLOOR: 56-18, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Lackey, Mathis, Nguyen, Patterson, Salas, Seyarto, Smith, Valladares, Voepel
NO VOTE RECORDED: Berman, Cooper, Kiley, O'Donnell

Prepared by: Mary Kennedy / PUB. S. /
8/10/22 14:24:55

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

SENATE RULES COMMITTEE AB 2669
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2669
Author: Nazarian (D)
Amended: 6/30/22 in Senate
Vote: 27 - Urgency

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/14/22
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

ASSEMBLY FLOOR: 66-0, 5/9/22 - See last page for vote

SUBJECT: Youth service organizations: child abuse and neglect prevention

SOURCE: Big Brothers Big Sisters

DIGEST: This bill exempts an organization that provides one-to-one mentoring to youth from the requirement that youth service organizations implement a policy requiring, to the greatest extent possible, the presence of at least two mandated reporters whenever administrators, employees, or volunteers are in contact with children, but only if that organization has implemented policies to ensure comprehensive screening of volunteers, and training and regular contact with both volunteers and parents or guardians.

Senate Floor Amendments of 6/30/22 add an urgency clause.

ANALYSIS:

Existing law:

1) Establishes the Child Abuse and Neglect Reporting Act (CANRA) and states that the intent and purpose of the Act is.to protect children from abuse and neglect. (Penal Code § 11164.)

2) Defines "child" under CANRA to mean person under the age of 18 years. (Penal Code § 11165.)

3) Defines "child abuse or neglect" under CANRA to include physical injury or death inflicted by other than accidental means upon a child by another person, sexual abuse as defined, neglect as defined, the willful harming or injuring of a child or the endangering of the person or health of a child as defined, and unlawful corporal punishment or injury, as defined. (Penal Code § 11165.6.)

4) Enumerates close to 50 categories of mandatory child abuse reporters. Specific occupations that are mandated reporters include, but are not limited to, teachers, athletic coaches, social workers, peace officers, firefighters, physicians, psychologists, psychiatrists, emergency medical technicians, licensed family therapists, child visitation monitors, and clergy. (Penal Code § 11165.7 . (a).)

5) Requires a mandated reporter to make a report to a specified agency whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect to report that incident immediately to a specified child protection agency by telephone, and further requires a written report be sent within 36 hours. (Penal Code §11166 (a).)

6) Makes it a misdemeanor for a mandated reporter to fail to report an incident of known or reasonably suspected child abuse or neglect as required by the CANRA. The offense is punishable by up to six months confinement in a county jail, or by a fine of $1,000, or by both. (Penal Code § 11166 (c).)

7) States that if a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect, the failure to report is a continuing offense until a specified agency discovers the offense. (Penal Code § 11166 (c).)

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

9) Requires an administrator, employee, or regular volunteer of a youth service organization to complete training in child abuse and neglect identification and training in child abuse and neglect reporting and to undergo a background check. (Bus. & Prof. Code § 18975 (a) & (b).)

10) Requires a youth service organization to develop and implement child abuse prevention policies, including, requiring to the greatest extent possible, the presence of at least two mandated reporters whenever administrators, employees, or volunteers are in contact with, or supervising, children. (Bus. & Prof. Code § 18975 (c).)

11) Defines "youth service organization" as an organization that employs or utilizes the services of persons who, due to their relationship with the organization, are mandated reporters. (Bus. & Prof. Code § 18975 (e)(2).)

12) Defines " regular volunteer" as "a volunteer with the youth service organization who is 18 years of age or older and who has direct contact with, or supervision of, children for more than 16 hours per month or 32 hours per year." (Bus. & Prof. Code § 18975 (e)(1).)

This bill creates an exception to the requirement that a youth service organization have at least two mandated reporters present when in contact with or supervising children stating that it shall not apply to an organization that provides one-to-one mentoring to youth that has adopted and implemented the required policies relating to background checks and has adopted and implemented policies to ensure comprehensive screening of volunteers, training of volunteers and parents or guardians, and regular contact with volunteers and parents or guardians.

Background

The proponents of this bill argue that it is needed because newly enacted Business & Professions Code Section 18975, subdivision (c) requires a youth service organization to develop and implement child abuse prevention policies, including, requiring to the greatest extent possible, the presence of at least two mandated reporters whenever administrators, employees, or volunteers are in contact with, or supervising, children has unintended consequences. Specifically they argue that AB 506 (Gonzalez), which enacted this provision, did not take into account organizations whose programming model is one on one mentoring. Specifically the proponents point to the Big Brothers Big Sisters organization, and say that it puts the work of the organization at risk.

Subdivision (c) of Section 18975 does not contain an absolute mandate that there must always be two mandated reporters present whenever administrators, employees, or volunteers are in contact with children but states that this policy should be used "*to the greatest extent possible*." (Bus. & Prof. Code, § 18975 (c)(2), emphasis added.) However, organizations whose programming model is

one on one mentoring are concerned relying on this language is problematic, particularly since subdivision (e) provides that an insurer may request demonstrated compliance with this requirement before writing liability insurance for the organization.

This bill creates an exception to the requirement that a youth service organization have at least two mandated reporters present when in contact with or supervising children stating that it shall not apply to an organization that provides one-to-one mentoring to youth that has adopted and implemented the policies described in paragraph (1) and has adopted and implemented policies to ensure comprehensive screening of volunteers, training of volunteers and parents or guardians, and regular contact with volunteers and parents or guardians.

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

SUPPORT: (Verified 6/30/22)

Big Brothers Big Sisters (source)
Big Brothers Big Sisters of Orange County and the Inland Empire, Inc.
California Association of Nonprofits

OPPOSITION: (Verified 6/30/22)

None received

ARGUMENTS IN SUPPORT: The California Association of Nonprofits (CalNonprofits) supports this bill stating:

> AB 2669 will fix an unforeseen negative consequence, which requires youth service organizations to have two mandated reporters present whenever a volunteer interacts with a child. This requirement directly conflicts with the successful one-to-one mentoring model that has been the hallmark of nonprofit organizations like Big Brother Big Sisters, turns one-to-one mentoring into three-to-one mentoring, and threatens a system that has been heralded for generations for improving the lives of millions of young people.
>
> AB 2669 will exempt a state or local chapter of a national one-to-one mentoring organization from requiring the presence of two mandated reporters, provided they have policies that ensure: 1) reporting of suspected incidents of child abuse; 2) screening and training of volunteers; 3) training of parents or guardians; and, 4) regular contact with volunteers and parents or guardians.

CalNonprofits supports AB 2669 because it will help ensure that youth service nonprofit organizations that provide one-to-one mentoring programs to youth can continue to do so, as long as they have strong policies in place that protect children from potential abuse. One-to-one mentoring programs provide a crucial service, with proven results, to California communities. We support laws, such as AB 2669, that hold nonprofits accountable and also create parameters that allow nonprofits to provide their much-needed services.

ASSEMBLY FLOOR: 66-0, 5/9/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Villapudua, Voepel, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Boerner Horvath, Cunningham, Flora, Gray, Grayson, Lackey, Medina, Mullin, Quirk-Silva, Luz Rivas, Valladares, Ward

Prepared by: Mary Kennedy / PUB. S. /
8/3/22 14:50:39

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2693
Author: Reyes (D)
Introduced: 2/18/22
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 6/8/22
AYES: Cortese, Durazo, Laird, Newman
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 47-20, 5/23/22 - See last page for vote

SUBJECT: COVID-19: exposure

SOURCE: Author

DIGEST: This bill extends to January 1, 2025, the sunset date on COVID-19 related workplace reporting requirements and for the Division of Occupational Safety and Health's authority to disable an operation or process at a place of employment when the risk of COVID-19 infection creates an imminent hazard.

ANALYSIS:

Existing law:

1) Requires that every employer furnish employment and a place of employment that is safe and healthful for the employees, and prohibits requiring or permitting any employee to go or be in any employment or place of employment that is not safe and healthful. (Labor Code §§ 6400 & 6402)

2) Provides that when, in the opinion of the Division of Occupational Safety and Health (Cal/OSHA), a place of employment, machine, device, apparatus, or equipment or any part thereof is in a dangerous condition, is not properly guarded or is dangerously placed so as to constitute an imminent hazard to

employees, entry or use of that area shall be prohibited by the division, and a conspicuous notice to that effect shall be attached thereto. Such notice shall not be removed except by an authorized representative of the division, nor until the place of employment is made safe and the required safeguards or safety devices are provided. (Labor Code § 6325)

3) Provides that, until January 1, 2023, when in the opinion of Cal/OSHA, a place of employment, operation, or process, or any part thereof, exposes workers to the risk of infection with severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) so as to constitute an imminent hazard to employees, the performance of such operation or process, or entry into such place of employment, as the case may be, may be prohibited by the division, and a notice thereof shall be provided to the employer and posted in a conspicuous place at the place of employment. (Labor Code § 6325)

4) Requires an employer that receives a notice of potential exposure to COVID-19 to take a number of actions within one business day of the potential exposure, including, but not limited to:

   a) Provide a written notice to all employees, as specified, who were on the premises at the same worksite as the qualifying individual within the infectious period that they may have been exposed to COVID-19.

   b) Provide a written notice to the exclusive representative, if any, of the employees in a).

   c) Provide all employees who may have been exposed and the exclusive representative, if any, with information regarding COVID-19-related benefits to which the employee may be entitled under applicable federal, state, or local laws. (Labor Code §6409.6)

5) Requires the California Department of Public Health, until January 1, 2023, to make workplace industry information received from local public health departments pursuant to employer COVID-19 reporting requirements on its internet website in a manner that allows the public to track the number and frequency of COVID-19 outbreaks and the number of COVID-19 cases and outbreaks by industry reported by any workplace. (Labor Code §6409.6)

This bill extends to January 1, 2025, the sunset date for COVID-19 related workplace reporting requirements and for Cal/OSHA's authority to disable an operation or process at a place of employment when the risk of COVID-19 infection creates an imminent hazard.

Background

In 2020, AB 685 (Reyes, Chapter 84, Statutes of 2020) was enacted to provide guidelines and requirements around workplace COVID-19 exposure reporting. AB 685 sought to improve our understanding of the disease's transmission and prevalence in the workplace. The bill required employers to provide specified notices to employees and others if an employee is exposed to COVID-19. It was also a response to documented underreporting of COVID-19 cases across many industries. With Cal/OSHA relying on employers to self-report workplace infections, this led to incomplete data about COVID-19 outbreaks putting workers and ultimately their families at risk. AB 685 provided a mechanism for the Department of Public Health to collect and publish COVID-19 outbreaks by workplace industry.

In 2021, AB 654 (Reyes, Chapter 522, Statutes of 2021), among other things, clarified provisions enacted under AB 685 and added a January 1, 2023 sunset date on the COVID-19 notice of exposure provisions.

Comments

Need for this bill? As we speak, California is in yet another COVID-19 wave. As of June 2, 2022, the U.S. Centers for Disease Control and Prevention placed more than a dozen California counties into the "high" community level for COVID-19 danger calling for people in those counties to mask in public indoor settings. The upgraded risk levels reflect a surge of COVID-19 sweeping through most of the United States, largely fueled by more contagious offshoots of the omicron variant. As of June 3, 2022, the California Department of Public Health reports a daily average of 13,895 COVID cases with 34.6 per every 100,000 people.

According to the author, "We have seen just how rapidly COVID-19 infections spread in California's workplaces and how workers paid the price for these outbreaks with their health and lives. The least we can do to be prepared for future variants and as we move to an endemic strategy is to continue tracking COVID-19 cases in the workplace. With infections and deaths disproportionately high in the Latino, Black, and Asian Pacific Islander communities, more information about workplace illness and industry clusters can inform policy makers in addressing healthcare disparities and protecting vulnerable workers.

"We must be prepared to react immediately to future variants of COVID-19. This bill will aid in stopping the spread of future variants and informing workers of workplace exposures so they can protect themselves and their families by extending the sunset on workplace reporting and notification of COVID-19 cases."

Related/Prior Legislation

AB 654 (Reyes, Chapter 522, Statutes of 2021) required the employer, when giving notice to the local public health agency of a COVID-19 outbreak, to give that notice within 48 hours or one business day, whichever is later. Also expanded the employers exempt from the COVID-19 outbreak reporting requirement to various licensed entities, including, but not limited to, community clinics, adult day health centers, community care facilities, and child day care facilities.

AB 685 (Reyes, Chapter 84, Statutes of 2020) required employers to provide written notice and instructions to employees who may have been exposed to COVID-19 at their worksite and enhanced the ability of Cal/OSHA to enforce health and safety standards to prevent workplace exposure to and spread of COVID.

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

SUPPORT: (Verified 6/28/22)

American Federation of State, County and Municipal Employees
Brotherhood of Locomotive Engineers & Trainmen, CA State Legislative Board
California Conference of Machinists
California Conference of the Amalgamated Transit Union
California Food & Farming Network
California IATSE Council
California Labor Federation, ALF-CIO
California Professional Firefighters
California Rural Legal Assistance Foundation
California School Employees Association
California State Legislative Board, SMART Transportation Division
California Teachers Association
California Teamsters Public Affairs Council
Central California Environmental Justice Network
Central Coast Alliance United for a Sustainable Economy
Centro Binacional de Desarrollo Indigena Oaxaqueno
Engineers and Scientists of CA, IFPTE Local 20
ILWU Warehouse, Processing & Distribution Workers' Union, Local 26
Legal Aid at Work
Los Angeles Alliance for a New Economy
National Union of Healthcare Workers
Pesticide Action Network North America
SEIU California

United Food and Commercial Workers, Western States Council
United Nurses Associations of California/Union of Health Care Professionals
United Public Employees
UNITE-HERE
Utility Workers Union of America, AFL-CIO
Warehouse Worker Resource Center

OPPOSITION: (Verified 6/28/22)

Acclamation Insurance Management Services
Allied Managed Care
Associated General Contractors
California Apartment Association
California Association of Health Services at Home
California Association of Joint Powers Authorities
California Association of Winegrape Growers
California Bankers Association
California Building Industry Association
California Business Roundtable
California Cable & Telecommunications Association
California Chamber of Commerce
California Credit Union League
California Farm Bureau
California Framing Contractors Association
California Grocers Association
California Hospital Association
California Landscape Contractors Association
California League of Food Producers
California Manufacturers & Technology Association
California Railroads
California Restaurant Association
California Retailers Association
California Special Districts Association
California State Association of Counties
California Trucking Association
Carlsbad Chamber of Commerce
Coalition of Small and Disabled Veteran Businesses
Construction Employers' Association
El Dorado County Chamber of Commerce
El Dorado Hills Chamber of Commerce
Elk Grove Chamber of Commerce

Family Business Association of California
Flasher Barricade Association
Folsom Chamber of Commerce
Housing Contractors of California
League of California Cities
National Federation of Independent Business
Oceanside Chamber of Commerce
Official Police Garages of Los Angeles
Public Risk, Innovation, Solutions and Management
Rancho Cordova Chamber of Commerce
Residential Contractors Association
Roseville Area Chamber of Commerce
Torrance Area Chamber of Commerce
United Chamber Advocacy Network
Urban Counties of California
West Ventura County Business Alliance
Western Electrical Contractors Association
Western Growers Association
Western Steel Council
Wine Institute
Yuba Sutter Chamber of Commerce

ARGUMENTS IN SUPPORT: According to the United Food and Commercial Workers, Western States Council, "California is moving towards a new phase in the COVID-19 fight that places testing, vaccination and support front and center. AB 685's (Reyes, 2020) tracking gives the state key data so we can focus our resources efficiently and effectively. AB 2693 will ensure these protections are kept in place as COVID-19 sadly continues to ravage our state. The next COVID-19 variant can show up any time and we can't wait for the legislature to act or go through the legislative process every time a new variant arises. We must be prepared to react immediately to stop the spread, and extending the sunset on workplace tracking of COVID-19 cases is critical to doing that."

ARGUMENTS IN OPPOSITION: A coalition, including the California Chamber of Commerce, are opposed to this bill arguing that despite entering the endemic phase of COVID, AB 2693 extends emergency-style notice to 2025. They write, "Thankfully, we are in a different world from the one where these notice requirements were put into place. The vast majority of people in California are vaccinated – and those who are not mostly remain that way by choice. Test availability has improved considerably. Case rates are low – despite the economy re-opening and in-person schooling recommencing. By way of example: even at

the peak of the Omicron spike in December 2021 (when the state was open and shoppers were mingling), California's hospitalizations were still below the 2020 holiday spike."

They conclude by stating that, "To be clear: we do not oppose notification of close contacts. However, workplace-wide notices no longer serve the purposes they did early in the pandemic. A COVID-19 case is no longer the same risk it once was due to increased vaccination and immunity in the population. Extending emergency-level notice until 2025 just doesn't make sense."

ASSEMBLY FLOOR: 47-20, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cooley, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Mia Bonta, Cooper, Daly, Gray, Mayes, O'Donnell, Quirk-Silva, Ramos, Blanca Rubio, Villapudua

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
6/28/22 14:30:45

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

SENATE RULES COMMITTEE AB 2711
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2711
Author: Calderon (D)
Amended: 6/13/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-0, 6/8/22
AYES: Umberg, Borgeas, Durazo, Gonzalez, Hertzberg, Jones, Laird, Wieckowski, Wiener
NO VOTE RECORDED: Caballero, Stern

SENATE HUMAN SERVICES COMMITTEE: 4-0, 6/20/22
AYES: Hurtado, Jones, Cortese, Pan
NO VOTE RECORDED: Kamlager

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 65-0, 5/12/22 (Consent) - See last page for vote

SUBJECT: Juvenile records access

SOURCE: Author

DIGEST: This bill clarifies that the California Department of Social Services (CDSS) can view a juvenile court record without a court order when representing a child in an action to vacate an order of adoption.

ANALYSIS:

Existing law:

1) Authorizes an unmarried minor to be adopted by an adult as provided. (Fam. Code, div. 13, pt. 2, §§ 8600 et seq.)

2) Authorizes an adoptive parent, within five years of the entry of an order of adoption, to file a petition to vacate the order of adoption if the child shows

evidence of a developmental disability or mental illness as a result of conditions existing before the adoption but of which the adoptive parent had no knowledge or notice before the entry of the order of adoption, and if the extent of the disability or mental illness is severe enough that the child cannot be relinquished to an adoption agency on the grounds that the child is considered unadoptable. (Fam. Code, § 9100(a), (b).)

3) Requires the clerk of the court in which a petition in 2) was filed to immediately notify CDSS upon the filing the petition, and requires CDSS to file a full report with the court and appear before the court for the purpose of representing the adopted child. (Fam. Code, §§ 9100(c), 9102.)

4) Provides that the court may make an order setting aside the order of adoption pursuant to 2) if the facts set forth in the petition are proved to the satisfaction of the court. (Fam. Code, § 9100(a).)

5) Requires, where an order of adoption is set aside, the court making the order to direct the district attorney, county counsel, and county welfare department to take appropriate action, and authorizes the court to make any order relative to the care, custody, or confinement of the child pending the proceeding as the court sees fit. (Fam. Code, § 9101.)

6) Authorizes a tribal customary adoptive parent, within five years of the issuance of a tribal customary adoption order, to file a petition to vacate the order of adoption if the child shows evidence of a developmental disability or mental illness as a result of conditions existing before the adoption but of which the tribal customary adoptive parent had no knowledge or notice before the entry of the order of adoption, and if the extent of the disability or mental illness is severe enough that the child cannot be relinquished to an adoption agency on the grounds that the child is considered unadoptable. (Welf. & Inst. Code, § 366.26(e)(3).)

7) Requires the clerk to immediately notify CDSS upon the filing of a petition in 6), and requires CDSS to file a full report with the court and appear before the court for the purpose of representing the adopted child. The court's ruling must take into consideration the best interests of the child. (Welf. & Inst. Code, § 366.26(e)(3).)

8) Provides that the court may make an order setting aside the tribal customary adoption order pursuant to 6) if the facts set forth in the petition are proved to the satisfaction of the court. (Welf. & Inst. Code, § 366.26(e)(3).)

9) Requires, where a final decree of tribal customary adoption has been set aside or vacated, the child to be returned to the custody of the county in which the proceeding for tribal customary adoption was finalized and for the final disposition of the child to be determined in consultation with the child's tribe. (Welf. & Inst. Code, § 366.26(e)(3).)

10) Establishes the juvenile court, which, among other things, has jurisdiction over minors who have been removed from their parents' care and is tasked with securing for such minors custody and care. (Welf. & Inst. Code, § 202.)

11) Requires that the juvenile court's findings in a juvenile case be entered in the form of a written record known as the "juvenile court record." (Welf. & Inst. Code, § 825.)

12) Defines the "juvenile case file" as a petition filed in a juvenile court proceeding, reports of the probation officer, and all other documents filed in that case or made available to the probation officer, judge, referee, or other hearing officer and thereafter retained. (Welf. & Inst. Code, § 827(e).)

13) Provides that, unless a person is authorized to inspect a juvenile case file without a court order, the person seeking access to a juvenile case file must petition the juvenile court for the information. The court must afford due process to all interested parties before releasing a juvenile case file, including notice and an opportunity to file an objection. (Welf. & Inst. Code, § 827(a)(3).)

14) Provides a statutory list of persons and agencies authorized to inspect a juvenile case file without a court order, including CDSS in connection with certain proceedings and duties. (Welf. & Inst. Code, § 827.)

15) Prohibits an agency or a person authorized to receive a juvenile case file from disseminating the file or information relating to its content to persons not authorized to receive the information without prior approval of the presiding judge of the juvenile court, unless it is used in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court. (Welf. & Inst. Code, § 827(a)(4).)

This bill:

1) Specifies that, when a court clerk notifies CDSS that a petition to vacate an adoption or tribal customary adoption has been filed, CDSS may inspect and copy an adoption case file, including a juvenile case file, for the purpose of

completing its duties of filing a report with the court and representing the adopted child.

2) Adds, to the list of entities and individuals authorized to view a juvenile case file, CDSS personnel, for the purpose of carrying out the department's duties under 1).

3) Provides that CDSS personnel may also make copies of a juvenile case file to carry out the department's duties under 1).

Comments

Author Comments. AB 2711 clarifies existing law to ensure that the California Department of Social Services is able to carry out their statutorily required duties related to adoption set asides. Even though the Department must participate in the adoption set aside process, they are not explicitly allowed to inspect or copy case files that are needed to fulfill their tasks, which has resulted in some instances of case files not being provided to the Department. This bill removes any ambiguity related to this issue.

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

SUPPORT: (Verified 8/8/22)

None received

OPPOSITION: (Verified 8/8/22)

None received

ASSEMBLY FLOOR: 65-0, 5/12/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Salas, Santiago, Seyarto, Smith, Stone, Ting, Villapudua, Voepel, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Boerner Horvath, Cunningham, Davies, Gray, Grayson, Kiley, Lackey, Lee, Quirk-Silva, Rodriguez, Blanca Rubio, Valladares, Ward

Prepared by: Allison Meredith / JUD. / (916) 651-4113
8/10/22 14:24:46

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

SENATE RULES COMMITTEE AB 2716
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2716
Author: Grayson (D)
Amended: 6/30/22 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 13-0, 6/14/22
AYES: Gonzalez, Allen, Becker, Cortese, Dahle, Dodd, Limón, McGuire, Min, Newman, Skinner, Wieckowski, Wilk
NO VOTE RECORDED: Bates, Archuleta, Melendez, Rubio

SENATE ENERGY, U. & C. COMMITTEE: 13-0, 6/27/22
AYES: Hueso, Dahle, Becker, Bradford, Dodd, Eggman, Gonzalez, Grove, Hertzberg, McGuire, Min, Rubio, Stern
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 70-0, 5/25/22 - See last page for vote

SUBJECT: Transportation network companies: participating drivers: safety courses

SOURCE: Author

DIGEST: This bill establishes minimum training requirements for transportation network company (TNC) drivers.

ANALYSIS:

Existing law:

1) Establishes the California Public Utilities Commission (CPUC) to regulate privately owned public utilities and common carriers in California. Specifies that the Legislature may prescribe that additional classes of private corporations or other persons are public utilities.

2) Establishes the "Passenger Charter-Party Carriers Act," which directs the CPUC to regulate, require license or permit to operate, require insurance and workers compensation, takes appropriate enforcement action and other provisions related to transportation charter-party carriers (CPCs).

3) Defines "charter-party carrier of passengers" as every person engaged in the transportation of persons by motor vehicle for compensation, whether in common or contract carriage, over any public highway in the state.

4) Defines TNC as an organization, including, but not limited to, a corporation, limited liability company, partnership, sole proprietor, or any other entity, operating in California that provides prearranged transportation services for compensation using an online-enabled application or platform to connect passengers with drivers using a personal vehicle.

5) Defines a "participating driver" as any person who uses a vehicle in connection with a transportation network company's online-enabled application or platform to connect with passengers.

This bill:

1) Directs TNCs to require their drivers to complete a safety course once every two years as a condition of using a TNC's online-enabled application. This course must be provided at no cost to the driver.

2) Specifies that TNC safety training courses must include at least the following components:

   a) Training regarding road safety and safe driving practices, including avoiding speeding, collisions, and driving while drowsy.

   b) Distracted driving, including the correct use, mounting and viewing of mobile devices.

   c) Training regarding safe interactions with passengers, including de-escalation, management of intoxicated or unruly passengers, and driving unaccompanied minors.

   d) Training on how to comply with CPUC vehicle inspection requirements.

3) Requires a TNC to compensate drivers for completing required safety courses.

Comments

1) *Purpose*. According to the author, "While TNCs and drivers provide valuable services to many Californians, some passengers have experienced riding with an unsafe or distracted driver who was using their phone, speeding, or driving erratically. While all California drivers are required to maintain an active driving license, there are currently no requirements in place to ensure that TNC drivers receive regular and recurring safety training…this measure will improve passenger and driver safety and ensure drivers stay up to date on their safe driving skills."

2) *What is a TNC*? Transportation Network Companies (TNCs) provide prearranged transportation services for compensation using an online-enabled application or platform (such as smart phone apps) to connect drivers using their personal vehicles with passengers. Common examples are Uber and Lyft.

3) *Existing TNC Safety Requirements*. Pursuant to CPUC regulations, TNCs are required to obtain from the CPUC a permit to operate, perform criminal background checks for each driver, establish a driver training program, implement a zero-tolerance policy on drugs and alcohol, and require minimum levels of insurance coverage. Likewise, TNCs must ensure that their drivers' Department of Motor Vehicles (DMV) records have no more than three points within the preceding 3 years, no "major violations" (reckless driving, hit and run, or driving with a suspended license conviction) within the preceding three years, and no driving under the influence conviction within the past seven years. Further, TNC vehicles are also required to be inspected at appropriate 12-month of 50,000 mile marks by a qualified facility licensed by the California Bureau of Automotive Repair. Additionally, to ensure proper regulatory oversight of TNC operations, the CPUC also requires each TNC to annually submit comprehensive reports covering a breadth of data including accident reports, law-enforcement citations, zero-tolerance violations, and instances of assault or harassment.

4) *Proposed Courses*. AB 2716 proffers baselines standards for TNC driver's training courses, including instructions on distracted diving, passenger de-escalation, rules of the road training, and a mandate that drivers stay up to date on their safe driving skills by requiring them to take the course every two years. Although the training elements proposed by this bill are consistent with the CPUC's existing safety requirements for TNCs and this is a large shift in the amount of training required for the drivers.

5) *Recent Amendments*. The author recently amended this bill to include a provision that requires a TNC to make sure that a vehicle satisfies the vehicle inspection requirements established by the CPUC before allowing a participating driver to operate the vehicle as part of its service, and every 12 months or 50,000 miles thereafter, whichever occurs first, as specified.

6) *Concerns*. While AB 2716 attempts to make utilizing TNC's safer via mandating continuous safety courses for drivers, the bill has the unintended consequence of placing new requirements on TNC drivers without stipulating how the participating driver is to be compensated for their time needed to complete the course. TNC drivers are typically not paid by the hour so a flat rate may need to be determined. The author recently amended this bill to include language that the TNC must compensate a participating driver for completing the safety course. However, negotiations with stakeholders must continue to determine how the driver will be compensated.

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

SUPPORT: (Verified 7/26/22)

American Property Casualty Insurance Association

OPPOSITION: (Verified 7/29/22)

California Labor Federation, AFL-CIO
California Teamsters Public Affairs Council
Los Angeles County Federation of Labor, AFL-CIO
SEIU California State Council
UFCW - Western States Council

ASSEMBLY FLOOR: 70-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Berman, Chen, Gallagher, Gipson, Kalra, Kiley, Mullin, O'Donnell

Prepared by: Katie Bonin / TRANS. / (916) 651-4121
8/3/22 14:38:26

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2721
Author: Lee (D)
Amended: 8/1/22 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-0, 6/1/22
AYES: Wieckowski, Cortese, Dahle, Gonzalez, Skinner
NO VOTE RECORDED: Bates, Stern

SENATE GOVERNANCE & FIN. COMMITTEE: 4-1, 6/29/22
AYES: Caballero, Durazo, Hertzberg, Wiener
NOES: Nielsen

ASSEMBLY FLOOR: 67-3, 4/18/22 - See last page for vote

SUBJECT: Bay Area Air Quality Management District: district board: compensation

SOURCE: Author

DIGEST: This bill doubles, while maintaining the existing compensation limit of $6,000 per year, the daily compensation that a member of the Bay Area Air Quality Management District (BAAQMD) board may receive for attending meetings from $100 to $200, and authorizes BAAQMD board members to receive compensation for active transportation travel, as defined, to meetings.

ANALYSIS:

Existing law:

1) Establishes the Air Resources Board (ARB) as the air pollution control agency in California and requires ARB, among other things, to control emissions from a wide array of mobile sources and coordinate, encourage, and review the efforts of all levels of government as they affect air quality. (Health and Safety

Code (HSC) §39500 et seq.)

2) Establishes local air districts to, among other things, control emissions from stationary sources. (HSC §40000 et seq.)

3) Establishes the 24-member Bay Area Air Quality Management District (BAAQMD) to regulate air emissions in the Counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, and Santa Clara and portions of the Counties of Solano and Sonoma, and to serve and function as specified. (HSC § 40200 et seq.)

4) Requires BAAQMD board members receive actual and necessary expenses incurred in the performance of board duties and authorizes compensation not to exceed $100 per day for attending meetings of the board or committees of the board or while on official business of the district, not to exceed $6,000 per year. (HSC § 40227)

This bill:

1) Increases the compensation that may be received by BAAQMD board members from $100 to $200 per day.

2) Stipulates that the compensation may be calculated on either a per mile basis or a fixed daily, weekly, monthly, or annual rate, and may consider specified benefits.

3) Includes active transportation travel, as defined, to a BAAQMD meeting, as specified, as a permissible activity for receiving compensation.

Background

1) *Per diem compensation*. People who serve on an elected or appointed governing board for any number of purposes are sometimes prohibited from being compensated for serving in that position, but very commonly may have their associated lodging, meals, and incidental expenses covered, where appropriate, on a daily basis—a per diem.

   Receiving a per diem is exceedingly common for members of boards or other bodies in California. The limits of those per diems are often set in statute, such as is the case for the BAAQMD. Changing the details of what the per diem is

limited to, or what expenses are eligible to be covered, must be done by the Legislature, and cannot be done by the BAAQMD itself.

2) *Getting to work in the Bay Area*. Bay Area employers with more than 50 employees are currently required to offer a commute benefits program, overseen by BAAQMD and the Metropolitan Transportation Commission (MTC). Under the program, employers must offer employees one of the following benefits: employer carpool or transit, subsidy for use of transit, active transportation subsidy, or an employer benefit that similarly reduces vehicle miles traveled (VMT). Because BAAQMD board members are not employees they are not covered, however the Government Code does provide local officials the ability to be reimbursed for documented expenses to attend meetings, such as IRS mileage for driving, tolls, transit, etc. According to BAAQMD, because expenses related to walking or biking are not clearly documented, the Government Code doesn't cover them, thus walkers and bikers (on the Board) are left out of commute benefits and Government Code reimbursement provisions.

   According to BAAQMD, compensation for active transportation would likely be based on a combination of intrinsic factors such as the social cost of carbon, reduced VMT, etc. In the end, it would be less than an IRS mileage rate, but would at least acknowledge that there is a benefit to reduced driving, and arguably serve a display of leadership from the Board on the issue.

Comments

1) *Purpose of bill.* According to the author, "Currently, BAAQMD board members can only be reimbursed up to $100 per day for attending one or multiple meetings. This amount has remained unchanged for over 30 years despite rising inflation and the increased cost of living. Under existing law, board members can only be compensated for certain types of transportation to and from meetings such as driving a personal vehicle, using a taxi or ride share service, or using transit such as buses, trains, and ferries.

   "AB 2721 allows these meetings to be more efficient, by changing compensation from $100/day to $100/meeting without changing the annual compensation limit. It also allows the Board to create a compensation schedule that encourages members to take active transportation methods to meetings, such as walking or bicycling."

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

SUPPORT: (Verified 8/1/22)

Bay Area Air Quality Management District

OPPOSITION: (Verified 8/1/22)

None received

ASSEMBLY FLOOR: 67-3, 4/18/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Gray, Nguyen, Salas
NO VOTE RECORDED: Choi, Cooley, Gallagher, Kiley, Mayes, Muratsuchi, Patterson

Prepared by: Eric Walters / E.Q. / (916) 651-4108
8/3/22 14:50:39

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

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THIRD READING

Bill No: AB 2723
Author: Holden (D), et al.
Amended: 8/4/22 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 12-0, 6/13/22
AYES: Roth, Melendez, Bates, Becker, Dodd, Eggman, Hurtado, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Archuleta, Jones

ASSEMBLY FLOOR: 72-0, 5/19/22 (Consent) - See last page for vote

SUBJECT: Animals: microchips

SOURCE: Author

DIGEST: This bill establishes additional requirements on animal shelters regarding the release of a dog or cat required to be microchipped to an owner. This bill specifies that the owner of a dog or cat, not the shelter or rescue agency, shall be registered with the microchip registry as the primary owner of the dog or cat.

Senate Floor Amendments of 8/4/22 provide that a dog or cat that is temporarily housed under an emergency evacuation order is not subject to these provisions; and add a coauthor.

ANALYSIS:

Existing law:

1) Requires a public animal control agency or shelter to microchip a cat or dog with current information before releasing a cat or dog to an owner seeking to reclaim the animal, adopt out, sell, or rehome to a new owner. Allows a shelter or rescue group that does not have microchipping capability on location to enter into an agreement with the owner or new owner to present proof, within

30 days, that the cat or dog is microchipped. (Food and Agriculture Code (FAC) §§ 31108.3; 31752.1)

2) Governs the operation of animal shelters by setting a minimum holding period for stray cats, dogs, and other animals; current law also requires animal shelters to ensure that those animals, if adopted, are spayed or neutered. (FAC §§ 30501 et seq.; 31751 et seq.; 32000 et seq.)

3) Sets the minimum holding period for an impounded stray cat or dog to six business days, with specified exceptions. (FAC §§ 31108 (a)(1); 31752 (a)(1))

4) Requires that during the holding period as indicated above, and before the adoption or euthanasia of a dog or cat detained, a public or private shelter shall scan the cat or dog for a microchip that identifies a number associated with the owner of the cat or dog. Current law also directs the public or private shelter shall make every reasonable effort to contact the owner and notify them that their cat or dog has been rescued and is available for reunification. (FAC §§ 31108 (c); 31752 (d))

5) Prohibits a public animal control agency or shelter, society for the prevention of cruelty to animals' shelter, humane society shelter, or rescue group from releasing a dog or cat to an owner seeking to reclaim it, or adopt out, sell, or give away a cat or dog to a new owner, unless the cat or dog is microchipped with current information on the owner or new owner of the cat or dog. (FAC §§ 31108.3 (a)(1); 31752.1 (a)(1))

6) Requires an agency, shelter, or group does that not have microchipping capability on location, to make a good faith effort to locate available free or discounted regional microchipping services and provide that information to the owner or new owner. (FAC §§ 31108.3 (a)(2), 31752.1 (a)(2))

7) Specifies that a shelter or rescue group may require proof that the cat or dog is microchipped with current information on the owner reclaiming the animal or new owner receiving the cat or dog before releasing, adopting out, selling or giving away as specified. (FAC §§ 31108.3 (a)(3); 31752.1 (a)(3))

8) Specifies that an owner reclaiming the cat or dog or new owner receiving the cat or dog is not required to register the animal's microchip number with a microchip registry company that will use, without the owner's or new owner's consent, the personal information of the owner or new owner for purposes other than to reunite the owner or new owner with the dog or cat. (FAC §§ 31108.3 (a)(4); 31752.1 (a)(4))

9) Exempts from the requirement for the cat or dog to be microchipped if a licensed veterinarian certifies in writing that the cat or dog is medically unfit for the microchipping procedure due to the animal's physical condition that could potentially be aggravated by the procedure. (FAC §§ 31108.3 (b)(1); 31752.1 (b)(1))

10) Exempts from the requirement for the dog or cat to be microchipped if the agency, shelter, or group receives a signed form from the owner reclaiming the dog or new owner receiving the dog that states that the cost of microchipping would impose an economic hardship for the owner or new owner. (FAC §§ 31108.3 (b)(2); 31752.1 (b)(2))

11) Specifies that shelter or rescue group that does not provide the microchip is subject to a civil penalty of $100, unless it does not have microchipping capability on location upon the owner or new owner obtaining the agreement. (FAC §§ 31108.3 (c)(1); 31752.1 (c)(1))

This bill:

1) Specifies that the owner or new owner of a dog or cat must be registered with a microchip registry company as the primary owner of the animal.

2) Prohibits a public animal control agency, shelter, or related rescue agency from registering with a microchip registry company as the primary owner of the cat or dog.

3) Specifies that upon adoption, sale, giving away, or transfer of ownership of a cat or dog, the public animal control agency, shelter, or related rescue agency shall provide information on the transference of ownership, including microchip company information, the microchip number and any other relevant identifiers, and any other information needed for an owner or new owner to register themselves as the microchip's primary contact, as applicable.

4) Clarifies that if an agency, shelter, or group does not have microchipping capability on location, the agency, shelter, or group shall make a good faith effort to maintain a list of local and regional free or discounted regional microchipping services and provide that information to the owner or new owner rather than locate available services.

5) Specifies that if a cat or dog has a preexisting microchip or there is reasonable proof of ownership, the agency, shelter, or group shall document and retain a record of all efforts made to contact the microchip's primary registrant or other demonstrated owner for at least two years.

6) Provides that these provisions do not apply to a dog or cat that is temporarily housed under an emergency evacuation order.

Background

Microchips in Dogs and Cats. Microchips implanted in cats and dogs provide a key tool for lost pets to be reunited with their owners. According to the American Veterinary Medical Association, a microchip is a small chip enclosed in a sterile glass cylinder. The microchip is injected under the skin with a hypodermic needle and the microchip can remain under the animal's skin throughout the animal's life. The procedure is minimally painful to the animal and does not require surgery or anesthesia. When a scanner is passed over the chip, the chip activates and transmits the microchip manufacturer's information and the chip's identification number to the scanner. This identification number can then be cross-checked with the manufacturer's microchip registry to obtain the registered owner's contact information.

Animals who are microchipped are significantly more likely to be reunited with their owners than non-microchipped animals. A 2009 study published in the Journal of the American Veterinary Medical Association assessed the cases of over 7,700 stray animals at animal shelters. Dogs with microchips were returned to their owners 52.2% of the time compared to a 21.9% reunification rate for dogs without microchips. Cats with microchips were returned to their owners 38.5% of the time, whereas only 1.8% of cats without microchips were reunited with their owners.

In 2009, the American Animal Hospital Association (AAHA) created the AAHA Universal Pet Microchip Lookup Tool. This microchip search tool is a free online resource to assist with microchip identification by identifying which registry should be contacted for the entered microchip identification number.

Microchip Challenges. One of the key challenges in identifying animals via microchip is inaccurate or outdated contact information associated with the microchip identification number in the microchip manufacturer's registry. In addition, pet adoption and rescue organizations may list themselves as the primary owner in the microchip registry, and upon transferring the animal to its new owner this information may not be updated. This bill seeks to address this issue to ensure that contact information associated with an animal's microchip reflects the contact information of the new primary owner.

In addition to challenges with keeping a pet owner's microchip registration current, technical challenges may arise when attempting to scan an animal's microchip. Many microchips emit the International Standards Organization (ISO) frequency of

134.2 kHz. However, there are no federal or state regulations requiring shelters or veterinary clinics to use the same microchips and scanners. If a dog or cat was implanted with a non-ISO microchip, there is a possibility that some scanners may not detect the animal's microchip. While rare, a microchip may also fail and become undetectable, excessive fat or matted fur at the microchip site may interfere with microchip detection, and improper scanning technique may lead to failure to detect the microchip. Finally, there is no central database in the U.S. for registering microchips, therefore registration can only be changed within the manufacturer's individual registry.

Comments

Reunification Issues if Microchip Information is Outdated. Current law and this bill state that an agency, shelter, or group may still require proof that the dog or cat is microchipped, as specified, before releasing, adopting out, selling, or giving away the animal. However, if a cat or dog has a preexisting microchip or there is reasonable proof of ownership, the shelter or rescue agency is required to retain document on attempts to contact the owner. "Reasonable proof of ownership" is not mentioned in other sections of this bill, which focus primarily on updating an animal's microchip information. How should reasonable proof of ownership be defined? Would the new registration requirements outlined in this bill potentially impede a pet owner's ability to reunite with a dog or cat with outdated owner contact information associated with the animal's microchip?

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

SUPPORT: (Verified 8/3/22)

143 Collective
Animal Issues Movement
Social Compassion in Legislation
Washington Square Neighborhood Association (Pasadena, California)

OPPOSITION: (Verified 8/3/22)

None received

ARGUMENTS IN SUPPORT: The 143 Collective, Animal Issues Movement, Social Compassion in Legislation, and Washington Square Neighborhood Association in Pasadena California write in support and note, "Amending the state code to have public animal control agencies/shelters and rescue groups relinquish microchip primary contact status to adopters would, in part, fix the lack of pet owner redress in current pet reclamation laws. As it stands, the aforementioned

organizations possess immense discretion to rehome and resell already owned pets without the consent or knowledge of original owners, even if microchipped. As a result, many pets in California have been unjustly rehomed, or even euthanized, simply due to the lack of accountability on the part of pet organizations in pet microchip laws. Amending this lack of accountability, through AB 2723, is key to expanding pet owner rights and creating greater consumer protections as a countermeasure to these unfair pet rehoming practices."

ASSEMBLY FLOOR: 72-0, 5/19/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Cervantes, Medina, Nazarian, Quirk-Silva, Blanca Rubio

Prepared by: Hannah Frye / B., P. & E.D. /
8/10/22 14:57:15

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

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THIRD READING

Bill No: AB 2727
Author: Wood (D)
Amended: 5/24/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 8-0, 6/1/22
AYES: Pan, Gonzalez, Grove, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Melendez, Eggman, Hurtado

ASSEMBLY FLOOR: 51-12, 5/9/22 - See last page for vote

SUBJECT: Medi-Cal: eligibility

SOURCE: Author

DIGEST: This bill updates the statutory legislative intent language, which establishes the purpose of the Medi-Cal program.

ANALYSIS:

Existing law:

1) Establishes the Medi-Cal program, which is administered by the Department of Health Care Services (DHCS), and under which qualified low-income individuals receive health care services. [WIC §14000, et seq.]

2) Establishes that the purpose of the Medi-Cal program is to afford to qualifying individuals health care and related remedial or preventive services, including related social services which are necessary for those receiving health care through the Medi-Cal program. [WIC §14000]

3) States legislative intent to provide, to the extent practicable, for health care for those aged and other persons, including family persons who lack sufficient annual income to meet the costs of health care, and whose other assets are so limited that their application toward the costs of such care would jeopardize the

person or family's future minimum self-maintenance and security. [WIC §14000]

4) Provides eligibility for full-scope Medi-Cal for adults with household incomes up to 138% of the federal poverty level (FPL), children with household incomes up to 266% FPL, and pregnant people with incomes up to 213% FPL. Also provides additional eligibility categories such as for persons who are medically needy or persons with disabilities who are working that have higher income cut-offs but impose significant cost-sharing. [WIC §14005.60, 14005.64, 14005.27, 14005.7, 14007.9]

5) Prohibits the use of an assets or resources test for individuals whose financial eligibility for Medi-Cal is determined based on the application of a Modified Adjusted Gross Income (MAGI) standard. [WIC § 14005.64]

6) Prohibits the use an assets or resources test for individuals whose financial eligibility for Medi-Cal is not determined using the MAGI-based financial methods, and requires the department to seek federal authority to disregard all resources as authorized by the flexibilities provided under federal law. Implementation of this prohibition is scheduled for no sooner than January 1, 2024, provided that any necessary federal approvals have been obtained, federal financial participation is available, and the state and county Medi-Cal systems have been updated. [WIC § 14005.62]

7) Allows financial eligibility for Medicaid for applicants to be based on the lower of a household's current monthly income or projected annual income. [WIC 14005.65]

This bill makes the following technical changes to the statutory legislative intent language:

1) Replaces "aged and other persons, including family persons" with "California residents";

2) Deletes the reference to "annual" income in the intent language; and,

3) Repeals the reference to persons whose assets are limited as a Medi-Cal eligibility criteria, effective once the repeal of the assets test is implemented.

Comments

1) *Author's statement.* According to the author, this bill updates and modernizes the out-of-date purpose and legislative intent language written in the initial code

section of the Medi-Cal Act to reflect changes made and that are forthcoming at the state and federal level. This bill explicitly includes California residents as a population for which the program provides health care, in recognition of the changes to Medicaid eligibility made by the Affordable Care Act (ACA) and states implementing legislation to expand coverage. Additionally, this bill prospectively repeals references to individuals whose assets are limited in recognition of the repeal of the asset test for individuals whose eligibility is determined based on MAGI as a result of the ACA, and the forthcoming repeal of the asset test at the state level as a result of the changes made by the health budget trailer bill of 2021. Finally, this bill deletes word "annual" from the phrase "annual income" as current federal Medicaid regulations for MAGI require financial eligibility to be based on current monthly household income with a state option to use projected annual income.

2) *Purpose of this bill*. This bill is simply updating the statutory legislative intent language to account for recent changes to the Medi-Cal program. In 2014, with the implementation of the ACA's Medicaid provisions, Medi-Cal adopted a more flexible income counting methodology that allowed applicants to use the lower of their current monthly or projected annual income. The adult expansion of Medicaid at that time also means that eligibility is no longer limited to parents/caretaker relatives, children, and seniors and persons with disabilities, but is open to all Californians who are income eligible with satisfactory immigration status. Recent changes in state law and proposed legislation are also in the process of removing the requirement of satisfactory immigration status. Children and young adults are already eligible regardless of immigration status, persons over age 50 were just added this May, and the Administration has proposed that the remainder be included starting January 1, 2024. Finally, the MAGI income-counting rules implemented by the ACA for most groups of Medi-Cal eligible people no longer required counting assets for determining eligibility. The last remaining group to have their assets counted (seniors and certain persons with disabilities) will no longer need to do so once the provisions of last year's budget trailer bill, AB 133 (Committee on Budget, Chapter 143, Statutes of 2021), have been fully implemented. This is scheduled for no sooner than January 1, 2024, or once federal approvals have been obtained and the changes have been included in the Medi-Cal computer systems. As such, the current statutory legislative intent language no longer reflects the actual intent of the Legislature in providing health care services through Medi-Cal.

Related/Prior Legislation

AB 133 (Committee on Budget, Chapter 143, Statutes of 2021) included the repeal of the Medi-Cal assets test for those populations still subject to it, scheduled for no sooner than January 1, 2024, with an interim increase in the amount of allowable assets to take place July 1, 2022.

ABX1-1 (Perez, Chapter 3, Statutes of 2013, First Extraordinary Session) prohibited the use of an asset or resources test for individuals whose financial eligibility for Medi-Cal is determined based on the application of MAGI.

SBX1-1 (Hernández, Chapter 4, Statutes of 2013, First Extraordinary Session) added the ACA's optional adult expansion to Medi-Cal and exercise a federal option to allow applicants and beneficiaries to use projected annual household income if lower than their monthly income.

AB 336 (Committee on Ways and Means, Chapter 95, Statutes of 1991) last updated WIC Section 14000 emphasized the means to secure Medi-Cal services included efforts to arrange and encourage access to health through enrollment in managed care plans of the type available to the public.

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

SUPPORT: (Verified 6/1/22)

Health Access California
Western Center on Law & Poverty

OPPOSITION: (Verified 6/1/22)

None received

ARGUMENTS IN SUPPORT: Health Access California writes that before the ACA, California's Medi-Cal program covered low-income children, seniors, persons with disabilities, pregnant persons, and some parents of children under 18. When children turned age 19, it did not matter how poor they were or even how sick they were, unless they were disabled, they were ineligible for Medi-Cal until they had children or turned age 65. Unless an adult got coverage on the job, they were just plain out of luck when it came to health coverage. Lack of health coverage was not only ruinous in terms of their finances but could also be literally deadly: people died because they lacked health coverage could not afford care. While hospital emergency rooms would stabilize a patient with an emergency, someone with cancer, diabetes, heart disease or other conditions went without

necessary care. This bill moves the statement of intent for the Medi-Cal program into the post-ACA world in which low-income Californians are eligible for Medi-Cal no matter what their age or health status. Soon that will include all Californians regardless of immigration status. The legislative intent for a program should match what that program does.

ASSEMBLY FLOOR: 51-12, 5/9/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Ramos, Reyes, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Megan Dahle, Davies, Fong, Gallagher, Kiley, Mathis, Patterson, Seyarto, Smith, Voepel
NO VOTE RECORDED: Boerner Horvath, Choi, Cunningham, Daly, Flora, Gray, Grayson, Lackey, Mayes, Medina, Nguyen, Quirk-Silva, Luz Rivas, Valladares, Ward

Prepared by: Jen Flory / HEALTH / (916) 651-4111
6/3/22 9:49:18

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

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THIRD READING

Bill No: AB 2736
Author: Santiago (D)
Introduced: 2/18/22
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 13-0, 6/28/22
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Bradford, Hueso, Jones, Kamlager, Melendez, Portantino, Rubio, Wilk
NO VOTE RECORDED: Borgeas, Glazer

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 73-0, 5/25/22 (Consent) - See last page for vote

SUBJECT: Horse racing: Breeders' Cup World Championship

SOURCE: Author

DIGEST: This bill requires specified funds be made available to a thoroughbred racing association hosting the Breeders' Cup World Championship Series (Breeders' Cup), as specified.

ANALYSIS:

Existing law:

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

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

3) Requires, for every year that the Breeders' Cup series in conducted at a race meeting in California, that specified amounts that would have otherwise been

distributed to a purse account be made available to the organization operating the series for the purpose of promoting and supporting the Breeders' Cup.

4) Requires the thoroughbred racing association hosting the Breeders' Cup to enter into a written agreement, in consultation and cooperation with the California Tourism Commission and a specified statewide marketing organization, with the organization that operates the Breeders' Cup regarding the manner in which funds set aside to support and promote the Breeders' Cup are to be expended.

This bill:

1) Requires that specified funds additionally be made available to the thoroughbred racing association hosting the Breeders' Cup as well as the organization operating the series.

2) Deletes existing requirement for participation of a specified statewide marketing organization in an agreement, as specified.

Background

Purpose of the bill. According to the author's office, "existing law requires a thoroughbred racing association hosting the Breeders' Cup to set-aside and make available certain monies generated from the handle on days during which Breeders' Cup races are run in California to promote and support the two-day series, including the payment of purses in Breeders' Cup Championship races. The redirection has proven to be an extreme success to help showcase the prestigious event."

Further, the author's office states that, "this bill would further clarify who the participants shall be in the allocation of the set aside funds to support the Breeders' Cup World Championship when the event is held in California. Specifically, it removes the requirement for participation by the presently defunct statewide marketing organization as to the manner in which the set aside funds are allocated. AB 2736 is intended to help California attract the world's best horses, trainers and owners to participate in the Breeders' Cup World Championships and make California an attractive site for future editions of the richest two-days in horse racing."

The Breeders' Cup World Championship. The Breeders' Cup has established itself as the season-ending championship of Thoroughbred racing. Since the inaugural

races in 1984, the Breeders' Cup has grown from a seven-race, $10 million one-day in purses and awards, to a 14-race, $31 million two-day event which attracts the best horses, trainers, and jockeys from across the globe.
The purses for the races are funded by worldwide nomination fees from the industry's Thoroughbred breeders. In addition, horses are able to earn automatic starting positions into championship races through the Breeders' Cup Challenge, a series of stakes races held around the world. The winning Thoroughbred race horses of these races earn an automatic bid to the Breeders' Cup World Championships.

In 2021, the 38th edition of the Breeders' Cup was held on Friday, November 5, and Saturday, November 6, at the seaside Del Mar racetrack in southern California. The marquee $6 million Breeders' Cup Classic was broadcast in prime time on the East Coast. Last year's event was the second time that Del Mar racetrack was selected to host the event. Total all-sources common-pool handle for the two-day Breeders' Cup World Championships at Del Mar was $182,908,409, a new record for the two-day event. On-track attendance for the two days was 47,089. Due to precautions related to COVID-19, Breeders' Cup and Del Mar reduced ticket capacity for the 2021 event.

The Breeders' Cup World Championships has been staged at 12 different race tracks, including Woodbine Racetrack in Toronto, Canada. The most recent venues have been Santa Anita, Del Mar and Keeneland in Kentucky.

The first ever Breeders' Cup was held at the former Hollywood Park racetrack in 1984 and since then California has played an important role in establishing the Breeders' Cup World Championships as the culmination of the thoroughbred-racing season and the multi-million dollar world renowned event it is today. The two-day event generates significant revenue and tourism for the host state.

The Breeders' Cup Board of Directors directs the affairs of Breeders' Cup Limited, a 501(c)(6) organization. There are 13 Directors on the Breeders' Cup Board. Directors are elected by the Breeders' Cup Members, a body of 48 individuals, 39 of whom are elected by the Breeders' Cup nominators.

Related/Prior Legislation

SB 1403 (Jones, 2022) authorizes a thoroughbred racing association or fair to accept wagers on out-of-country races up to 6:30 p.m., Pacific Standard Time, on the first Saturday in November, as specified. (Pending on the Assembly Floor)

AB 2012 (Aguiar-Curry, 2022) adds the Metro Pace to the list races that a California harness racing association can accept wagers on, as specified. (Pending on the Senate Floor)

AB 2812 (Bigelow, 2022) clarifies that "live" includes "live in-state" races as part of an organization's racing program, as specified. (On the Senate Inactive File)

AB 2969 (Governmental Organization, 2022) exempts the Blue Grass Stakes from the 50-per-day imported race limitation, as specified. (Pending on the Senate Floor)

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

SUPPORT: (Verified 8/1/22)

None received

OPPOSITION: (Verified 8/1/22)

None received

ASSEMBLY FLOOR: 73-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Bloom, Irwin, O'Donnell, Blanca Rubio

Prepared by: Brian Duke / G.O. / (916) 651-1530
8/3/22 14:38:27

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

SENATE RULES COMMITTEE AB 2752
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2752
Author: Wood (D), et al.
Amended: 8/1/22 in Senate
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 12-0, 6/27/22
AYES: Hueso, Dahle, Becker, Bradford, Dodd, Eggman, Gonzalez, Hertzberg, McGuire, Min, Rubio, Stern
NO VOTE RECORDED: Borgeas, Grove

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 71-0, 5/23/22 - See last page for vote

SUBJECT: Broadband infrastructure: mapping

SOURCE: Author

DIGEST: This bill clarifies the data that the California Public Utilities Commission (CPUC) must collect for mapping broadband access.

ANALYSIS:

Existing law:

1) Requires the CPUC to maintain and update a statewide, publicly accessible, interactive map showing the accessibility of broadband service in the state, including, but not limited to, information identifying the percentage of each census block that has broadband service meeting federal and state standards. (Public Utilities Code §281.6(a))

2) Allows the CPUC to collect information from broadband providers to establish and update the statewide interactive map. (Public Utilities Code §281.6(b))

3) Requires the CPUC to include a feature in the broadband map that enables a person to sign up for notifications about updates to the map. (Public Utilities Code §281.6(c))

4) Requires the CPUC to collect granular information on the actual locations served by cable franchises and establish customer service requirements for those franchises. (Public Utilities Code §5895)

5) Establishes a customer right to privacy for telecommunications services. Existing law prohibits telephone and telegraph corporations from sharing certain personal consumer information with any person or corporation without first obtaining the consumer's consent. Existing law specifies the types of information that may not be shared without a customer's consent, including the services purchased by a residential subscriber from the telephone corporation or independent information services that use the telephone corporation's facilities to serve the customers. (Public Utilities Code §2891)

This bill:

1) Specifies that the CPUC may collect information from broadband service providers at the address level for the purposes of existing broadband mapping requirements.

2) Prohibits the CPUC from disclosing personal consumer information protected by existing customer right of privacy law.

3) Clarifies that "actual locations" for which cable franchises must report service data includes addresses.

Background

Bill addresses broadband data access, which is key to drawing federal funds. In 2021, the Legislature made a historic investment in broadband infrastructure by allocating $6 billion in federal funds to help expand access to broadband infrastructure. However, targeting funds for last-mile services to unserved households remains a challenge due to the lack of accurate information about which households continue to lack access to infrastructure capable of providing broadband services. To address the need for greater detail regarding the locations of households unserved by advanced communications, the Legislature passed SB 28 (Caballero, Chapter 673, Statutes of 2021) and AB 41 (Wood, Chapter 659, Statutes of 2021). While SB 28 required the CPUC to collect more granular information about the actual locations served by cable franchises. AB 41 required

the CPUC to update a publicly accessible broadband map with more specific information about service at the census block level. Since the enactment of these two bills, the governor has designated the CPUC as the entity responsible for verifying broadband access data for the Federal Communications Commission (FCC) household broadband mapping. Pursuant to the Infrastructure Investment and Jobs Act of 2021 (IIJA), this household data will be used to determine states' share of over $42 billion in federal broadband infrastructure funding for last mile broadband networks.

Bill clarifies existing data collection and reporting requirements. This bill clarifies that the CPUC can collect broadband and cable access data at the address level. This bill does not add new data reporting requirements. Instead, this bill clarifies existing data reporting requirements. Despite the passage of AB 41 and SB 28, cable franchises and internet service providers (ISPs) have indicated that existing law does not clearly require the CPUC to collect information about the degree to which an address is served by a franchise or ISP. In response to CPUC data requests for access and service information covered by AB 41 and SB 28, multiple cable and broadband providers stated that provisions in SB 28 requiring cable franchises to report "actual locations served" did not clearly require them to report the extent to which they served specific addresses. ISPs also indicated that language in AB 41 requiring the CPUC to publicly map broadband access at the census block level did not give the CPUC sufficient authority to collect the data for that map at the address level to determine the extent to which a census block has broadband service meeting federal and state minimum standards.

Related/Prior Legislation

SB 28 (Caballero, Chapter 673, Statutes of 2021) required the CPUC to collect more granular data from cable franchises on the actual locations they serve and adopt customer service requirements for cable franchises.

AB 41 (Wood, Chapter 659, Statutes of 2021) required the CPUC to update an existing broadband map to include specified information about local broadband service and it required the California Department of Transportation (Caltrans) to install conduit for fiber communications as part of its construction of a state-owned middle-mile broadband network.

SB 156 (Committee on Budget and Fiscal Review, Chapter 112, Statutes of 2021) made various changes necessary to implement the Budget Act of 2021. The bill provided federal funding for the construction of state-owned middle mile

broadband infrastructure and allocated $2 billion of federal funds to the California Advanced Services Fund for the purpose of funding projects that deploy last-mile broadband infrastructure.

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

SUPPORT: (Verified 8/9/22)

Common Sense
Electronic Frontier Foundation
NextGen California

OPPOSITION: (Verified 8/9/22)

California Cable and Telecommunications Association

ARGUMENTS IN SUPPORT: According to the author:

> Today, we lack the basic data needed to inform crucial broadband policy decisions. Whether it is access or affordability, we fail to capture the magnitude of the digital divide felt by Californians. This bill ensures that the data collected by the CPUC considers the reality of access in each household. Despite what opponents might suggest, there will be no infringement on state or federal rights to privacy. Reporting this data is foundational to identifying and eliminating the barriers that keep Californians disconnected from essential broadband service.

ARGUMENTS IN OPPOSITION: According to the California Cable and Telecommunications Association (CCTA):

> …the bill does not address conflicting federal and state privacy laws that prohibit disclosure in the first place. Moreover, the bill has no overall restriction on how the CPUC may use the subscriber PII – in stark contrast to state privacy laws that allow transfer of PII to a third party only if consumers are informed, provide written consent, and are given an option to opt out, among other requirements.

ASSEMBLY FLOOR: 71-0, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong,

Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Berman, Mia Bonta, Kalra, Mayes, Nguyen, O'Donnell, Blanca Rubio

Prepared by: Sarah Smith / E., U. & C. / (916) 651-4107
8/10/22 14:12:35

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

SENATE RULES COMMITTEE AB 2763
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2763
Author: Kalra (D)
Amended: 8/2/22 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 17-0, 6/28/22
AYES: Newman, Bates, Allen, Archuleta, Becker, Cortese, Dahle, Dodd, Hertzberg, Limón, McGuire, Melendez, Min, Rubio, Skinner, Wieckowski, Wilk

ASSEMBLY FLOOR: 75-0, 5/25/22 - See last page for vote

SUBJECT: Santa Clara Valley Transportation Authority: job order contracting

SOURCE: Santa Clara Valley Transportation Authority

DIGEST: This bill authorizes the Santa Clara Valley Transportation Authority (VTA) to enter into job order contracts (JOCs).

Senate Floor Amendments of 8/2/22 revise a provision of this bill to further clarify that VTA may only enter into a JOC if it is subject to the project labor agreement between VTA and the Santa Clara and San Benito Counties Building and Construction Trades Council, as specified.

ANALYSIS:

Existing law:

1) Requires, pursuant to the Local Agency Public Construction Act (LAPC Act), local officials to invite bids for construction projects and then award contracts to the lowest responsible bidder under the traditional design-bid-build project delivery system.

2) Authorizes certain state and local agencies to enter into JOCs, including counties, school districts, community college districts, the California State University, and the Department of Transportation (Caltrans) through the Clean California State Beautification Program of 2021, as specified.

3) Creates VTA with various duties relative to transportation projects, planning and services, and the operation of public transit in the County of Santa Clara.

This bill:

1) Stipulates findings and declarations related to the use of JOCs and its benefits for accelerated completion of projects and cost savings.

2) Defines "job order contract" to mean an indefinite-quantity contract for repair, remodeling, or other repetitive work to be done according to unit prices.

3) Defines "typical work" to mean a work description applicable universally or applicable to a large number of individual projects, as distinguished from work specifically described with respect to an individual project.

4) Defines "unit price" to mean the amount paid for a single unit of an item of work.

5) Authorizes VTA to enter into a JOC on a competitive basis for repair, remodeling, or other repetitive work.

6) Prohibits VTA from entering into a JOC for work that is protected by collective bargaining agreements.

7) Prohibits VTA from entering into a JOC for new construction.

8) Stipulates that VTA can enter into JOCs only if the JOC and the task orders within them, is subject to the project labor agreement (PLA) between VTA and the Santa Clara and San Benito Counties Building and Construction Trades Council, unless otherwise exempted by that PLA.

9) Prohibits a single JOC from exceeding $5 million in the first term of the JOC and, if extended or renewed, $10 million over the maximum of two extended terms of the JOC.

10) Allows VTA to execute a JOC for an initial contract term of no more than 12 months, with the option of extending or renewing the JOC for two additional 12-month periods, as specified.

11) Requires VTA, if it uses the JOC authority, on or before January 1, 2027, to submit to the Legislature a report on the use of JOCs. Requires the report to include, but not be limited to, all of the following: a description of the VTA's system for evaluating JOC bids for award of contracts, including, but not limited to, the criteria used by the VTA to determine a qualified and responsive

job order contractor; a description of each JOC awarded and the contractor awarded the contract; and an assessment of the use of JOC.

12) Contains a sunset date of January 1, 2028.

Comments

1) *Purpose of this bill.* According to the author, "Job order contracting (JOC) can reduce procurement time and costs associated with putting projects to bid. It is typically used for unplanned, but foreseeable maintenance projects. By authorizing JOC for VTA, AB 2763 will increase efficiency and accelerate the completion of smaller projects, allowing VTA facilities to remain in a state of good repair for the benefit of its riders."

2) *Who is VTA?* The Santa Clara County Transit District was created through state legislation in 1969, SB 49 (Alquist and Bradley, Chapter 180, Statutes of 1969), to provide public transit service for the communities of Santa Clara County. On December 1, 1994, VTA became the congestion management agency in Santa Clara County, responsible for countywide transportation planning and funding and for managing the county's blueprint to reduce congestion and improve air quality. On January 1, 2000, AB 1650 (Committee on Transportation, Chapter 724, Statutes of 1999), changed VTA's name.

   VTA is an independent special district that provides bus, light rail, and paratransit services, as well as participates as a funding partner in regional rail service including Caltrain, Capital Corridor, and the Altamont Corridor Express (ACE). As the county's congestion management agency, VTA is responsible for countywide transportation planning, including congestion management, design and construction of specific highway, pedestrian, and bicycle improvement projects, as well as promotion of transit oriented development.

   VTA provides these services throughout the county, including the cities of Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga and Sunnyvale.

3) *What is Job Order Contracting?* A JOC is a competitively bid, fixed price, indefinite quantity contract for the performance of minor construction, as well as the renovation, alteration, painting, and repair of existing public facilities. A JOC is generally a multi-year contract that includes a base year and multiple "option years," and is awarded before the awarding agency has identified specific work that it needs the contractor to perform. A typical JOC involves a

variety of tasks such as roofing, electrical work, plumbing, and painting that are required for all of a public agency's buildings for a period of years.

A JOC is a fixed price agreement in that it is based upon specified charges contained in a Unit Price Book (UPB), which is prepared by the public agency or by independent commercial sources. The UPB sets forth detailed repair and construction tasks, including task descriptions, specifications, units of measurement, and unit prices for each task. Unit price refers to the amount paid for a single unit of an item of work. A contractor's bid is expressed in terms of a percentage of the specified UPB charges. The UPB is then used to determine the costs of each proposed project during the term of the contract. As an example, if a procuring agency's per unit catalog price for an HVAC installation is $1,000, and a contractor submits a bid to do that work with an adjustment factor of 1.13, the contractor is agreeing to install the HVAC for $1,130.

The total JOC value may be specified as a range with a certain guaranteed minimum. The award of annual contracts on a unit price basis enables what would otherwise be multiple separately-bid projects to be combined into one bid. This contracting method is intended to reduce costs and accelerate completion of smaller projects. It is not generally viewed as an appropriate method of contracting for large, complex construction projects that require extensive or innovative design or are likely to encounter changes and revisions during construction. JOCs are typically used for well-defined, recurring or repetitive work where quick execution is essential, not for single larger projects.

4) *Job order contracting in California.* The Legislature has authorized multiple agencies to use job order contracting, some state and some local, including counties, school districts, community college districts, and the California State University system. California counties have enjoyed the authority to use job order contracting since 1983. Counties may award annual JOCs of up to $3 million, adjusted annually to reflect the California CPI, to the lowest responsible bidder or using best value (for specified counties).

   Last year, as part of the 2021-2022 State Budget, the Legislature authorized Caltrans to use JOC, but the authority is limited to the new Clean California Beautification Program. The Administration recently submitted a trailer bill proposal, as part of the Governor’s May Revision, to expand JOC for all Caltrans work.

5) *VTA wants to join the club.* AB 2763 authorizes VTA to enter into JOCs with the lowest responsible and responsive bidder for repair, remodeling, or other repetitive work. VTA may execute a JOC for an initial contract term of no

more than 12 months, with the option of extending or renewing the JOC for two additional 12-month periods, if mutually agreed to by VTA and the contractor.

The maximum total dollar amount that may be awarded under a single JOC shall not exceed $5 million in the first term of the JOC and, if extended or renewed, $10 million over a maximum of two extended terms. Additionally, this bill prohibits VTA from entering into a JOC for new construction, and requires the JOC to specify that its term will not exceed the contract term or the date that the maximum value of the contract is achieved, whichever is earlier.

Related/Prior Legislation

AB 2039 (L. Rivas, 2022) authorizes the Los Angeles County Metropolitan Transportation Authority to enter into JOCs. The bill was held in the Senate Transportation Committee.

SB 1366 (McGuire, 2022) authorizes the Department of General Services to engage in job order contracting as an alternative procurement procedure for certain public works projects, until July 1, 2027. The bill was put on the Senate Inactive file.

AB 149 (Assembly Budget Committee, Chapter 81, Statutes of 2021), among other things, authorized Caltrans to utilize job order contracting for the Clean California Beautification Program of 2021, as specified.

AB 846 (Low, Chapter 303, Statutes of 2021) extended the authorization from to January 1, 2027, for job order contracting for school districts and community college districts.

SB 793 (Hill, Chapter 627, Statutes of 2017) allowed specified counties to use the best value construction contracting method to award JOCs for up to $3 million, adjusted for inflation.

SB 744 (Hughes, Chapter 431, Statutes of 1997) increased the annual maximum contract amount that counties may award for county JOCs from $1 million to $3 million.

AB 680 (La Follette, Chapter 164, Statutes of 1983) authorized counties to award annual JOCs of up to $1 million.

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

SUPPORT: (Verified 8/1/22)

Santa Clara Valley Transportation Authority (source)

OPPOSITION: (Verified 8/1/22)

None received

ARGUMENTS IN SUPPORT: According to VTA, the sponsors of the bill, "JOC is a project delivery method designed to accelerate the completion of smaller maintenance projects at lower costs by streamlining some of the requirements of the contracting process without compromising quality, the integrity of the bidding process or compliance with labor laws. In this regard, AB 2763 would speed the delivery of certain maintenance activities that VTA contracts firms to deliver, related to the maintenance of its facilities, including its light rail system, to ensure they remain in a state of good repair."

ASSEMBLY FLOOR: 75-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Mayes, O'Donnell

Prepared by: Melissa White / TRANS. / (916) 651-4121
8/3/22 14:50:41

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

SENATE RULES COMMITTEE AB 2766
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2766
Author: Maienschein (D)
Amended: 6/21/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-2, 6/14/22
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Stern, Wieckowski, Wiener
NOES: Borgeas, Jones

ASSEMBLY FLOOR: 47-19, 5/23/22 - See last page for vote

SUBJECT: Unfair Competition Law: enforcement powers: investigatory subpoena

SOURCE: City and County of San Francisco
City of San Diego
County of Los Angeles
County of Santa Clara

DIGEST: This bill grants certain city attorneys and county counsel the power to conduct investigations, including the ability to issue pre-litigation subpoenas, when they reasonably believe there has been a violation of California's Unfair Competition Law.

ANALYSIS:

Existing law:

1) Permits the head of each department to make investigations and prosecute actions concerning:

   a) all matters relating to the business activities and subjects under the jurisdiction of the department;
   b) violations of any law or rule or order of the department; and

c) such other matters as may be provided by law. (Gov. Code § 11180.)

2) Authorizes the heads of each department to carry out specified acts in connection with any authorized investigation or action, including:

   a) issue subpoenas for the attendance of witnesses and the production of documents and other materials;
   b) inspect and copy books, records, and other items described above;
   c) hear complaints;
   d) administer oaths;
   e) certify to all official acts;
   f) promulgate interrogatories pertinent or material to any inquiry, investigation, hearing, proceeding, or action; and
   g) present information or evidence obtained or developed from the investigation of unlawful activity to a court or at an administrative hearing in connection with any action or proceeding. (Gov. Code § 11181.)

3) Grants all those powers granted to the Attorney General as head of a department pursuant to Government Code Section 11180 et seq. to the district attorney of any county when the district attorney reasonably believes that there may have been a violation of (1) California's Unfair Competition Law ("UCL"), Business and Professions Code Section 17200 et seq.; (2) Business and Professions Code Section 16720 et seq.; (3) Business and Professions Code Section 16750 et seq.; or (4) Business and Professions Code Section 17000 et seq. These powers are subject to the provisions of the California Right to Financial Privacy Act, Government Code Section 7460 et seq., and must be conducted in accordance with the procedures set forth in Government Code Section 11180 et seq., including all applicable principles relating to immunity from self-incrimination. (Bus. & Prof. Code § 16759.)

4) Defines "unfair competition" to mean and include any unlawful, unfair, or fraudulent business act or practice and any unfair, deceptive, untrue, or misleading advertising, and any act prohibited by the False Advertising Law, Business and Professions Code section 17500 et seq. (Bus. & Prof. Code § 17200.)

5) Provides that any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction. (Bus. & Prof. Code § 17203.)

6) Requires actions for relief pursuant to the UCL be prosecuted exclusively in a court of competent jurisdiction and only by the following:

   a) the Attorney General;
   b) a district attorney;
   c) a county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance;
   d) a city attorney of a city having a population in excess of 750,000;
   e) a county counsel of any county within which a city has a population in excess of 750,000;
   f) a city attorney in a city and county;
   g) a city prosecutor in a city having a full-time city prosecutor in the name of the people of the State of California upon their own complaint or upon the complaint of a board, officer, person, corporation, or association with the consent of the district attorney; or
   h) a person who has suffered injury in fact and has lost money or property as a result of the unfair competition. (Bus. & Prof. Code § 17204.)

This bill:

1) Grants all those powers granted to the Attorney General as head of a department pursuant to Government Code section 11180 et seq. to the city attorney of any city having a population in excess of 750,000, to the county counsel of any county within which a city has a population in excess of 750,000, or to a city attorney of a city and county, when the city attorney or county counsel reasonably believes that there may have been a violation of the UCL. This bill subjects the use of such powers to the provisions of the California Right to Financial Privacy Act, Government Code section 7460 et seq.

2) Requires any investigation carried out pursuant to the powers this bill creates to be conducted in accordance with the procedures set forth in Government Code section 11180 et seq., including all applicable principles relating to immunity from self-incrimination. It provides that Business and Professions Code section 16758 shall not be construed as providing automatic immunity with respect to the subject of a subpoena issued in connection with that investigation. Relevant court orders must be sought in the superior court of the county in which the city attorney or county counsel seeking the order holds office.

3) Provides that if the recipient of such subpoena object to the request in whole or in part, the recipient must serve objections and meet and confer with the issuer

of the subpoena in an attempt to address those objections. If after meeting and conferring, the issuer and recipient cannot reach agreement, the recipient may petition the superior court for an order quashing or modifying the subpoena in whole or in part.

Background

Unfair business practices encompass fraud, misrepresentation, and oppressive or unconscionable acts or practices by businesses, often against consumers. In California, individuals and specified governmental agencies are authorized to bring civil actions for unfair competition and to recover civil penalties or injunctive relief pursuant to the Unfair Competition Law (UCL), Business and Professions Code Section 17200 et seq.

Among the agencies authorized to bring such actions are city attorneys of cities with populations in excess of 750,000, county counsel of any county within which a city has a population in excess of 750,000, and city attorneys of a city and county.

The Government Code authorizes the Attorney General, and all other heads of state departments, to investigate and prosecute actions concerning certain matters, and empowers them with certain investigatory tools, including pre-litigation subpoena power. Although certain county counsel and city attorneys can bring UCL actions, they are not currently afforded the same tools as the Attorney General and district attorneys in investigating possible unfair competition cases. These powers allow prosecutors to more efficiently investigate and prosecute UCL actions.

This bill amends Section 16759 to extend these same investigatory powers to the other prosecutors authorized to bring UCL claims when they reasonably believe that a violation of the UCL has occurred.

This bill is sponsored by the City and County of San Francisco, the County of Santa Clara, the County of Los Angeles, and the City of San Diego. It is supported by a variety of other groups and offices, including Attorney General Rob Bonta and the California Labor Federation. It is opposed by the Civil Justice Association of California.

Comments

Current law authorizes the heads of each state department to make investigations and prosecute actions concerning matters relating to the business activities and

subjects under their jurisdiction; violations of any law or rule or order of the department; and such other matters as may be provided by law. In order to effectuate these investigations and actions, the law provides the heads of these departments certain powers. Among the powers is the ability to promulgate interrogatories; the ability to issue subpoenas for the attendance of witnesses and the production of certain documents, testimony, or other materials; and the ability to inspect and copy those same documents and materials.

In order to facilitate their investigation of certain misconduct, including violations of the UCL, district attorneys are granted the investigative powers discussed above by Section 16759 of the Business and Professions Code. Their use of these powers is still subject to certain safeguards. In particular, district attorneys' investigations under this section must abide by the procedures laid out in the Government Code and are subject to the California Right to Financial Privacy Act.

City attorneys of cities with populations in excess of 750,000 and city attorneys of a city and county may bring UCL actions without seeking consent. Currently, the City and County of San Francisco is the only consolidated city-county in California, a status it has held since 1856. Thus, in practice, San Francisco is the only public entity that is affected by the statutory provisions granting authority to a city attorney of a city and county to bring unfair competition actions. Currently, the only city attorneys granted authority to bring actions under the UCL based on population are those in San Jose, San Diego, and Los Angeles.

Recently, SB 461 (Cortese, Chapter 140, Statutes of 2021) extended the authority to bring these cases independently to county counsel of any county within which a city has a population in excess of 750,000. Currently this provides authority to three county counsel in California, those in San Diego County, Los Angeles County, and Santa Clara County, as the cities of San Diego, Los Angeles, and San Jose have populations over 750,000.

This bill extends the same powers granted to department heads and the district attorneys to the city attorneys and county counsel that are already authorized to bring UCL claims when they reasonably believe that there may have been a violation of the UCL.

According to the author:

> AB 2766 will close the existing gap in the law by providing those city attorneys and county counsels who already have full authority to

> independently bring UCL actions with the same investigative tools as their counterparts, subject to the limitations that already apply under existing law. Specifically, AB 2766 amends Business & Professions Code section 16759—which currently provides district attorneys with pre-litigation investigatory authority for potential UCL actions—to expressly provide city attorneys and county counsels in large jurisdictions with the same pre-litigation investigative authority for UCL actions. AB 2766 will bolster the ability of local governments to protect consumers and ensure fair competition among businesses by providing city attorneys and county counsels with the tools necessary to effectively investigate potential violations of the UCL.

Concerns were raised that these prosecutors will be able to issue subpoenas that hang over businesses unable to do anything about them until the prosecuting entity moves to compel in court. In response, recent amendments provide a process for recipients of such subpoenas to object and thereafter meet and confer with the issuing agency. Ultimately, if agreement cannot be reached, the recipient is authorized to move the court to quash or modify the subpoena.

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

SUPPORT: (Verified 6/21/22)

City and County of San Francisco (co-source)
City of San Diego (co-source)
County of Los Angeles (co-source)
County of Santa Clara (co-source)
Attorney General Rob Bonta
Bet Tzedek Legal Services
California Conference Board of the Amalgamated Transit Union
California Conference of Machinists
California Environmental Voters
California Labor Federation
California State Legislative Board of the SMART – Transportation Division
California Teamsters Public Affairs Council
City of San Jose
Consumer Attorneys of California
Consumer Federation of California
Earthjustice
Engineers and Scientists of California, Local 20, IFPTE, AFL-CIO
Los Angeles City Attorney Michael Feuer

Oakland Privacy
Public Rights Project
SEIU California State Council
UFCW Western States Council
Unite-Here
University Council-AFT

OPPOSITION: (Verified 6/21/22)

Civil Justice Association of California

ARGUMENTS IN SUPPORT: Oakland Privacy writes:

"By expanding the investigatory powers offered under the Unfair Competition Law to city attorneys in significantly sized cities and to county counsels, AB 2766 increases the capacity of California's public agencies to gather evidence regarding unfair and anti-competitive practices on behalf of impacted consumers and businesses.

This is a common sense change to improve the functioning of an existing California law, reduce workload for California's district attorneys and make sure that cases brought under the UCL by local governments are as thoroughly investigated as possible."

ARGUMENTS IN OPPOSITION: The Civil Justice Association of California writes:

"The authority being granted under AB 2766 can be used against anyone at any time from the largest of corporations to the most struggling of nonprofits and small businesses as this power applies broadly to any "person," defined as "all natural persons, corporations, firms, partnerships, joint stock companies, associations and other organizations of persons."2 This will make businesses vulnerable to baseless fishing expeditions and political maneuvers, as standard necessary to issue a pre-litigation subpoena is disturbingly low, lacking guardrails to ensure the authority is not misused."

ASSEMBLY FLOOR: 47-19, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cunningham, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes,

McCarty, Medina, Mullin, Muratsuchi, Nazarian, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon

NOES: Bigelow, Chen, Choi, Megan Dahle, Davies, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Quirk-Silva, Salas, Seyarto, Smith, Valladares, Voepel, Waldron

NO VOTE RECORDED: Berman, Mia Bonta, Cooper, Daly, Flora, Gray, Grayson, O'Donnell, Petrie-Norris, Rodriguez, Blanca Rubio, Wilson

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
6/22/22 14:51:34

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

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

THIRD READING

Bill No: AB 2771
Author: Friedman (D), et al.
Amended: 6/13/22 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-2, 6/22/22
AYES: Allen, Eggman, Gonzalez, Skinner, Stern
NOES: Bates, Dahle

SENATE HEALTH COMMITTEE: 8-1, 6/29/22
AYES: Pan, Eggman, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NOES: Grove
NO VOTE RECORDED: Melendez, Gonzalez

ASSEMBLY FLOOR: 51-13, 5/26/22 - See last page for vote

SUBJECT: Cosmetic products: safety

SOURCE: Breast Cancer Prevention Partners
CALPIRG
Environmental Working Group

DIGEST: This bill prohibits, beginning January 1, 2025, a person or entity from manufacturing or offering for sale in commerce any cosmetic product that contains intentionally added perfluoroalkyl and polyfluoroalkyl substances.

ANALYSIS:

Existing law:

1) Requires, under the Safer Consumer Products statutes, the Department of Toxic Substances Control (DTSC) to adopt regulations to establish a process to identify and prioritize chemicals or chemical ingredients in consumer products that may be considered chemicals of concern, as specified. (Health and Safety Code (HSC) § 25252)

2) Establishes the Safer Consumer Products (SCP) Program and requires DTSC to adopt regulations to establish a process to evaluate chemicals of concern in consumer products, and their potential alternatives, to determine how to best limit exposure or to reduce the level of hazard posed by a chemical of concern. (HSC § 25252 et seq.)

3) Specifies, but does not limit, regulatory responses that DTSC can take following the completion of an alternatives analysis, ranging from no action, to a prohibition of the chemical in the product. (HSC § 25253)

4) Prohibits, commencing January 1, 2025, any person or entity from manufacturing, selling, delivering, holding, or offering for sale in commerce any cosmetic product that contains a number of intentionally added ingredient, including the following long-chain per- and polyfluoroalkyl substances (PFAS) and their salts: perfluorooctane sulfonate (PFOS); perfluorooctanoic acid (PFOA); perfluorononanoic acid (PFNA); and, perfluorodecanoic acid (PFDA). (HSC § 108980)

5) Requires, under the California Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65), the Governor to publish a list of chemicals known to cause cancer or reproductive toxicity and to annually revise the list. The Office of Environmental Health Hazard Assessment (OEHHA) has listed PFOA and PFOS, which are members of the PFAS class, as chemicals known to the state to cause developmental toxicity. (HSC § 25249.8)

6) Prohibits, on and after July 1, 2023, a person, including, but not limited to, a manufacturer, from selling or distributing in commerce in this state any new, not previously owned, juvenile product that contains regulated PFAS chemicals. (HSC § 108946)

7) Prohibits, commencing on January 1, 2023, a person from distributing, selling, or offering for sale in the state any food packaging that contains regulated PFAS. (HSC § 109000)

This bill:

1) Defines, for the purposes of this legislation:

   a) “Cosmetic product” to mean an article for retail sale or professional use intended to be rubbed, poured, sprinkled, sprayed on, introduced into, or otherwise applied to the human body for cleaning, beautifying, promoting attractiveness, or altering the appearance.

b) "Perfluoroalkyl and polyfluoroalkyl substances" as a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

c) "Intentionally added PFAS" as either:

i) PFAS chemicals that a manufacturer has intentionally added to a product and that have a functional or technical effect on the product; or

ii) PFAS chemicals that are intentional breakdown products of an added chemical.

2) Prohibits, beginning January 1, 2025, any person or entity from manufacturing, selling, delivering, holding, or offering for sale in commerce any cosmetic product that contains intentionally added PFAS.

Background

1) *Perfluoroalkyl and polyfluoroalkyl substances (PFAS).* PFAS are a class of man-made chemical compounds that contain multiple fluorine atoms bonded to a single carbon atom. These carbon-fluorine bonds are extremely stable and chemically unreactive, which makes PFAS very useful in creating long-lasting and resistant products. As such, PFAS have been produced and used in consumer products since the 1940s, often as surface coatings to repel water, dirt, oil, and grease. They have been used in food packaging, stain- and water-repellent fabrics, nonstick products such as Teflon, and in fire-fighting foams.

   Unfortunately, PFAS' stability also means that these compounds are resistant to being metabolized by organisms or otherwise degraded and so have slowly built up in the environment. Their chemical properties also make many PFAS highly mobile – able to travel long distances, move through soil, seep into groundwater, or be carried through the air far from their point of production or use. These factors combined with their widespread use have made PFAS so ubiquitous that almost every person on Earth has been exposed to PFAS and scientists have found these toxins in the blood of nearly all people tested.

2) *PFAS, don't you know that you're toxic?* Several PFAS have been shown to bioaccumulate significantly in animals or plants and emerging evidence points to their phytotoxicity, aquatic toxicity, and terrestrial ecotoxicity. The Agency for Toxic Substances and Disease Registry (ATSDR) and the US EPA developed the toxicologic profile of 14 PFAS chemicals. Based on a number of factors, including the consistency of findings across studies, the available epidemiology studies suggest associations between perfluoroalkyl exposure and several adverse health effects, including liver damage, increased risk of thyroid

disease, decreased antibody response to vaccines, increased risk of asthma, risk of decreased fertility, and small decreases in birth weight.

3) *PFAS are a diverse class of chemical compounds*. Because PFAS have been so industrially useful, many different types of PFAS have been created. As of September 2020, more than 9,000 PFAS chemicals were included in the United States Environmental Protection Agency's (US EPA's) Master List of PFAS Substances. Each one has variations in their chemical properties, but all share a resistance to chemical reactivity and to environmental and biological degradation. Perfluorooctanesulfonic acid (PFOS), used to create Teflon, and perfluorooctanoic acid (PFOA), previously used in Scotchgarde, have been the most extensively studied.

   Because of extensive research demonstrating the health risks of these PFAS have been phased out of production and replaced with new PFAS touted as safer alternatives based on the idea that they linger for a shorter time in human bodies. Unfortunately, further research has shown that many of these alternatives are associated with similar adverse health effects as the original PFAS and can travel even more easily in the environment.

4) *To meaningfully regulate PFAS they must be treated as a chemical class*. Performing a complete assessment of the health impacts of all 9,000 PFAS is impractical. As such, DTSC has adopted a rationale for regulating PFAS chemicals as a class, concluding, "it is both ineffective and impractical to regulate this complex class of chemicals with a piecemeal approach." This rationale was presented in the February, 2021, Environmental Health Perspectives article, "Regulating PFAS as a Chemical Class under the California Safer Consumer Products Program." The authors of the article state, "The widespread use, large number, and diverse chemical structures of PFAS pose challenges to any sufficiently protective regulation, emissions reduction, and remediation at contaminated sites. Regulating only a subset of PFAS has led to their replacement with other members of the class with similar hazards, that is, regrettable substitutions… Regulating PFAS as a class is thus logical, necessary, and forward-thinking."

5) *PFAS are widely used in cosmetics.* PFAS are employed in cosmetics for a variety of purposes, including their film-forming ability, increased product durability and spreadability, and weather resistance. The water-repellant properties of PFAS (also known as hydrophobicity) add to their utility in emulsions, lubricants, and waterproof foundations and mascaras. In a 2021 study, scientists analyzed 231 cosmetic products from the United States and

Canada for total fluorine content. They found that foundations, eye products, mascaras, and lip products, typically those marketed as "wear-resistant" or "long-lasting", had the highest levels of fluorine. To further assess whether these high-fluorine products contained PFAS, as opposed to other sources of fluorine, the authors selected 29 products and performed additional analytical studies. All 29 products were found to have detectable levels of at least four different PFAS compounds, with a maximum of 13 PFAS detected in a single product. The most commonly used PFAS found in these products were fluorotelomer alcohols (FTOHs), a group of volatile PFAS that are precursors to perfluorinated carboxylic acids which, in turn, are environmentally mobile and may be highly toxic to humans and the environment.

6) *PFAS in cosmetics may be particularly likely to lead to environmental or human exposure.* As cosmetic products are applied directly to the human body, the health risks posed by PFAS in these products are significant. PFAS-containing lipsticks can be ingested with relative ease; PFAS in mascaras can be absorbed via tear ducts; PFAS in creams, lotions, and emulsions may be absorbed by the skin; and, spray-on cosmetics and powders containing PFAS may be inhaled. With personal care products the exposure risks are compounded by their frequent, often daily, application, contributing to greater bioaccumulation. However scientific research into the exposure risk of PFAS from cosmetics is scant, making it difficult to definitively say whether or not PFAS in cosmetics are likely to cause human health problems.

   Another important point of concern is environmental toxicity, especially water contamination. Because personal care products are often washed off, PFAS in cosmetics can easily end up in wastewater. PFAS are difficult to remove during conventional wastewater treatment, leading to carry-over into effluent water and biosolids. Effluent water can then move PFAS into receiving water bodies, such as rivers which may, in turn, serve as drinking water sources for downstream communities. Because PFAS enter the environment at all stages of their lifecycle – manufacture, use, and disposal – and given their mobility, groundwater contamination in the state is thought to be extensive.

Comments

1) *Purpose of Bill.* According to the author, “PFAS, or perfluorinated and polyfluorinated substances, are a class of approximately 12,000 toxic man-made chemicals that can be found in many products, such as nonstick cookware, water repellent clothing, furniture and carpet, and household products, as well as a myriad of industrial materials. Exposure to PFAS has been associated with

a wide range of health concerns, including cancer, reproductive harm, high cholesterol, and reduced immune response and vaccine effectiveness.

"When released into the environment, PFAS do not breakdown, but rather, they persist and are often referred to as "forever chemicals." Because of their ubiquitous use, PFAS are now found in water, soil, foods, and animals. Virtually all people in the United States have PFAS in their bodies, and babies are born with them.

"Disturbingly, these toxicants have, to date, also been identified in drinking water sources serving over 16 million Californians. This puts a tremendous onus on water agencies to address PFAS in waste and drinking water, at great cost and technical complexity. Pollution prevention, such as regulating discharges or limiting sources of PFAS from entering the watershed is the most cost effective and feasible management approach.

"We all use personal care products. But if these products contain PFAS, that PFAS will wash off of us when we bathe, or will enter our bodies and then the watershed. Prohibiting PFAS from being added to cosmetics sold in our state will help to reduce the amount of PFAS that water and sanitation agencies must manage and remove. Such a prohibition would also protect public health."

2) *PFAS in cosmetics are nonessential.* As the public has grown to be more wary of PFAS chemicals and pressure has mounted many companies, including L'Oréal, H&M, Lumene, The Body Shop, and Sephora have been able to quickly phase PFAS out of their products. While PFAS may enhance the effects or durability of certain cosmetics, there are clearly alternatives capable of achieving similar effects. Even if there were not, given that the performance of cosmetic products does not impact human health or is necessary for important services, a reduction in the quality of cosmetics is reasonable to reduce the health and environmental costs of PFAS exposure.

3) *HFOh no!* The definition of PFAS used in California is quite broad and captures a subset of chemicals that do not have the same environmental persistence and tendency to bioaccumulate as the rest of the broader family. In particular, opponents of this bill have singled out hydrofluoroolefins (HFOs) as deserving exemption from this prohibition. HFOs are a newer class of chemicals that were developed in order to facilitate the phasing out of hydrofluorocarbons (HFCs), due to the extremely high global warming potential of HFCs. Depending on the HFC, every ton of HFC released can be equivalent to releasing over 1,000 tons of carbon dioxide, for the purposes of global warming. Because HFOs are less stable than HFCs they break down

faster and actually have global warming potentials similar to CO_2, and so have been touted as a critical technology for reducing greenhouse gas emissions. In cosmetics, HFOs replace HFCs as aerosol propellants in products such as hairspray. The US EPA has identified several HFOs as being acceptable substitutes for refrigerants within a comparative risk framework in the Significant New Alternative Policy Program.

Unfortunately, HFOs carry their own set of environmental problems. Their ready degradation leads to the creation of trifluoroacetic acid (TFA) which can accumulate in marine environments. While research has suggested the current rate of formation of TFA from existing HFOs is small and the impact on human and environmental health is limited, this may not continue to be the case if HFOs become widely used and TFA continues to accumulate. Various groups, including the sponsors of this bill, have expressed concern about building a reliance on a chemical that has a known toxic and persistent degradation product. In particular the German Environmental Agency released a report that found that TFA levels in precipitation are already several times higher than they were 25 years ago and found that HFOs "must be regarded as problematic" and "should be replaced by more sustainable solutions".

The supporters of this bill contend that there are natural alternatives that could be used instead of HFOs that would not have toxic degradation products. The opponents of this bill acknowledge that such alternatives exist but contend that they are not ready for deployment at scale or may not have the same efficacy. Of course, unlike the functioning of heat pumps during a heat wave, performance of cosmetic products is not as critical to human health. Given that California often acts as a leader in environmental protection policy, the usage of HFOs in cosmetics is not critical, and that HFO usage does carry environmental risks, including them in this prohibition seems reasonable.

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

SUPPORT: (Verified 8/1/22)

Breast Cancer Prevention Partners (co-source)
CALPIRG (co-source)
Environmental Working Group (co-source)
100% PURE
Active San Gabriel Valley
Alaska Community Action on Toxics
Alaska Glacial Mud Co.
American College of Obstetricians and Gynecologists District IX

Black Women for Wellness
Brand Geek
Breast Cancer Action
Breast Cancer Over Time
California Association of Sanitation Agencies
California Environmental Voters
California Product Stewardship Council
California Water Association
CALPIRG Students
Center for Environmental Health
Clean Label Project
Clean Production Action
Consumer Federation of California
Dr. Bronner's
East Bay Municipal Utility District
Eco Plum Sustainable Swag
Educate. Advocate.
Environment California
Families Advocating for Chemical and Toxics Safety
Friends Committee on Legislation of California
Green Science Policy Institute
Grove Collaborative
Intelligent I-N
Just the Goods
Los Angeles County Sanitation Districts
Los Angeles Waterkeeper
Metropolitan Water District of Southern California
Naked Poppy
National Association of Environmental Medicine
National Stewardship Action Council
Natural Resources Defense Council
Osea Malibu
Planning and Conservation League
Regional Water Authority
Republic Services Inc.
Samuel Medina, Trustee, San Lorenzo Unified School District
San Francisco Bay Area Chapter Physicians for Social Responsibility
San Francisco Baykeeper
San Francisco Firefighters Cancer Prevention Foundation
Santa Clara Valley Water District

Save Our Shores
Seventh Generation
Sierra Club California
Skin Owl
Sprout San Francisco
The Keep a Breast Foundation
U.S. PIRG
Unilever
Upper San Gabriel Valley Municipal Water District
US Composting Council

OPPOSITION: (Verified 8/3/22)

American Chemistry Council
Household and Commercial Products Association
Personal Care Products Council
Sustainable PFAS Action Network

ARGUMENTS IN SUPPORT: According to the sponsors of this bill, "PFAS are among the most persistent toxic compounds in existence. They are found in the blood of virtually everyone on earth, including newborn babies. Very low doses of PFAS chemicals in drinking water have been linked to increased risk of cancer, reproductive and immune system harm and liver and thyroid disease. PFAS exposure is also linked to interference with vaccines, and is associated with an elevated risk of breast cancer, increased cholesterol and other serious health concerns.

"Despite their well-documented risks, PFAS chemicals are added to many consumer products, including beauty and personal care products. In 2018, Environmental Working Group scientists scoured the Skin Deep database, which contains ingredient lists for more than 85,000 cosmetics, and identified 13 different PFAS compounds used in more than 50 brands. PTFE – a PFAS chemical better known as Teflon – was found in more than 200 different products. In 2021, Clearya reviewed its database of 50,000 beauty and personal care products and found 1,000 cosmetic products, made by 120 brands, that contained PFAS. That same year, the University of Notre Dame tested 231 cosmetics and found that more than half of the products tested contained PFAS. According to this study, more than three-quarters of waterproof mascara, nearly two-thirds of foundations and liquid lipsticks, and more than half of eye and lip products had high fluorine concentrations, indicating the likely presence of PFAS.

"Given the serious impact of PFAS chemicals on public health and the environment, we don't believe that these chemicals should be in the beauty and personal care products millions of Californians use every day. Eliminating intentionally added PFAS from cosmetic products will also reduce the amount of PFAS that flushes down the drain after we bathe or is tossed into landfills."

ARGUMENTS IN OPPOSITION: According to the American Chemistry Council, "The safety of consumers is the highest priority for our member companies, and we applaud Assemblymember Friedman's work on behalf of California consumers of cosmetic products. However, the broad application of the bill captures important tools for cosmetic products that do not represent the attributes of Per- and Polyfluoroalkyl Substances (PFAS) as generally understood.

"HFOs have emerged as a next generation of compounds used in aerosols that is safe for humans and the environment. HFOs bring a very low Global Warming Potential (GWP) and reduce ground level ozone formation, giving them an important role in California's climate and environmental goals. As it relates to PFAS, HFOs are not persistent2, bioaccumulative, or toxic. Indeed, after rigorous review, the US Environmental Protection Agency has deemed HFOs acceptable as it relates to human health and the environment. Furthermore, the California Air Resources Board (CARB) has been regulating the volatile organic compound (VOC) content of consumer products for over 30 years. The HFO-1234ze aerosol propellant is vital for aerosol manufacturers and marketers to have available for compliance with upcoming new VOC limits.

"Unfortunately, AB 2771 would remove these compounds from the cosmetics market. HCPA respectfully requests an amendment to allow the use of HFOs given their role in overall climate ambitions and providing safe products to consumers. Specifically, we have requested AB 2771 exempt HFOs approved by the U.S. EPA as exempt VOCs. This is a very limited universe of compounds, and currently only includes four HFOs in total, two of which have cosmetic applications. The US EPA performs a rigorous safety review prior to placing any compound on this list and compounds are only exempted for specific applications."

ASSEMBLY FLOOR: 51-13, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva,

Ramos, Reyes, Luz Rivas, Robert Rivas, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Cunningham, Megan Dahle, Flora, Fong, Gallagher, Kiley, Lackey, Nguyen, Patterson, Seyarto, Smith, Voepel
NO VOTE RECORDED: Berman, Chen, Choi, Cooper, Davies, Gray, Mathis, Mayes, Medina, O'Donnell, Rodriguez, Blanca Rubio, Valladares, Waldron

Prepared by: Jacob O'Connor / E.Q. / (916) 651-4108
8/3/22 17:03:28

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

SENATE RULES COMMITTEE AB 2780
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2780
Author: Arambula (D)
Amended: 5/5/22 in Assembly
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 4-1, 6/22/22
AYES: Caballero, Durazo, Hertzberg, Wiener
NOES: Nielsen

ASSEMBLY FLOOR: 51-11, 5/12/22 - See last page for vote

SUBJECT: Dissolution of redevelopment agencies: enhanced infrastructure financing districts: City of Selma

SOURCE: City of Selma

DIGEST: This bill allows the City of Selma to form or participate in an enhanced infrastructure financing district (EIFD) if it meets specified conditions.

ANALYSIS:

Existing law:

1) Establishes successor agencies to manage the process of unwinding former redevelopment agencies' (RDAs) affairs, and oversight boards to approve successor agency decisions.

2) Allows the Department of Finance (DOF) to review and request reconsideration of an oversight board's decision.

3) Requires the successor agency to submit specified information on its outstanding assets and obligations, also known as a Recognized Obligation Payment Schedule (ROPS).

4) Allows DOF to issue a finding of completion to a successor agency acknowledging their progress towards paying off their obligations provided that its Final ROPS contains specified information.

5) States that successor agencies that did not receive their finding of completion by December 31, 2015, or did not enter into a written installment payment plan with DOF, were to never receive a finding of completion.

6) Creates EIFDs and allows them to finance public capital facilities or other specified projects of communitywide significance that provide significant benefits to the district or the surrounding community with an estimated useful life of 15 years or more.

7) Allows, in addition to construction costs, EIFDs to finance planning and design work, displacement of affordable housing residents, defending the district against protests over their formation, and the ongoing or capitalized costs to maintain the projects the district finances.

8) Provides that an EIFD is governed by a public financing authority (PFA) with three members of each participating taxing entity's legislative body and a minimum of two public members. Member agencies can also appoint an alternate member from their legislative body. If at least three taxing entities participate in the district, upon agreement of all taxing entities participating, the district's governing board can be reduced to one member and one alternate member of each legislative body and a minimum of two public members.

9) Limits a city or county that created an RDA, as defined, from initiating the creation of an EIFD, or participating in the governance or financing of an EIFD, until each of the following has occurred:

   a) The successor agency for the former RDA created by the city or county has received a finding of completion, as specified.

   b) The city or county certifies to DOF and to the PFA that no former RDA assets that are the subject of litigation involving the state, if the city or county, the successor agency, or the designated local authority are a named plaintiff, have been or will be used to benefit any efforts of an EIFD, unless the litigation and all possible appeals have been resolved in a court of law. The city or county shall provide this certification to DOF within 10 days of its legislative body's action to participate in or form an EIFD, as specified.

c) The State Controller's Office (SCO) has completed its review as required by existing law, and the successor agency and entity that created the RDA have complied with all the SCO's findings and orders stemming from the review.

This bill allows the City of Selma to initiate, participate in, government, or finance an EIFD, if the City of Selma, acting as the successor agency to the former Selma Redevelopment Agency, has:

1) Certified to DOF and the PFA that no former RDA assets are the subject of litigation involving the state, where the city or county, or its successor agency, are a named plaintiff, have been or will be used to benefit any efforts of an EIFD, unless the litigation and all possible appeals have been resolved in court. The city must provide this certification to DOF within 10 days of its legislative body's action to participate in, or initiate formation of an EIFD;

2) Complied with the settlement agreement it has entered into with the state to resolve any RDA dissolution issues;

3) Complied with all SCO findings and orders stemming from its asset transfer review; and

4) Paid its outstanding July true-up payments.

Background

RDA dissolution. One of a successor agency's primary responsibilities is to make payments for the enforceable obligations RDAs entered into. These payments are supported by property tax revenues that would have gone to RDAs, but are instead deposited in a Redevelopment Property Tax Trust Fund (RPTTF). Enforceable obligations include bonds, bond-related payments, some loans, payments required by the federal government, obligations to the state or imposed by state law, payments to RDA employees, judgements or settlements, and other legally binding and enforceable agreements or contracts. Any remaining property tax revenues that exceed these enforceable obligations return to cities, counties, special districts, and school and community college districts to support core services. The amount that these taxing entities receive increases as the successor agency pays off these enforceable obligations. If a successor agency adds additional enforceable obligations, the slower this stream of property tax revenue returns to these taxing entities.

Recognizing that county auditor-controllers were not able to make scheduled payments to affected taxing entities due to the Supreme Court's ruling dissolving RDAs, AB 1484 (Committee on Budget, Chapter 26, Statutes of 2012) required

auditor-controllers to make allocations in addition to the payments already scheduled to affected taxing entities, known as the "July true-up." AB 1484 provided certain steps to make these payments, and provided that, if an auditor-controller failed to send the payment demand to the successor agency by July 9, 2012, DOF or an affected taxing entity could file a writ of mandate to compel the auditor-controller to perform that duty, or be subject to specified penalties. If a successor agency failed to make the payment by July 12, 2012, DOF or any affected taxing entity can file for a writ of mandate to compel the successor agency to make the required payment or be subject to specified penalties, which can also be imposed on the city or county that created the RDA.

City of Selma. The City of Selma is located 16 miles southeast of the City of Fresno in Fresno County. Selma incorporated in 1893 and has a population of approximately 24,000 people. The city had an RDA that completed various economic development projects, including developing an industrial park and renovating the city's downtown. On July 9, 2012, the Fresno County auditor-controller sent the City of Selma's successor agency a letter demanding a July true-up payment of $434,938 by July 12, 2012. On August 27, 2012, DOF sent a letter to Selma saying that they reviewed the material it submitted but did not have the authority to reduce the amount the auditor-controller billed. They also stated they did not intend to pursue either the civil penalties or withhold sales and use tax allocations, but did advise the city that not paying the demand amount would result the city not receiving a finding of completion. Additionally, the SCO has not found that Selma has corrected the findings and orders stemming from its review. Since Selma did not meet these conditions, it cannot form or join an EIFD.

Comments

1) *Purpose of the bill.* According to the author, "Barring cities and counties who missed deadlines codified nearly a decade ago from ever forming an enhanced infrastructure financing district, even if they have since dispensed of assets as ordered and no longer have outstanding debts, has had an irreversible punitive impact on some of California's most disadvantaged communities. AB 2780 allows the City of Selma to establish an enhanced infrastructure financing district contingent upon re-engagement in good faith to address outstanding assets, debts, or bonds of redevelopment agencies created by the City. By allowing formation of EIFDs if specific conditions are met, this bill provides the City of Selma with additional tools to fund housing construction, social services centers, and climate resilience projects."

2) *Late bird gets the worm?* RDA dissolution law is explicit that successor agencies who did not receive their Finding of Completion by December 31, 2015, were never to receive one. In August 2012, DOF notified the City of Selma that failing to remit its July true-up payment would preclude the city from receiving a finding of completion, which meant it would not have the benefits that came along with it. Despite the warning, the City of Selma never made the payment. Importantly, AB 2780 does not grant Selma a finding of completion, and all the benefits that go along with it. Instead, it allows the city to participate in an EIFD without a finding of completion, but only if it meets all the same conditions as the cities that did receive one. The Legislature may wish to consider whether the City of Selma should enjoy the benefit of forming an EIFD given it missed the statutory deadline to receive a finding, pursued litigation against the State, still has not made its July true-up payment (although it has indicated it is willing to do so), has not complied with SCO asset transfer review findings, and the precedent it would set for the remaining eight successor agencies without a finding of completion.

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

SUPPORT: (Verified 6/23/22)

City of Selma (source)
California Association for Local Economic Development
County of Fresno
Fresno Council of Governments

OPPOSITION: (Verified 6/23/22)

Howard Jarvis Taxpayers Association

ASSEMBLY FLOOR: 51-11, 5/12/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Villapudua, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Choi, Megan Dahle, Fong, Gallagher, Mathis, Nguyen, Seyarto, Smith, Voepel, Waldron

NO VOTE RECORDED: Boerner Horvath, Chen, Cunningham, Davies, Flora, Gray, Grayson, Kiley, Lackey, Lee, Patterson, Petrie-Norris, Quirk-Silva, Blanca Rubio, Valladares, Ward

Prepared by: Jonathan Peterson / GOV. & F. / (916) 651-4119
6/24/22 12:51:24

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

SENATE RULES COMMITTEE AB 2798
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2798
Author: Fong (R)
Amended: 6/28/22 in Senate
Vote: 27 - Urgency

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/22/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 74-0, 5/23/22 - See last page for vote

SUBJECT: Freight: development projects

SOURCE: Author

DIGEST: This bill prohibits a local agency, until January 1, 2024, from denying a permit for a short-term freight transportation use under specified circumstances.

ANALYSIS:

Existing law:

1) Allows cities and counties to "make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws." It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public—including land use authority.

2) Establishes various laws to streamline the construction of housing, including:
   a) The Permit Streamlining Act;
   b) The Housing Accountability Act; and
   c) The Housing Crisis Act of 2019.

This bill:

1) Prohibits a local agency, until January 1, 2024, from denying a permit for a short-term freight transportation use, as defined, that is submitted by a developer on a parcel if the proposed use is in conformity with all applicable plans, programs, and ordinances, among other things, that apply to the land, solely because the developer has a pending development application, or is concurrently submitting a development application, for a freight transportation project on that land.

2) Restricts the application of its provisions to land zoned for industrial or agricultural uses, subject to specified conditions, as of the date of the application submission.

3) Provides that:
   a) No actions, ministerial or discretionary, are authorized, required, or directed by the bill to a local agency other than those permitting requirements imposed by other applicable law.
   b) This bill does not supersede any other local, state, and federal laws applicable to short-term freight transportation uses except as specifically provided.

Background

Supply chain challenges. According to a recent publication by the Legislative Analyst's Office, "In order for businesses to produce and deliver goods and services to the consumer, goods must be transported from one place to another. Businesses often use ports, freight rail, and commercial trucks to move goods across international and state lines. For example, about 40 percent of U.S. imports and 25 percent of U.S. exports pass through the Ports of Los Angeles and Long Beach, which are both situated on San Pedro Bay…. In recent months, ports have experienced higher than normal levels of congestion. This is in part due to greater consumer demand for goods, which has resulted in a record volume of cargo at many ports. For example, in 2021, the San Pedro Bay ports processed 14.3 percent more cargo than in 2018. As a result, there is a growing backlog of ships waiting to offload and pick up goods at ports… Across all goods and services purchased by U.S. consumers, prices have risen by 7 percent over the past year, a considerably faster rate than recent history. Rising consumer prices primarily arise from a surge in the amount of goods consumers want to buy met with businesses struggling to produce and deliver those goods. One result of this dynamic is a dramatic increase in ocean freight costs, which businesses may pass on to consumers through higher

prices. Port congestion appears to be a key driver of rising freight costs. Port congestion also may reduce the availability of some goods to retailers, which could increase the prices of some consumer goods."

The author wants to streamline the development of certain freight transportation uses.

Comments

Purpose of this bill. According to the author, "Assembly Bill 2798 is an immediate solution to remove congestion at the ports and improve California's freight transportation infrastructure. The supply chain crisis caused an unforeseeable disruption of our economy, and this bill will establish short-term permit and planning streamlining which will expand California's capacity to get our supply chain back on track."

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

SUPPORT: (Verified 8/3/22)

California Association of Port Authorities
Pacific Merchant Shipping Association
Port of Stockton

OPPOSITION: (Verified 8/3/22)

None received

ASSEMBLY FLOOR: 74-0, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Berman, Mia Bonta, O'Donnell, Blanca Rubio

Prepared by: Anton Favorini-Csorba / GOV. & F. / (916) 651-4119
8/3/22 14:38:30

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

SENATE RULES COMMITTEE AB 2799
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2799
Author: Jones-Sawyer (D)
Amended: 8/9/22 in Senate
Vote: 27

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/14/22
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

ASSEMBLY FLOOR: 61-0, 5/5/22 (Consent) - See last page for vote

SUBJECT: Evidence: admissibility of creative expressions

SOURCE: Author

DIGEST: This bill requires the court, in a criminal trial or proceeding where any party seeks to admit a form of creative expression as evidence, to hold a hearing outside the presence of the jury to determine the question of admissibility considering specified factors.

Senate Floor Amendments of 8/9/22 clarify that the evidence of creative expressions must be relevant to the issues in the case before the court is required to consider the specified factors.

ANALYSIS:

Existing law:

1) States that only relevant evidence is admissible, and except as otherwise provided by statute, all relevant evidence is admissible. (Evid. Code §§ 350, 351.)

2) Provides that relevant evidence shall not be excluded in any criminal proceeding, including pretrial and post-conviction motions and hearings, or in any trial or hearing of a juvenile for a criminal offense, whether heard in juvenile or adult court, subject to the existing statutory role of evidence relating

to privilege or hearsay, or inadmissibility. (Cal. Const., Art. I, § 28, as adopted June 8, 1982.)

3) Defines "relevant evidence" means evidence, including evidence relevant to the credibility of a witness or hearsay declarant, having any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action. (Evid. Code § 210.)

4) States that, except as provided, evidence of a person's character or a trait of their character (whether in the form of an opinion, evidence of reputation, or evidence of specific instances of his or her conduct) is inadmissible when offered to prove his or her conduct on a specified occasion. (Evid. Code § 1101, subd. (a).)

5) Provides that the above prohibition does not prohibit the he admission of evidence that a person committed a crime, civil wrong, or other act when relevant to prove some fact (such as motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or accident, or whether a defendant in a prosecution for an unlawful sexual act or attempted unlawful sexual act did not reasonably and in good faith believe that the victim consented) other than his or her disposition to commit such an act. (Evid. Code § 1101, subd. (b).)

6) Authorizes a court in its discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will (a) necessitate undue consumption of time or (b) create substantial danger of undue prejudice, of confusing the issues, or of misleading the jury. (Evid. Code § 352.)

7) Specifies a process whereby the question of the admissibility of evidence may be heard by the court outside the presence and hearing of the jury if any party so requests. (Evid. Code § 402, subd. (b).)

This bill:

1) Requires a court, in a criminal proceeding where a party seeks to admit as evidence a form of creative expression, to consider the following, in addition to other existing factors, when balancing the probative value of that evidence against the substantial danger of undue prejudice:

    a) The probative value of such expression for its literal truth or as a truthful narrative is minimal unless that expression is created near in time to the charged crime or crimes, bears a sufficient level of similarity to the charged

crime or crimes, or includes factual detail not otherwise publicly available; and,

b) Undue prejudice includes, but is not limited to, the possibility that the trier of fact will, in violation of existing provisions of law, treat the expression as evidence of the defendant's propensity for violence or general criminal disposition as well as the possibility that the evidence will explicitly or implicitly inject racial bias into the proceedings.

2) States that if proffered and relevant to the issues in the case, the court shall consider all of the following as well as any additional relevant evidence offered by either party:

   a) Credible testimony on the genre of creative expression as to the social or cultural context, rules, conventions, and artistic techniques of the expression;

   b) Experimental or social science research demonstrating that the introduction of a particular type of expression explicitly or implicitly introduces racial bias into the proceedings; and,

   c) Evidence to rebut such research or testimony.

3) Defines "creative expression" to mean "the expression or application of creativity or imagination in the production or arrangement of forms, sounds, words, movements, or symbols, including, but not limited to, music, dance, performance art, visual art, poetry, literature, film, and other such objects or media."

4) Requires the court to make a determination on the question of admissibility of a form of creative expression outside the presence and hearing of the jury.

5) Requires the court to state on the record its ruling and its reasons therefor.

6) States that it is the intent of the Legislature to provide a framework by which courts can ensure that the use of an accused person's creative expression will not be used to introduce stereotypes or activate bias against the defendant, nor as character or propensity evidence; and to recognize that the use of rap lyrics and other creative expression as circumstantial evidence of motive or intent is not a sufficient justification to overcome substantial evidence that the introduction of rap lyrics creates a substantial risk of unfair prejudice.

Comments

According to the author:

> California has long held that the use of creative expression as evidence at trial should only happen in very specific circumstances given the opportunity for bias against a defendant. Unfortunately, there are still cases where creative expressions are used in trial in a manner that incites explicit or implicit bias. Even in cases where creative expressions are not admitted as evidence, its discussion in front of a jury can poison the well by allowing for explicit or implicit basis against certain forms of creative expression to play a role in the case. AB 2799 will ensure that creative expression is robustly evaluated before it can be admitted as evidence, and ensure that this evaluation takes place pretrial.

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

SUPPORT: (Verified 8/9/22)

California Attorneys for Criminal Justice
California Public Defenders Association
Fair Chance Project
Initiate Justice
LaPolt Law
Smart Justice California

OPPOSITION: (Verified 8/9/22)

None received

ARGUMENTS IN SUPPORT: According to California Attorneys for Criminal Justice:

> As evidence in support of AB 2799, we would reference an opinion piece in the New York Times Sunday Review section of April 3, 2022, on this very topic of rap lyrics in criminal cases.
>
> The title of the article is “The Lyrics and the Sentence." The article references a 2019 book entitled “Rap on Trial: Race, Lyrics, and Guilt in America” and what the authors of that book found in their research. The authors found that rap lyrics and other creative expressions get used as “racialized character evidence: details or personal traits prosecutors use in insidious ways playing up racial stereotypes to imply guilt.” The resulting message is that the

defendant is that type of Black (or Brown) person. One of the authors of the book said, "There's always this bias that this young Black man, if they're rapping, they must only be saying what's autobiographical and true, because they can't possibly be creative." . . . .

Also of interest is a bill pending in the New York legislature that would bar the admission of rap lyrics or other creative expression as evidence without "clear and convincing proof that there is a literal, factual nexus" to the case. The bill was approved by a committee in January and is awaiting a full vote. Brad Holman and Jamaal Bailey are the state senators carrying this legislation.

The article notes a 2016 study from University of California, Irvine, that asked two groups of participants to read the same set of violent lyrics. One group was told the lyrics came from a country song, while the other was told they came from rap. Participants rated whether they found the lyrics offensive and whether they thought the lyrics were fictional or based on the writer's experience. They judged the lyrics to be more offensive and truer to life when told they were rap. It can therefore be argued that what is more damning than the substantive lyrics is the label "rap" that is attached to them.

ASSEMBLY FLOOR: 61-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Friedman, Gallagher, Cristina Garcia, Gipson, Levine, McCarty, Medina, Villapudua, Waldron, Wicks

Prepared by: Stella Choe / PUB. S. /
8/10/22 14:57:29

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

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

THIRD READING

Bill No: AB 2848
Author: Santiago (D)
Amended: 3/22/22 in Assembly
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-0, 6/22/22
AYES: Cortese, Durazo, Laird, Newman
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 71-0, 5/23/22 - See last page for vote

SUBJECT: Workers' compensation: medical treatment

SOURCE: California Labor Federation, AFL-CIO
California Professional Firefighters

DIGEST: This bill extends the period of study on the impact of the provision of medical treatment within the first 30 days after a Workers' Compensation claim is filed to claims filed before January 1, 2021.

ANALYSIS:

Existing law:

1) Establishes a workers' compensation system that provides benefits to an employee who suffers from an injury or illness that arises out of and in the course of employment, irrespective of fault. This system requires all employers to secure payment of benefits by either securing the consent of the Department of Industrial Relations to self-insure or by securing insurance against liability from an insurance company duly authorized by the state. (Labor Code §3600)

2) Establishes a system of Utilization Review, by which an employer or claims administrator review a physician's recommended treatment to determine if it is

medically necessary, based on the appropriate medical guidelines. (Labor Code §4610)

3) Requires disputes over compensability of an injury to be resolved by medical evaluation by a qualified physician. Specifies the procedure by which a qualified medical evaluator is selected with employer and employee input. (Labor Code §4062.2)

4) Requires the Director of the Division of Workers' Compensation to contract with an outside, independent research organization to evaluate the impact of the provision of medical treatment within the first 30 days after a claim is filed, for a claim filed on or after January 1, 2017, and before January 1, 2019.

This bill:

1) Extends the period of study on the impact of the provision of medical treatment within the first 30 days after a Workers' Compensation claim is filed to claims filed on or after January 1, 2017, and before January 1, 2021.

2) Requires the report to be provided to the Director of the Division of Workers' Compensation, the Senate Labor and Industrial Relations Committee, and the Assembly Insurance Committee, pursuant to Section 9795 of the Government Code, before July 1, 2023.

Comments

Need for this bill? According to the author, "The current period of evaluation for the impact of the provision of medical treatment report is not sufficient to capture the effect of workers' compensation claims filed after January 1, 2019. This bill will help gather more information on the workers' compensation system by extending the period of review to January 1, 2021, so that the State can better understand workers' use of medical treatment in the workers compensation system."

Related/Prior Legislation

SB 1160 (Mendoza, Chapter 868, Statutes of 2016) created the existing period of study and report by the Director related to the provision of medical treatment.

SB 863 (De Leon, Chapter 363, Statutes of 2012) enacted several changes to the workers' compensation system in the state and was the last major reform legislation.

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

SUPPORT: (Verified 8/1/22)

California Labor Federation, AFL-CIO (co-source)
California Professional Firefighters (co-source)
California Teachers Association

OPPOSITION: (Verified 8/1/22)

None received

ARGUMENTS IN SUPPORT: The California Labor Federation, AFL-CIO, a co-sponsor of this bill, writes in support:

> As written, AB 2848 extends the period of study for a previously mandated report regarding medical treatment within the first 30 days following a workers' compensation claim. The bill extends the period of evaluation from the existing period of January 1, 2017 – January 1, 2019, to January 1, 2017 – January 1, 2021. The bill will also require the report to be completed by July 1, 2023, as opposed to the previously required completion date of January 1, 2020.
>
> By adding two years' worth of data to what will be considered by this change, AB 2848 will help gather a more comprehensive understanding of the workers' compensation system. The amended completion date will also better align the expanded data collection with the amount of time necessary to compile and analyze the data.

ASSEMBLY FLOOR: 71-0, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Berman, Mia Bonta, Choi, Mayes, O'Donnell, Blanca Rubio, Seyarto

Prepared by: Jake Ferrera / L., P.E. & R. / (916) 651-1556
8/3/22 14:38:31

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

SENATE RULES COMMITTEE AB 2872
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2872
Author: Akilah Weber (D)
Amended: 8/8/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-0, 6/8/22
AYES: Umberg, Borgeas, Durazo, Gonzalez, Hertzberg, Jones, Laird, Wieckowski, Wiener
NO VOTE RECORDED: Caballero, Stern

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-0, 5/5/22 (Consent) - See last page for vote

SUBJECT: Domestic violence: victims: address confidentiality

SOURCE: Secretary of State Shirley Weber

DIGEST: This bill makes a series of modifications to the Secretary of State's (SOS) Safe at Home address confidentiality program, including changes to applications, notice requirements, and bases for termination.

Senate Floor Amendments of 8/8/22 address potential chaptering out issues as both this bill and AB 1726 (Aguiar-Curry) amend Sections 6206 and 6206.7 of the Government Code.

ANALYSIS:

Existing law:

1) Establishes the Safe at Home program in order to enable: (a) state and local agencies to respond to requests for public records without disclosing the changed name or location of a victim of the conduct described above; (b) interagency cooperation with the SOS in providing name and address

confidentiality for such victims; and (c) state and local agencies to accept a program participant's use of an address designated by the SOS as a substitute mailing address. (Gov. Code § 6205.)

2) Authorizes a person, or a guardian on behalf of a minor or an incapacitated person, to apply to participate in the Safe at Home program by stating that they are a victim of the conduct described above, designating the SOS as the agent for service of process and receipt of mail, and providing the SOS with any address they wish to be kept confidential. (Gov. Code § 6206.)

3) Requires an applicant to provide the name and last known address of the applicant's minor child or children, the name and last known address of the other parent or parents of the minor child or children of the applicant, and all court orders related to the minor child or children of the applicant, and legal counsel of record in those cases. (Gov. Code § 6206.)

4) Provides that a person who falsifies information on an application, as specified, is guilty of a misdemeanor and requires that a notice of this penalty be printed on the face of the application. (Gov. Code § 6206.)

5) Requires the SOS to provide each program participant a notice that contains information relating to: (a) using the confidential address in real property deeds and transactions, (b) changing one's name, and (c) entities that provide legal services. (Gov. Code § 6209.5.)

6) Authorizes the SOS to terminate a Safe at Home participant's certification and invalidate their authorization card for several reasons, including failure to update their residential address within seven days and when a service of process document or mail forwarded to the program participant by the SOS is returned as nondeliverable. (Gov. Code § 6206.) Authorizes the SOS to refuse to renew a program participant's certification if the person has abandoned their domicile in this state. (Gov. Code § 6206.7.)

7) Prohibits the disclosure of a participant's home address with the intent to threaten the participant or to incite harm against the participant, as provided. (Gov. Code § 6208.1.)

This bill:

1) Requires an applicant for the Safe at Home program to provide the name and last known address of all other parents or guardians of the minor child or children of the applicant.

2) Requires the SOS to notify all other parents or guardians identified above of the designation of the SOS for purposes of service of process and the address of the participant, unless there is a court order prohibiting contact between the other parents or guardians and the minor child or children.

3) Reduces from two to one the amount of copies of the summons, writ, notice, demand, or process required to be delivered to the address confidentiality program personnel to the SOS to effectuate service on the SOS.

4) Authorizes the SOS to terminate a program participant's certification in the program for the following reasons:

   a) When the SOS has been informed that another state agency determined that false information was used in the application;

   b) The participant moves from their California place of residence to relocate out of state; and

   c) The participant moves from their California place of residence to another residence in this state.

5) Clarifies that the SOS must notify the county elections official of a participant's certification withdrawal, invalidation, expiration, or termination. The SOS is required to cooperate with authorized personnel of the appropriate county clerk's office, county recording office, and state and local agencies to verify, upon request, such events.

Background

Safe at Home is a confidential address program administered by the SOS that enables victims of domestic violence, stalking, sexual assault, human trafficking, and elder and dependent adult abuse to obtain a substitute mailing address to receive mail. California agencies must accept this address in lieu of a residential or other address. The program, established in 1999, has protected thousands of victims.

This bill is sponsored by Secretary of State Shirley Weber. It addresses a number of technical and procedural issues identified by her office. This includes clarification and amendments of the parental notification obligation; reduction of the documentation necessary for proper service on the SOS; changes to the bases for which the SOS can terminate participation; and other technical changes. This bill has no known support or opposition.

Comments

Safe at Home. In 1998, SB 489 (Alpert, Chapter 1005, Statutes of 1998) established the "Address Confidentiality for Victims of Domestic Violence" program, which is now referred to as the "Safe at Home" program. This was based on the Legislature's finding that persons attempting to escape from actual or threatened domestic violence, sexual assault, stalking, human trafficking, or elder or dependent adult abuse frequently establish new names or addresses in order to prevent their assailants or probable assailants from finding them.

The Safe at Home program is available to victims of domestic violence, sexual assault, stalking, human trafficking, or elder or dependent adult abuse, and provides these individuals with a substitute mailing address in order to protect the confidentiality of the participant's home, work, or school address.

The substitute mailing address is an assigned post office box, and the SOS is designated as the participant's agent for service of process and receipt of mail. Mail is forwarded by the SOS from the post office box to the participant. Thus, the Safe at Home program allows participants to have a publicly available address without disclosing the participant's actual residence or alternate location. Upon successful application, a program participant is certified to remain in the program for four years, subject to early termination or withdrawal. The participant must re-certify pursuant to the SOS's renewal process if they wish to continue in the program beyond the four-year enrollment period. For victims not yet of the age of majority, or for incapacitated persons, a parent or guardian may apply to enroll the victim into the program. In 2020, there were nearly 5,000 active participants.[1]

Purpose of this bill. According to the author:

> AB 2872 achieves the following key objectives to improve the efficiency and service-oriented goals of the Safe at Home Program in the following ways:
>
> - Removes the requirement to produce unnecessary, costly, environmentally unsound copies of notices and devote the staff time saved by this change to directly assist Safe at Home participants and perform other key program functions.
>
> - Clarifies the notification procedures when a "no contact" court order exists between the child and the parent.

[1] *2020 Annual Legislative Report for the Secretary of State's Safe at Home Program*, p. 2, available at https://admin.cdn.sos.ca.gov/reports/2020/sah-annual-report.pdf (as of May 23, 2022).

- Authorizes Safe at Home to inform other agencies, as appropriate, when a participant is terminated for using false information in a program application. Specifies that Safe at Home may terminate a participant who abandons their California domicile to reduce disputes between Safe at Home and its participants about lack of statutory clarity in this area.

- Ensures that county officials are aware of voter registration changes when a participant is terminated.

Modifying the Safe at Home program. As indicated above, this bill seeks to address a series of issues within the program that have been identified by Secretary of State Weber.

Currently, an applicant must list the name and last known address of the other parent or parents of the minor child or children of the applicant. Once an applicant has been certified, the SOS is required to notify the other parent or parents identified of the designation of the SOS as agent for purposes of service of process. In addition, the SOS is also required to notify them of the address designated by the SOS for the program participant unless there is a court order prohibiting contact.

This bill includes guardians of the minor child or children in these provisions. It also clarifies that the relevant court order is one that prohibits contact between the other parents or guardians and the minor child or children.

Existing law lays out a series of bases upon which the SOS can terminate a participant's certification and invalidate their authorization. This includes when the SOS has determined that the participant used false information in their application in order to qualify. This bill modifies that provision to limit it to only when the SOS has been informed by another state agency of such fraudulent information. In addition, the SOS may refuse to renew a program participant's certification if the participant has "abandoned [their] domicile." This bill deletes that last phrase and instead allows for a refusal to renew when the participant moves from their California place of residence to another residence within the state. This bill further creates another basis for more immediate termination from the program where the move is to a residence out of the state.

This bill also makes several more technical changes. The first involves expanding what needs to be communicated to county election officials when specified changes in a participant's status take place. Secondly, service on the SOS of any summons, writ, notice, demand, or process is currently required to be made by

delivering to the address confidentiality program personnel of the office *two* copies of the summons, writ, notice, demand, or process. To reduce unnecessary paperwork, this bill reduces that to a single copy.

AB 1726 (Aguiar-Curry, 2022) also made changes to some of these same sections. Most relevant here, the bill addresses an issue for applicants where there is no additional parent to include on the application. It also eases the events that would trigger termination. For instance, AB 1726 requires the SOS to attempt to contact the participant by telephone and email to resolve a mail delivery issue before terminating a Safe at Home participant's certification due to nondeliverable mail. It also extends from seven days to 30 days the time period in which a Safe at Home program participant must update their residential address or legal name change before the SOS may terminate a program participant's certification.

AB 1726 modifies the authority of the SOS to terminate a participant from the program on the grounds of having abandoned their domicile in California. It establishes a 60-consecutive-day grace period for participants that relocate to a state *with* an address confidentiality program. And, if the relocation is to a state *without* one, the participant can remain enrolled in the program and have their mail forwarded to them for the remainder of their certification term.

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

SUPPORT: (Verified 8/8/22)

Secretary of State Shirley Weber (source)

OPPOSITION: (Verified 8/8/22)

None received

ARGUMENTS IN SUPPORT: Secretary of State Shirley Weber writes:

> Safe at Home is a free confidential address program administered by SOS on behalf of past and potential victims of domestic violence, stalking, sexual assault, human trafficking & elder and dependent abuse, as well as reproductive health care workers.
>
> AB 2872 aims to reduce wasteful and unnecessary use of duplicative and unnecessary copies of paper documents generated for Safe at Home enrollees. The measure does not change the number or type of documents received by program participants. This bill would also clarify when a minor's confidential address may be disclosed.

In addition, AB 2872 ensures that a person may enroll in Safe at Home regardless of gender identity and establishes procedures for terminating the enrollment of participants who use false information in the application process or who leave California. These termination procedures would clarify the process for informing county election officials when a participant is terminated.

ASSEMBLY FLOOR: 61-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Friedman, Gallagher, Cristina Garcia, Gipson, Levine, McCarty, Medina, Villapudua, Waldron, Wicks

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
8/10/22 14:57:24

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

SENATE RULES COMMITTEE AB 2895
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2895
Author: Arambula (D)
Amended: 6/23/22 in Senate
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 7-0, 6/20/22
AYES: Stern, Jones, Allen, Eggman, Hertzberg, Hueso, Laird
NO VOTE RECORDED: Grove, Limón

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 50-19, 5/26/22 - See last page for vote

SUBJECT: Water: permits and licenses: temporary changes: water or water rights transfers

SOURCE: Author

DIGEST: This bill revises the State Water Resources Control Board's (water board) process for consideration and approval of a petition to temporarily change a water right to effectuate a short-term water transfer (i.e., for a period of one year or less).

ANALYSIS: Existing law establishes the water board as the administrator the state's water rights program, under which the board grants permits and licenses to appropriate water. (Water Code (WC) §§1200 et seq.) These provisions of the Water Code:

1) Authorize a permittee or licensee to temporarily change the point of diversion, place of use, or purpose of use due to a transfer or exchange of water or water rights if the transfer would:

   a) Only involve the amount of water that would have been consumptively used or stored by the permittee or licensee in the absence of the proposed temporary change,

b) Not injure any legal user of the water, and would

c) Not unreasonably affect fish, wildlife, or other instream beneficial uses. (WC §1725)

2) Prescribe the process for a permittee or licensee to petition the water board for a temporary change due to a transfer or exchange of water rights, and imposes on the board related notice, decision, and hearing requirements. (WC §1726)

   a) Under that process, a petitioner is required, among other things, to:

      i) Provide a copy of the petition to the Department of Fish and Wildlife (DFW), the board of supervisors of the county or counties in which the petitioner currently stores or uses the water subject to the petition, and the board of supervisors of the county or counties to which the water is proposed to be transferred. (WC §1726(c))

      ii) Publish notice of a petition in a newspaper. (WC §1726(d))

   b) Under that process the water board, with certain exceptions, is require to render a decision not more than 35 days after the date the investigation began or the date the notice was published. (WC §1726(g))

      i) If the water board or the petitioner determines that an additional extension of time for a decision is necessary for the board to make the required findings, or that a hearing is necessary for the board to make those findings, the board may extend the time for a decision with the consent of the petitioner.

      ii) If the petitioner agrees to a hearing, the water board shall identify the issues for which additional evidence is required and shall fix a time and place for the hearing.

3) Authorize a person entitled to the use of water to petition the water board for a change to a water right for purposes of preserving or enhancing wetlands habitat, fish and wildlife resources, or recreation and authorizes the board to approve the petition only if certain requirements are met. (WC §1707) Further authorizes that petition to be submitted in accordance with specified requirements, including those regulating temporary changes due to a transfer or exchange of water rights.

This bill:

1) Revises and recasts the provisions regulating temporary changes due to a transfer or exchange of water rights, including,

   a) Eliminating the requirement that a petitioner publish notice of a petition in a newspaper.

   b) Specifying that those provisions apply to a person who proposes a temporary change for purposes of preserving or enhancing wetlands habitat, fish and wildlife resources, or recreation.

   c) Making other technical and conforming changes.

2) Establishes a new process for petitions for which notice is submitted to the water board no later than January 31 for a temporary change due to a transfer or exchange of water rights initiated in the same year, and would impose on the board related notice, decision, and hearing requirements.

   a) Under this new process, the water board would be required, among other things, to post on its internet website and disseminate by email LISTSERV by February 15 of each year a list of all timely and complete notices for which notice is filed.

   b) By March 1 of each year, an interested person would be able to request notice of a submitted petition for temporary change, and the concerns related to effects on other legal users, fish, wildlife, instream beneficial uses, or groundwater conditions the person may raise in comments on the petition.

   c) After submittal of a complete petition, the water board would be required to provide notice of the petition by sending a copy to all persons who submitted complete requests under subdivision (d), posting the petition on its internet website, and disseminating the petition by email LISTSERV. Any interested party may file a written comment on the petition not later than 30 days after submittal of a complete petition.

   d) The water board would be required to issue a decision within 35 days after submittal of a complete petition for which notice is provided under these provisions, with certain exceptions.

Comments

Notice by Publication. While most water agencies appreciate the elimination of newspaper notice, the California News Publishers Association does not. That said, newspapers, especially paper newspapers, are much rarer than they used to be. Since the notice is going on the water board's website, that's a much more reliable source of information than a notice in the paper. This is especially true in a location where there are may still be multiple papers, so an interested person would have to scour all the papers on a daily basis for water notices instead of just checking online.

Not Clear Many Will Use the New Process. This new process will require water rights holders to notify the water board by January 31 that they have water they are willing to transfer. Things can change a lot between January 31 and the end of the traditional rain and snow season. As evidenced by this year, what at first looks like is going to be a wet year can quickly change. Nonetheless, there is probably no harm in setting up this new process.

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

SUPPORT: (Verified 8/3/22)

Sustainable Conservation

OPPOSITION: (Verified 8/3/22)

California News Publishers Association

ARGUMENTS IN SUPPORT: According to the author, "As California's climate becomes more extreme, water transfers are effective means to provide drought resiliency throughout the state. Efficient review and approval by the State Water Board are needed to ensure that water transfers can be successfully executed. Unfortunately, current requirements for processing temporary transfer petitions cause delays both for the petitioner and Water Board. AB 2895 will allow California to adapt to evolving drought conditions more effectively by modernizing and streamlining the water transfer petition process. This bill also improves communication between impacted agencies and increases accessibility of transfer petition information by the public."

ARGUMENTS IN OPPOSITION: The California News Publishers Association writes, "AB 2895 sets a dangerous precedent by dismissing a public notice statutory scheme in effect since 1943 and today spans more than 1,700 sections of code. The term 'newspaper of general circulation' is a term of art that applies only

to printed publications that have been legally deemed to distribute substantially to subscribers in the area.

“Newspapers of general circulation remain the most effective means to convey public notices because they are legally deemed to reach a “substantial” number of readers in the area. To pass a bill with language that indicates there could be a newspaper of general circulation online would open the door to changes in this entire statutory scheme informing the public of important information since 1943.”

ASSEMBLY FLOOR: 50-19, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Cooley, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Choi, Cooper, Daly, Grayson, Lackey, Mayes, O'Donnell, Villapudua

Prepared by: Dennis O'Connor / N.R. & W. / (916) 651-4116
8/3/22 14:38:33

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

SENATE RULES COMMITTEE AB 2912
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2912
Author: Berman (D)
Amended: 5/4/22 in Assembly
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 6/14/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

ASSEMBLY FLOOR: 68-0, 5/16/22 - See last page for vote

SUBJECT: Consumer warranties

SOURCE: Author

DIGEST: This bill prohibits a manufacturer, distributor, or retail seller from making an express warranty with respect to a consumer good that commences earlier than the date of delivery of the good.

ANALYSIS:

Existing law:

1) Establishes the Song-Beverly Consumer Warranty Act, which sets forth standards for warranties that govern consumer goods and outlines remedies available to purchasers. (Civ. Code § 1790 et seq.)

2) Requires every sale of consumer goods that are sold at retail in this state to be accompanied by the manufacturer's and the retail seller's implied warranty that the goods are merchantable. (Civ. Code § 1792.)

3) Provides that where a retailer or distributor has reason to know at the time of the retail sale that the goods are required for a particular purpose, and that the buyer is relying on the manufacturer's, retailer's, or distributor's skill or judgment to select or furnish suitable goods, the sale shall be accompanied by

the relevant entity's implied warranty that the goods are fit for that purpose. (Civ. Code §§ 1792.1, 1792.2.)

4) Provides that such implied warranties cannot be disclaimed or waived, except as specifically provided. (Civ. Code §§ 1792.3, 1792.4.)

5) Provides that, except as specified, nothing in the Act affects the right of the manufacturer, distributor, or retailer to make express warranties with respect to consumer goods. However, a manufacturer, distributor, or retailer, in transacting a sale in which express warranties are given, may not limit, modify, or disclaim the implied warranties guaranteed by this chapter to the sale of consumer goods. (Civ. Code § 1793.)

6) Requires every manufacturer, distributor, or retailer making express warranties with respect to consumer goods to fully set forth those warranties in simple and readily understood language, which shall clearly identify the party making the express warranties, and which shall conform to applicable federal standards. (Civ. Code § 1793.1.)

7) Defines "express warranty" to mean a written statement arising out of a sale to the consumer of a consumer good pursuant to which the manufacturer, distributor, or retailer undertakes to preserve or maintain the utility or performance of the consumer good or provide compensation if there is a failure in utility or performance. In the event of any sample or model, an express warranty is that the whole of the goods conforms to such sample or model. (Civ. Code § 1791.2.)

8) Provides, pursuant to federal law, that any warrantor warranting to a consumer by means of a written warranty a consumer product actually costing the consumer more than $15.00 shall clearly and conspicuously disclose, among other things, the point in time or event on which the warranty term commences, if different from the purchase date, and the time period or other measurement of warranty duration. (16 C.F.R. Sec. 701.3(a)(4).)

This bill prohibits a manufacturer, distributor, or retail seller from making an express warranty with respect to a consumer good that commences earlier than the date of delivery of the good. It does not limit an express warranty made before January 1, 2023.

Background

The Song-Beverly Consumer Warranty Act provides consumer warranty protection to buyers of consumer goods, including motor vehicles, home appliances, and

home electronic products. The act requires certain implied warranties to accompany the retail sale of consumer goods. This includes implied warranties of merchantability and of fitness for particular purposes, as specified.

Express warranties are written statements arising out of a sale to the consumer of a consumer good pursuant to which the manufacturer, distributor, or retailer undertakes to preserve or maintain the utility or performance of the consumer good or provide compensation if there is a failure in utility or performance. Concerns have arisen that the increase in e-commerce and more recently the severe supply chain delays have undercut the utility of these warranties for consumers.

This bill prohibits any express warranties regarding consumer goods made by a manufacturer, distributor, or retail seller from starting earlier than the date of delivery of the good.

This bill is author sponsored. It is supported by a variety of consumer advocacy groups, including the Consumer Federation of California and the California Public Interest Research Group. There is no known opposition.

Comments

Consumer good warranties

The Song-Beverly Consumer Warranty Act sets forth standards for warranties that govern consumer goods and outlines remedies available to purchasers. Retail sales of consumer goods are accompanied by the manufacturer's and the retail seller's implied warranty that the goods are merchantable. In specified circumstances, an implied warranty that the good is fit for a particular purpose also attaches. Such implied warranties can generally not be waived or otherwise modified except in limited, specified circumstances.

Express warranties are additional warranties that can be expressed by a manufacturer, distributor, or retailer in connection with the sale of consumer goods. They commit the entity to preserving or maintaining the utility or performance of the relevant good, or compensation if such warranty fails. Unlike implied warranties, they must be written statements as to their scope and application, pursuant to the Act.

At the federal level, the Magnuson-Moss Warranty Act requires entities providing express warranties to fully and conspicuously disclose in simple and readily understood language the terms and conditions of such a warranty. (15 U.S.C. § 2301 et seq.) The Federal Trade Commission (FTC) is empowered to promulgate regulations to carry out the act. However, the FTC is expressly prohibited from

prescribing the duration of written warranties given or to require that a consumer product or any of its components be warranted at all.

FTC regulations require a series of disclosures in connection with express warranties on consumer products costing more than $15. This includes clear language indicating the point in time or event on which the warranty term commences, if different from the purchase date, and the time period or other measurement of the warranty duration. (16 C.F.R. § 701.3.)

Concerns have arisen that initiating such warranties at the point of purchase undermines their utility for consumers when the consumer does not receive the good at that point. The author and supporters highlight two conditions that make it increasingly likely that there are lag times between purchase and receipt, thereby affecting the value of these warranties. The first is the dramatic rise in e-commerce.

According to the United States Department of Commerce, e-commerce constituted 19.1 percent of all retail sales in 2021, increasing 50.5 percent since 2019, with Amazon accounting for more than 40 percent of all e-commerce in the country.[1] Inherently, when a consumer buys a consumer good online there is some delay before they receive that good. If a relevant one-year consumer warranty begins when the "buy" button is clicked and the good does not arrive for several months, the warranty is of fractional value. A Los Angeles Times article documented consumer frustrations with this lost time, quoting one regarding a warranty on his Whirlpool dryer: "What if you're remodeling your house and don't receive an appliance for six months? […] Have you lost half your warranty?"[2]

The second condition is the recent, widespread disruption of the global supply chain:

> Covid-19 has left one very destructive economic issue in its wake: disruption to global supply chains.
>
> The rapid spread of the virus in 2020 prompted shutdowns of industries around the world and, while most of us were in lockdown, there was lower consumer demand and reduced industrial activity.

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[1] Jessica Young, *US ecommerce grows 14.2% in 2021* (February 18, 2022) *Digital Commerce 360*, https://www.digitalcommerce360.com/article/us-ecommerce-sales/. All internet citations are current as of May 28, 2022.

[2] David Lazarus, *Warranties usually start on purchase date, not delivery date* (February 9, 2015) Los Angeles Times, https://www.latimes.com/business/la-fi-lazarus-20150210-column.html.

> As lockdowns have lifted, demand has rocketed. And supply chains that were disrupted during the global health crisis are still facing huge challenges and are struggling to bounce back.
>
> This has led to chaos for the manufacturers and distributors of goods who cannot produce or supply as much as they did pre-pandemic for a variety of reasons, including worker shortages and a lack of key components and raw materials.[3]

If warehouses and retailers are less likely to have desired products in stock at the time of purchase, the delay between purchase and delivery are likely to only get longer and longer, further undermining consumer warranties.

Enhancing express warranties for consumers

While FTC regulations set the default starting point for express warranties at the purchase of the consumer good, California law, namely the Song-Beverly Act, does not generally dictate when such warranties take effect. There are exceptions for certain wheelchairs, assistance devices, and hearing aids. These warranties are required to take effect upon receipt or delivery to the consumer. (Civ. Code §§ 1793.02. 1793.025.)

This bill prohibits a manufacturer, distributor, or retail seller from making an express warranty with respect to a consumer good that commences earlier than the date of delivery of the good. This applies prospectively and therefore does not limit an express warranty made before January 1, 2023.

According to the author:

> Unfortunately, when a warranty effective date starts at the time of purchase, the consumer may not receive the full benefit or duration of the warranty if delivery of the product takes days, weeks, or even months to arrive. This was a problem prior to the pandemic and current supply chain issues, but has only grown more apparent. For example, if an express warranty is good for one year, but the consumer does not receive the product for six months, then the consumer has essentially lost half of the warranty. AB 2912 would require express warranties to start no earlier than the date of delivery of the product rather than the date of purchase. It is important to point out that that there is precedent for having warranties begin on the delivery date. Carpet installers, for example, typically operate this way and a European warranty begins when

[3] Holly Ellyatt, *Supply chain chaos is already hitting global growth. And it's about to get worse* (October 18, 2021) CNBC, https://www.cnbc.com/2021/10/18/supply-chain-chaos-is-hitting-global-growth-and-could-get-worse.html.

a product is received, not purchased. Additionally, according to state law, the duration of warranties for wheelchairs and hearing aids already start from the date of delivery. AB 2912 is a common sense consumer protection bill that builds upon existing law.

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

SUPPORT: (Verified 6/16/22)

California Low-Income Consumer Coalition
California Public Interest Research Group
Consumer Attorneys of California
Consumer Federation of California
Consumer Protection Policy Center at University of San Diego School of Law
Consumer Watchdog
Housing and Economic Rights Advocates
Public Law Center

OPPOSITION: (Verified 6/16/22)

None received

ARGUMENTS IN SUPPORT: The California Low-Income Consumer Coalition argues:

When a warranty's effective date starts at the time of purchase, the consumer may not receive the full benefit of the warranty. This was a problem prior to the pandemic and current supply chain issues, but has grown more apparent with products being delayed weeks if not months. For example, if an express warranty is good for one year, but the consumer does not receive the product for six months, then the consumer has essentially lost half of the warranty period.

It is important to point out that there is precedent for having warranties begin on the delivery date. Carpet installers, for example, typically operate this way and a European warranty begins when a product is received, not purchased.

ASSEMBLY FLOOR: 68-0, 5/16/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Flora, Mike Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray,

Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Cunningham, Fong, Kiley, Low, Muratsuchi, Nazarian, Quirk-Silva, Blanca Rubio, Ting, Valladares

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
6/28/22 18:36:45

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

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

THIRD READING

Bill No: AB 2916
Author: McCarty (D)
Amended: 4/20/22 in Assembly
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 10-0, 6/6/22
AYES: Roth, Archuleta, Becker, Dodd, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Melendez, Bates, Eggman, Hurtado

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 65-0, 5/12/22 - See last page for vote

SUBJECT: Contractors: disclosure of letters of admonishment

SOURCE: Author

DIGEST: This bill revises the disclosure of a Letter of Admonishment (LOA) on the Contractors State License Board (CSLB) website to be either one or two years, depending on specified factors.

ANALYSIS:

Existing law:

1) Establishes the CSLB to enforce and administer the License Law. (Business and Professions Code (BPC) § 7000 *et seq*.)

2) Requires the Registrar to issue a citation to a person whom, upon inspection or investigation, either upon complaint or otherwise, the Registrar has probable cause to believe is acting in the capacity of or engaging in the business of a contractor or salesperson within this state without having a license or registration in good standing and is not otherwise exempted from the law. (BPC § 7028.7(a))

3) Requires the CSLB to promulgate regulations covering the assessment of civil penalties that give due consideration to the appropriateness of the penalty with respect to specified factors (BPC § 7099.2(a))

4) Requires the Registrar to make available to members of the public the date, nature and status of all complaints on file against a licensee that have either been referred for accusation, or have been referred for investigation after a determination by CSLB staff that a probable violation occurred, as specified. (BPC § 7124.6)

5) States that a complaint resolved by issuance of a LOA, will not be deemed in favor of the licensee, and a LOA must be disclosed for a period of one-year from the date of service, as specified. (BPC § 7124.6(c)(2))

This bill:

1) Revises the LOA disclosure requirement to be either one or two years.

2) States that the CSLB's determination as to whether the LOA is disclosed for either one or two years is based on, the gravity of the violation, the good faith of the licensee or applicant for licensure being charged, and the history of previous violations.

Background

Contractors and the CSLB. The CSLB is responsible for the implementation and enforcement of the laws and regulations related to the licensure, practice and discipline of the construction industry in California. All businesses and individuals who construct or alter, or offer to construct or alter, any building, highway, road, parking facility, railroad, excavation, or other structure in California must be licensed by the CSLB if the total cost, including both labor and materials, of one or more contracts on the project is $500 or more.

Letter of Admonishment (LOA). The LOA, as a form of disciplinary action, is a relatively new tool for the CSLB. SB 486 (Monning, Chapter 308, Statutes of 2017) authorized the CSLB to issue an LOA to an applicant, licensee, or registrant rather than issuing a citation. That bill established parameters for when an LOA would be the appropriate means to discipline a contractor for a violation. Utilization of an LOA recognizes that violations occurred, and the recipient needs to be reprimanded, but the actions are likely not egregious enough to warrant a more substantial level of discipline. The LOA allows a licensee to continue to operate, yet as allows the public to know if a licensee has violated the law. To help ensure that serious violations would not be subject to a LOA, SB 486 provided

certain instances when a LOA would not be permitted. Those include, if the individual was unlicensed at the time of a violation, if multiple violations occurred at the same time, if there was financial harm to another person, if the victim was an elder or dependent adult, or if the violation occurred while repairing a property from damage caused by a natural disaster.

Last year, AB 569 (Grayson, Chapter 94, Statutes of 2021) removed the exception to issuing an LOA if multiple violations have been established, among other unrelated changes. This bill further modifies requirements related to the LOA to allow the CSLB discretion to publicly disclose the LOA for one or two years. In determining whether to post the violation for one or two years, the CSLB must take into consideration the gravity of the violation, the good faith of the licensee or applicant being charged, and the history of previous violations. This bill provides the CSLB with the discretion to disclose for either one or two years, but does not change current law that a disclosure be at a minimum one year.

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

SUPPORT: (Verified 8/8/22)

Contractors State License Board

OPPOSITION: (Verified 8/8/22)

Housing Contractors of California

ARGUMENTS IN SUPPORT: The Contractors State License Board writes in support, "…this bill provides that CSLB must consider the gravity of the violation, the good faith of the contractor, and the history of previous violations, in determining whether an LOA should be publicly disclosed for one or two years in each case."

ARGUMENTS IN OPPOSITION: Housing Contractors of California writes in opposition and notes, "there can be reasonable disputes between CSLB investigators and contractors over construction methods and practices. CSLB also has no way to differentiate on its website between a contractor who shows one letter of admonishment or citation while doing $300,000 of revenue annually; versus another contractor who has one letter of admonishment or citation while doing $300 million of annual revenue. That is unfair, but we don't have an alternative. That is why posting a letter of admonishment for 2 years is not fair, nor helpful to the process of enforcement."

ASSEMBLY FLOOR: 65-0, 5/12/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Levine, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Villapudua, Voepel, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Boerner Horvath, Cunningham, Davies, Gray, Grayson, Kiley, Lackey, Lee, Low, Quirk-Silva, Blanca Rubio, Valladares, Ward

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
8/10/22 14:12:34

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

SENATE RULES COMMITTEE AB 2917
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2917
Author: Mike Fong (D)
Amended: 8/2/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-0, 6/8/22
AYES: Umberg, Borgeas, Durazo, Gonzalez, Hertzberg, Jones, Laird, Wieckowski, Wiener
NO VOTE RECORDED: Caballero, Stern

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 63-0, 5/5/22 - See last page for vote

SUBJECT: State law: disability access

SOURCE: Author

DIGEST: This bill (1) requires plaintiffs' attorneys to report specified information to the California Commission on Disability Access (CCDA) when sending demand letters or filing lawsuits alleging that a website is not adequately accessible to people with disabilities; (2) directs the CCDA to develop and compile education materials regarding website accessibility; and (3) requires the CCDA to develop toolkits or educational modules that focus on construction-related accessibility violations in parking lots and exterior paths of travel, including a checklist for businesses to recognize the most common construction-related accessibility violations in those areas, by January 1, 2024.

Senate Floor Amendments of 8/2/22 extend the deadline for CCDA to develop the accessibility checklist for parking lots and exterior paths of travel by six months.

ANALYSIS:

Existing law:

1) Provides, pursuant to the federal Americans with Disabilities Act (ADA), that no individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases, or leases to, or operates a place of public accommodation. (42 U.S.C. § 12182.)

2) Provides, pursuant to the state Unruh Civil Rights Act, that all persons, regardless of disability or medical condition, among other things, are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind. (Civ. Code § 51(b).)

3) Specifies that a violation of the ADA also constitutes a violation of the Unruh Act; and subjects a person or entity in violation to actual damages incurred by an injured party, treble actual damages but not less than $4,000, and any attorney's fees as the court may determine to be proper. (Civ. Code §§ 51(f) and 52(a).)

4) Provides that, pursuant to the Disabled Persons Act, individuals with disabilities or medical conditions have the same rights as the general public to the full and free use of the streets, highways, sidewalks, walkways, public buildings, and medical facilities including hospitals, clinics, and physicians' offices, public facilities, and other public places, and also provides that a violation of an individual's rights under the ADA constitutes a violation of state law. (Civ. Code § 54.)

5) Entitles individuals with disabilities to full and equal access to public accommodations, subject only to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons. (Civ. Code § 54.1.)

6) Establishes the CCDA, an independent state agency composed of 17 members, with responsibility for monitoring disability access compliance in California and the authority to hold hearings and make recommendations to the Legislature for necessary changes to existing state law in order to facilitate implementation of state and federal laws on disability access. (Gov. Code §§ 14985 *et seq*.)

7) Directs CCDA to work with other state agencies, including the Division of the State Architect and the Department of Rehabilitation, to develop educational materials and information for use by businesses to understand their obligations to provide disability access and to facilitate compliance with construction-related accessibility standards. (Gov. Code § 14985.6(b).)

8) Directs CCDA to develop and compile toolkits or educational modules and to make them available on its website in order to assist California businesses to understand their obligations under the law and to facilitate compliance with accessibility requirements. (Gov. Code § 14985.6(c).)

9) Requires an attorney who sends a demand letter alleging a violation of construction-related disability access laws, to:
   a) Include the attorney's State Bar license number in the demand letter;
   b) Send a copy of the demand letter to the CCDA within five days; and
   c) Submit specified information about the demand letter to the CCDA within five days. (Civ. Code § 55.32(b).)

10) Requires an attorney who sends or serves a complaint alleging a violation of construction-related disability access laws to send a copy of the complaint and submit all of the following information to the CCDA within five business days of judgment, settlement, or dismissal of the claim or claims alleged in the complaint:
   a) The date of the judgment, settlement, or dismissal;
   b) Whether or not the construction-related accessibility violations were remedied in whole or in part after the plaintiff filed a complaint or provided a demand letter;
   c) If the construction-related accessibility alleged in the complaint were not remedied in whole or in part after the plaintiff filed a complaint or provided a demand letter, whether or not another favorable result was achieved after the plaintiff filed the complaint or provided the demand letter; and
   d) Whether or not the defendant submitted an application for an early evaluation conference and stay as permitted by law, whether the defendant requested a site inspection, inspection of an alleged construction-related accessibility violation, the date of any early evaluation conference, and the date of any site inspection. (Civ. Code § 55.32(c).)

This bill:

1) Requires attorneys filing a lawsuit based on allegations that a website is insufficiently accessible to people with disabilities to provide copies of the complaint and to submit similar information to CCDA as attorneys must currently do with respect to a lawsuit alleging construction-related disability access violations pursuant to 9) and 10) under Existing law, above.

2) Directs CCDA to develop, compile, and post on its website education materials for California businesses to help facilitate their compliance with internet website accessibility standards.

3) Requires CCDA to develop toolkits or educational modules that focus on construction-related accessibility violations in parking lots and exterior paths of travel, including a checklist for businesses to recognize the most common construction-related accessibility violations in those areas, by January 1, 2024.

Background

Disability Access Laws and Litigation in California

With the goal of ensuring that people with disabilities have the opportunity to participate fully and equally in society, California law includes robust disability access requirements for businesses and other places of public accommodation. California's Unruh Civil Rights Act (Civ. Code § 51) and Disabled Persons Act (Civ. Code §§ 54 *et seq*.) both enable disabled individuals to enforce these rights in the courts. Among other potential remedies, courts can oblige defendants found to provide insufficient access to people with disabilities to fix the issue, to pay damages of at least $4,000, and to pay the attorney's fees of the person bringing the claim. (Civ. Code § 52.)

While these laws have played a critical role in expanding disability access throughout the state, their use by a small number of high-volume litigants and law firms has drawn scrutiny in the past. Some businesses contend that these litigants and law firms engage in so-called "drive by" lawsuits in which they hunt for businesses that are not in strict compliance with disability access laws and then immediately demand settlement payments.

To curb true abuses of the state's disability access laws without sacrificing its disability access goals, California has instituted a number of measures in recent years designed to increase compliance and to fortify compliant businesses against liability. (*See* Prior Legislation, below, for brief summaries of several of those measures).

Two of those initiatives are of particular relevance to this bill. First, in 2008, California established the CCDA and tasked it, among other things, with developing materials, information, and tools that businesses can use to understand their rights and obligations pursuant to disability access law. (SB 1608, Corbett, Chapter 549, Statutes of 2008.) Second, in 2012, California instituted a set of procedures that attorneys must follow when they are making legal claims against a business for disability access violations. Those procedures require attorneys to notify the CCDA whenever they issue a demand letter or file a lawsuit alleging that a business is in violation of the construction-related disability access laws. (Civ. Code § 55.32.) The procedures also require the attorneys to provide follow-up information about the outcome of the legal claim. (Civ. Code § 55.32(c).) This system enables the CCDA to monitor trends in construction-related disability access legal claims, identify any potential patterns of abuse, and track whether or not the legal claims being made are having their intended effect: to maintain and expand disability access in the state.

Emerging Field of Website Accessibility

Until relatively recently, disability access considerations primarily focused on brick-and-mortar operations. With the increasing importance of online commerce and interaction to many aspects of life, the accessibility of applications and websites for people with disabilities has emerged as the latest frontier in disability access law and has reportedly become the subject of a rising amount of litigation. According to a 2018 Los Angeles Times inquiry into the issue, "lawsuits alleging website accessibility violations totaled 1,053 in the first six months [of 2018], a number that is projected to rise to 2,000 by year's end, up 90% from 2017."[1] Subsequent reports appear to indicate that this trajectory continues.[2]

As has been the case with construction-related disability access laws, legal claims involving the accessibility of applications and websites have also produced accusations that a small cadre of attorneys and litigants are taking advantage of the system to hunt for businesses whose websites and applications are non-compliant and demand settlements from them. For example, in its letter supporting this bill, the California Apartment Association alleges that:

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[1] Martin, *Lawsuits Targeting Business Websites Over ADA Violations Are on the Rise* (Nov. 11, 2018) Los Angeles Times **https://www.latimes.com/business/la-fi-hotels-ada-compliance-20181111-story.html** (as of May 28, 2022).

[2] *See, e.g.*, Launey & Vu, *Federal Website Accessibility Lawsuits Increased in 2021 Despite Mid-Year Pandemic Lull* (March 21, 2022) **https://www.adatitleiii.com/2022/03/federal-website-accessibility-lawsuits-increased-in-2021-despite-mid-year-pandemic-lull/** (as of May 28, 2022).

> California's rental housing industry continues to face increased scrutiny over the accessibility of company websites. Plaintiffs' attorneys have been contacting landlords throughout California, alleging violations of accessibility requirements under California fair housing law. Website accessibility lawsuits can bring minimum penalties of $4,000 per violation, creating an incentive for "drive by" lawsuits.

Inclusion of Website Accessibility into Existing Disability Access

In recognition that the existing law's exclusive focus on brick-and-mortar disability access is now out of date, this bill proposes to extend those laws to cover online accessibility as well. This aspect of this bill has two primary components.

First, it requires attorneys sending demand letters or filing lawsuits alleging online disability access violations to follow the same procedures, summarized above, that existing law obligates them to follow with respect to legal claims based on allegations of construction-related disability access. This expansion should allow CCDA to better track claims related to insufficient online accessibility and what impact those claims are having. The resulting information, which CCDA is mandated to report to the Legislature, should also serve to inform future policy-making in this area.

This aspect of this bill pleases stakeholders with very different perspectives on the system. To the Consumer Attorneys of California, this bill will provide CCDA with "the information it needs to evaluate the amount and success of online accessibility compliance litigation." For its parts, the California Apartment Association lauds what it views as this bill's potential to curb what it describes as "drive by" lawsuits alleging that its members' websites are insufficiently accessible to people with disabilities.

Second, this bill directs CCDA to develop and compile educational materials relating to online accessibility just as it does for brick-and-mortar disability access. The addition of these tools to CCDA's offerings should aid the business community's efforts to ascertain what their rights and duties are. The free and public availability of these resources is likely to be of particular relevance to small business owners since they typically operate without ready access to legal counsel.

Creations of Parking Lot and Exterior Pathway Self-Assessment Toolkit

Given that accessibility violations in parking lots and exterior paths of travel consistently dominate the top 10 alleged construction-related violations in the state and to increase compliance with construction-related accessibility standards,

especially those governing parking lots and exterior paths of travel, this bill also requires CCDA to create a self-assessment tool for businesses to recognize the most common construction-related accessibility violations in those areas.

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

SUPPORT: (Verified 8/3/22)

Association of Regional Center Agencies
California Apartment Association
California Association of Realtors
California Special Districts Association
Civil Justice Association of California
Consumer Attorneys of California

OPPOSITION: (Verified 8/3/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "[…] [T]he Civil Code already requires attorneys to send information on lawsuits involving construction-related restrictions that violate the rights of such individuals. AB 2917 merely places similar reporting requirements on lawsuits involving website inaccessibility, which will help in determining how common these lawsuits have become, as well as their outcomes. […] In addition, AB 2917 would require the CCDA to develop educational information on business's obligations for providing disability access on their websites."

In support, the Association of Regional Center Agencies writes, "This [bill] is […] part of a long history of changes, refinements, and reforms that both directly and indirectly impact our service system. It will help improve the lives of people with developmental disabilities, and by virtue of benefiting them, it will strengthen our service system."

ASSEMBLY FLOOR: 63-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Friedman, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz

Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Gallagher, Cristina Garcia, Gipson, Levine, Medina, Villapudua, Voepel, Waldron

Prepared by: Timothy Griffiths / JUD. / (916) 651-4113
8/3/22 15:31:56

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

SENATE RULES COMMITTEE AB 2931
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2931
Author: Bloom (D), et al.
Amended: 6/21/22 in Senate
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 8-4, 6/28/22
AYES: Dodd, Allen, Archuleta, Becker, Bradford, Hueso, Kamlager, Portantino
NOES: Nielsen, Jones, Melendez, Wilk
NO VOTE RECORDED: Borgeas, Glazer, Rubio

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 49-17, 5/26/22 - See last page for vote

SUBJECT: Pipeline safety: records

SOURCE: Author

DIGEST: This bill expands the definition of "pipeline" for the purposes of the Elder California Pipeline Safety Act of 1981 (Act), as specified; revises and recasts provisions relating to record maintenance and inspection by the State Fire Marshal (SFM); authorizes the SFM to require the owner or operator of a pipeline to establish and maintain records, make reports, and provide information to the SFM, as specified; repeals a specified test result requirement and repeals existing funding and contingent operation provisions; and makes various nonsubstantive and conforming changes, as specified.

ANALYSIS:

Existing law:

1) Requires the SFM, pursuant to the Act, to administer provisions regulating the inspection of intrastate pipelines that transport hazardous liquids.

2) Requires a pipeline operator to make available to the SFM any records, maps, or written procedures that are required by the Act to be kept by the pipeline operator and which concern accident reporting, design, construction, testing, or operation and maintenance.

3) Authorizes the SFM to enter, inspect, and examine, at reasonable times and in a reasonable manner, the records and properties of any pipeline operators that are required to be inspected and examined to determine whether the pipeline operator is in compliance with the Act.

4) Authorizes the SFM to act as agent for the United States Secretary of Transportation to implement the federal Hazardous Liquid Pipeline Safety Act of 1979 and federal pipeline safety regulations as to those portions of interstate pipelines located within the state, as necessary to obtain annual federal certification.

5) Defines "pipeline" to include every intrastate pipeline used for the transportation of hazardous liquid substances, including a common carrier pipeline, and all piping containing those substances located within a refined products bulk loading facility that is owned by a common carrier, as specified.

6) Exempts from the definition of "pipeline" any pipeline used for the transportation of crude oil that operates by gravity or at a stress level of 20 percent or less of the specified minimum yield strength of the pipe.

7) Requires pressure tests on certain pipelines be conducted in accordance with certain federal pipeline safety regulations and requires results from those pressure tests not show an hourly change for each section of the pipeline under test at the time that violates specified standards.

8) Requires the SFM to establish and maintain a centralized database containing information and data regarding certain intrastate pipelines, and to regularly update the database and to make the information available to the public, as specified.

9) Provides that the cost of implementing the database requirement be funded from federal block grant funds and is operative only upon receipt of the federal block grant funds as determined by the SFM.

10) Requires the state to reimburse local agencies and school districts for certain costs mandated by the state, as specified.

This bill:

1) Repeals a current exclusion in the Act, which exempts from the definition of "pipeline," a pipeline for the transportation of crude oil that operates by gravity or at a stress level of 20 percent or less of the specified minimum yield strength of the pipe.

2) Revises and recasts specified provisions relating to record maintenance and inspection in the Act and authorizes the SFM to require the owner or operator of a pipeline to establish and maintain records, make reports, and provide any information that the SFM reasonably requires, as provided.

3) Authorizes the SFM to disclose records, reports, or other information required to be maintained, as specified, to an office, employee, or authorized representative of the state or the United States for purposes of carrying out specified requirements.

4) Repeals specified test result requirements.

5) Repeals existing funding and contingent operation provisions.

6) Conforms current references to the federal act, makes other nonsubstantive changes to, and repeals an obsolete provision of the Act.

Background

Purpose of this bill. According to the author's office, "California has worked hard to establish a meaningful and effective regulatory framework that ensures pipeline safety while oil and gas production continues in this state. The Elder California Pipeline Safety Act is an important component of this framework. The Act defines 'pipeline' to include every intrastate pipeline used for the transportation of hazardous liquid substances or highly volatile liquid substance, as specified."

However, the author's office notes that, "the Act excludes a pipeline for the transportation of crude oil that operates by gravity or at a stress level of 20 percent or less of the specified minimum yield strength of the pipe. Unfortunately, some industry actors use this exclusion as a loophole to circumvent compliance with

state regulation, including essential safety measures such as inspections and testing to ensure the integrity and safe operation of pipelines."

Elder California Pipeline Safety Act of 1981. The United States Department of Transportation Pipeline and Hazardous Material Safety Administration (PHMSA) has exclusive federal authority over interstate pipeline facilities. An interstate pipeline is defined as a pipeline that is used in the transportation of hazardous liquid or carbon dioxide in interstate or foreign commerce. Typically, these lines cross state borders or begin in federal waters.

The SFM regulates intrastate hazardous liquid pipelines pursuant to the Act, whereas the California Public Utilities Commission regulates intrastate gas pipelines. An intrastate pipeline is defined as a pipeline that is located entirely within state borders, including offshore state waters. The SFM may regulate portions of interstate hazardous liquid pipelines located within the state, if there is an agreement between the federal government and the SFM.

The SFM's Pipeline Safety Division. The SFM regulates the safety of approximately 5,500 miles of intrastate hazardous liquid transportation pipelines and acts as an agent of the federal Office of Pipeline Safety concerning the inspection of more than 2,000 miles of interstate pipelines. Pipeline Safety staff inspect, test, and investigate to ensure compliance with all federal and state pipeline safety laws and regulations. Hazardous liquid pipelines are also periodically tested for integrity using procedures approved by the SFM. The program has been certified by the federal government since 1981.

This bill revises and recasts various provisions relating to record maintenance and inspection, and authorizes the SFM to require the owner or operator of a pipeline to establish and maintain records, make reports, and provide any information that the SFM reasonably requires, as specified.

Pipeline Safety Regulations. While the federal government is primarily responsible for developing, issuing and enforcing pipeline safety regulations, under the PHMSA, the pipeline safety statutes provide for state regulatory, inspection, and enforcement responsibilities under regarding intrastate pipelines an annual certification.

To qualify for certification, a state must adopt the minimum federal regulations. The PHMSA may authorize a state to act as its agent to inspect interstate pipelines, but retains responsibility for enforcement of the regulations. Most states have

supported the concept of common stewardship in pipeline safety. According to PHMSA, the resulting Federal/State partnership allows leveraging of resources to deliver a cost-effective program that has one of the best safety records in transportation.

A state must also provide for injunctive and monetary sanctions substantially the same as those authorized by the pipeline safety statutes. As part of this program, PHMSA provides reimbursable federal grant funds to state pipeline programs to offset up to 80 percent of costs.

This bill repeals specified funding and contingent operation provisions and another obsolete provision, and makes various nonsubstantive and conforming changes.

Pipeline Definition. The Act currently defines a "pipeline," for purposes of the Act, to include every intrastate pipeline used for the transportation of hazardous liquid substances or highly volatile liquid substances. However, the current definition excludes a pipeline for the transportation of crude oil that operates by gravity or at a stress level of 20 percent or less of the specified minimum yield strength of the pipe. Unfortunately, this includes various pipelines that are located in coastal zones and other sensitive environmental areas.

This bill deletes the existing exemption for pipelines transporting crude oil by gravity or at a stress level of 20 percent or less of the specified minimum yield strength of the pipe. According to the author's office, there are currently 617 pipelines under the jurisdiction of the SFM, and their estimate of the number of low-pressure pipelines is 51, or roughly eight percent.

2021 Orange County Oil Leak. In October of 2021, an oil leak off the coast of Orange County was detected after residents reported smelling fumes, and a ship noticed an oil slick approximately five miles west of Huntington Beach and reported it to federal authorities. An alarm from a leak detection system sounded on the afternoon of October 1, and the operators shut down and began testing the pipeline for a leak. Officials believe that the pipeline that sprung the leak had likely been dragged for over 100 feet by a ship's anchor earlier in 2021. The 25,000-gallon spill was connected to an oil processing platform called Elly, which stands roughly nine miles from shore, in federal waters.

On October 4, 2021, Governor Newsom proclaimed a state of emergency in Orange County to support the emergency response to the oil spill. That state of emergency remains in place today. In the wake of the spill, veterinary officials at

the University of California, Davis Oiled Wildlife Care Network reported 82 dead birds, three dead sea lions, and a dead bottlenose dolphin, among other impacted animals.

Déjà Vu. This bill is significantly similar to SB 169 (Jackson, 2019) which this body approved in 2019, but which ultimately failed passage in the Assembly Governmental Organization Committee. Additionally, this bill was recently amended and is now identical to SB 1030 (Limon, 2022), which the Senate approved earlier in the legislative session. That bill is currently pending in the Assembly Appropriations Committee.

Related/Prior Legislation

SB 1030 (Limon, 2022) is identical to this bill, and expands the definition of "pipeline" for the purposes of the Act, as specified; revises and recasts provisions relating to record maintenance and inspection by the SFM, and authorizes the SFM to require the owner or operator of a pipeline to establish and maintain records, make reports, and provide information to the SFM, as specified; repeals a specified test result requirement and repeals existing funding and contingent operation provisions; and makes various nonsubstantive and conforming changes, as specified. (Pending in the Assembly Appropriations Committee)

SB 169 (Jackson, 2019) would have, among other things, expanded the definition of "pipeline" by repealing the exception for a pipeline transporting crude oil that operates by gravity or at a stress level of 20 percent or less of the specified minimum yield strength of the pipe, as specified; and, would have revised and recast existing provisions related to the SFM's requirements relating to state or federal hazardous liquid pipeline safety laws. (Failed passage in the Assembly Governmental Organization Committee)

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

SUPPORT: (Verified 8/1/22)

California Environmental Voters
Center on Race, Poverty & the Environment
Environmental Defense Center

OPPOSITION: (Verified 8/1/22)

California Independent Petroleum Association
Western States Petroleum Association

ARGUMENTS IN SUPPORT: In support of this bill, California Environmental Voters writes that, "California's pipeline regulations are much stronger than federal regulations, but the Elder California Pipeline Safety Act, as it is written now, provides a loophole to oil companies that allows them to avoid appropriate safeguards and oversight. By operating their intrastate pipelines at a stress level of 20 percent or less of the specified minimum yield strength of the pipe, they are not subject to California's higher standards for operation and safety. AB 2931 makes it clear that all intrastate pipelines should be subject to the same oversight regardless of how they are operated. This bill is essential in preventing future oil spills and reducing their severity if they do occur. We cannot continue to let oil companies evade compliance by running their pipelines at a low pressure. We urge your 'aye' vote on AB 2931 when it comes before you in committee."

ARGUMENTS IN OPPOSITION: In opposition to this bill, the Western States Petroleum Association (WSPA) writes that, "AB 2931 is silent on proper controls regarding the handling of sensitive information for the safety of the general public. WSPA is concerned that the significant expansion of authority for SFM to copy and distribute all pipeline field documents, without any controls regarding the handling of business sensitive confidential information could result in releasing sensitive information that has the potential of compromising public safety, the environment, and the safe operations of pipelines."

Further, WSPA states that, "AB 2931 lacks language that would provide proper controls regarding the sharing of this data by agencies that receive the information from the SFM. It is evident that more work needs to be done on this bill to properly identify the universe of information that the SFM could share with other agencies in order to avoid unintended consequences. It's important to allow pipeline operators to review the data to be shared and when necessary, claim data as confidential. There also needs to be limits and controls on how and what data can be shared with other agencies, as well as prohibiting the disclosure of sensitive data to the public."

ASSEMBLY FLOOR: 49-17, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NOES: Bigelow, Chen, Cunningham, Megan Dahle, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Mathis, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Choi, Cooper, Daly, Davies, Gipson, Grayson, Mayes, Nguyen, O'Donnell, Quirk-Silva, Blanca Rubio

Prepared by: Brian Duke / G.O. / (916) 651-1530
8/3/22 14:42:53

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

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

THIRD READING

Bill No: AB 2949
Author: Lee (D), et al.
Amended: 6/30/22 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 15-0, 6/14/22
AYES: Gonzalez, Bates, Allen, Becker, Cortese, Dahle, Dodd, Limón, McGuire, Melendez, Min, Newman, Skinner, Wieckowski, Wilk
NO VOTE RECORDED: Archuleta, Rubio

SENATE MILITARY & VETERANS COMMITTEE: 6-0, 6/28/22
AYES: Archuleta, Eggman, Melendez, Newman, Roth, Umberg
NO VOTE RECORDED: Grove

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 73-0, 5/23/22 - See last page for vote

SUBJECT: Vehicles: toll exemptions

SOURCE: Author

DIGEST: This bill exempts vehicles registered to veterans displaying specialized license plates from paying tolls or related fines.

ANALYSIS:

Existing law:

1) Requires every vehicle using a toll bridge or toll highway to be liable for any tolls or other charges that may be prescribed and prohibits a person from evading or attempting to evade the payment of those tolls or charges.

2) Allows emergency vehicles that are properly marked as such, displaying exempt California license plates, and either engaged in traveling to or returning from urgent or emergency response to be exempt from toll payment.

3) Requires toll operators, or processing agency, to issue a notice of toll evasion violation to the registered owner of the vehicle within 21 days of the violation if a vehicle is found, by automated devices (including cameras), by visual observation, or otherwise, to have evaded a toll.

This bill:

1) Exempts from toll payment or other charge on a toll road, toll bridge, toll highway, vehicular crossing, or other toll facility, except for a high-occupancy toll (HOT) lane, any vehicle registered to a veteran and displaying one of the six California license plate types that are only available to qualifying veterans from the Department of Motor Vehicles (DMV). These veterans include:

   a) Disabled veterans;
   b) Pearl Harbor survivors;
   c) Recipients of the Army, Navy, and Air Force Medals of Honor, the Army Distinguished Service Cross, and the Navy and Air Force Crosses;
   d) Former American prisoners of war;
   e) Recipients of the Congressional Medal of Honor; and,
   f) Recipients of the Purple Heart.

2) Requires the vehicle to be registered to a transponder or other electronic toll payment device account with an issuing toll agency.

Comments

1) *Purpose of this bill.* According to the author, "the minimum wage for California is $15 an hour. Meanwhile, the toll road from the Bay Area to Sacramento is $14 roundtrip, which could be someone's entire hour's salary. AB 2949 requires that a vehicle displaying one of the specified veteran's plates be exempted from tolls or other charges on toll roads or bridges.

   "Veterans who are disabled, survived Pearl Harbor, a Medal of Honor or Purple Heart recipient, or a former Prisoner of War face enough difficulties after their military service. By exempting these veterans from toll charges, we will provide assistance to those who sacrificed for us in service."

2) *What is covered?* This bill applies to tolls and other charges on toll roads, toll bridges, toll highways, vehicular crossings or other toll facilities, except HOT lanes.

3) *Who is covered?* This bill does not excuse all veterans from paying tolls. Rather, it exempts vehicles displaying special license plates that can only be obtained by veterans who meet specific, additional criteria and can provide official documentation of their status to the DMV. Specifically, these special plates are available to veterans who have been prisoners of war, veterans who survived the attack on Pearl Harbor, veterans who have been severely disabled in the course of their service, and veterans who have received particular distinctions (e.g., the Purple Heart, the Congressional Medal of Honor). As these examples suggest, the special plate requirement limits the scope of this bill to a small subset of California veterans. According to the DMV, there are 34,365 disabled veterans and 5,580 other individuals with specialized license plates that would the specifications in this bill.

4) *How would it work?* Toll systems in California rely on a few methods for registering a person's use of a toll facility and payment of the tolls. First, is via a vehicle-mounted toll tag or sticker transponder that is read by antennae and associated electronically to a person's FasTrak account. Second, license plate readers are cameras that are positioned in various entrances and/or exits to the toll lane or bridge to record images of your license plate as a vehicle passes and tolls are assessed electronically to a person's account or to a one-time payment transaction. Additionally, on a handful of toll bridges, if a person has no transponder, the license plate information can be used to send a toll invoice to the registered owner of the vehicle.

   For vehicles that are exempt from tolls, like certain emergency vehicles, under current law, the public agency that owns and operates the vehicle can enter into an agreement with the toll agencies to identify the eligible vehicles via license plates. The toll agencies set up a so-called "non-revenue" account with the public agency, free of charge, and register the license plates for plate readers and may issue transponders for use. This way the public agency is not issued a toll invoice for use of the facilities. Recent amendments to AB 2949 would set up a similar system for the eligible veterans. This bill requires veterans to register their qualifying license plate to a transponder or other electronic toll payment account with an issuing toll agency. This can be done free of charge. Additionally, the toll agencies in California have reciprocity with other California toll agencies, so one registration would work for all toll facilities in California.

5) *Cost impact on toll facilities.* It is unclear what the financial impact would be on toll agencies. However, according to the Assembly Appropriations Committee, "there are 34,365 disabled veteran's plates currently in circulation. In addition, there is a much smaller number of plates in circulation that are also available to veterans only, such as plates available to former prisoners of war and plates available to recipients of the Congressional Medal of Honor. If 10% of the roughly 40,000 vehicles with such "veterans" plates made four roundtrip journeys each year from the Bay Area to Sacramento—a trip the author describes as costing $14 in tolls—then local toll authorities would forego $224,000 each year, an amount the state might be required to reimburse."

   Additional costs could arise from the initial implementation of this bill, including setting up the accounts and mailing transponders to eligible veterans. There is a concern about potential long term consequences. As noted, current law only allows emergency vehicles responding to an emergency to be exempt from paying tolls. AB 2949 creates an exemption that is not based on a specific need for use of the toll facilities. As such, this bill may open the door to additional toll exemptions.

Related/Prior Legislation

SB 1259 (Runner, 2016) would have exempted vehicles displaying specialized veteran license plates from toll payments. The bill died in the Assembly Veterans Affairs Committee.

AB 254 (Jeffries, Chapter 425, Statutes of 2009) exempted emergency vehicles, as specified, engaged in emergency response from toll payment.

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

SUPPORT: (Verified 8/8/22)

American Legion Department of California
California State Commanders Veterans Council
Cheryl Sudduth
City of Vallejo City Councilmember Cristina Arriola
City of Vallejo Mayor Robert Mcconnell
Military Officers Association of America, California Council of Chapters
Save Our Seniors Network
Vietnam Veterans of America, California State Council
Three individuals

OPPOSITION: (Verified 8/8/22)

None received

ARGUMENTS IN SUPPORT: According to the California State Commanders Veterans Council, "the toll road from the Bay Area to Sacramento is $14 roundtrip, which could be someone's entire hour salary. Given that many jobs can be concentrated in certain regions of the state, it may be necessary for someone to commute daily on a toll bridge for work roundtrip.

"These barriers can be prohibitive for disabled veterans, who may find it more difficult to attain a job. According to the Pew Research Center, nearly three in ten disabled veterans say their impairments prevented them from getting or keeping a job at some point in their working lives. In addition, those with the greatest degree of disability encountered the most obstacles in the workplace – with two-thirds who are 100% disabled saying their impairments prevented them from getting a job."

ASSEMBLY FLOOR: 73-0, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Mia Bonta, Mayes, O'Donnell, Blanca Rubio

Prepared by: Melissa White / TRANS. / (916) 651-4121
8/10/22 14:24:57

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

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

THIRD READING

Bill No: AB 2955
Author: Committee on Labor and Employment
Amended: 6/15/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 6/29/22
AYES: Cortese, Ochoa Bogh, Durazo, Newman, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 72-0, 5/19/22 (Consent) - See last page for vote

SUBJECT: Worker classification: commercial fishing industry

SOURCE: Author

DIGEST: This bill extends the sunset date on the exemption from the application of the ABC test for commercial fishers working on an American vessel.

ANALYSIS:

Existing law:

1) Establishes a comprehensive set of protections for employees, including a time-sure minimum wage, meal and rest periods, workers' compensation coverage in the event of an industrial injury, sick leave, disability insurance (DI) in the event of a non-industrial disability, paid family leave, and unemployment insurance (UI).
(Labor Code §§201, 226.7, 246, 512, 1182.12, & 3600 and UI Code §§1251 & 2601)

2) Provides that for purposes of the Labor Code and the Unemployment Insurance Code, where another definition of "employee" is not otherwise specified, and for the wage orders of the Industrial Welfare Commission (IWC), a person

providing labor or services for remuneration shall be considered an employee unless the hiring entity satisfies the 3-part ABC test (per Dynamex):

a) The person is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.
b) The person performs work that is outside the usual course of the hiring entity's business.
c) The person is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.
(Labor Code §2775)

3) Exempts from the application of the ABC test, and instead, applies the definition of an employee as set forth in *S. G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) (*Borello*), to specified occupations and business relationships, including the use of professional services under certain circumstances. (Labor Code §2778)

4) Exempts, until January 1, 2023, a commercial fisher working on an American vessel from the ABC test for employment status but specifies that such individual is eligible for unemployment insurance benefits if they are otherwise eligible, as specified. (Labor Code §2783)

5) Defines "commercial fisher" as a person who has a valid, unrevoked commercial fishing license issued pursuant to Article 3 (commencing with Section 7850) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code.

6) Defines "working on an American vessel" to mean the taking or the attempt to take fish, shellfish, or other fishery resources of the state by any means, and includes each individual aboard an American vessel operated for fishing purposes who participates directly or indirectly in the taking of these raw fishery products, including maintaining the vessel or equipment used aboard the vessel.

7) Requires the Employment Development Department, each March 1, to issue an annual report to the Legislature on the use of unemployment insurance in the commercial fishing industry. This report shall include, but not be limited to, all of the following:

a) Reporting the number of commercial fishers who apply for unemployment insurance benefits.
b) The number of commercial fishers who have their claims disputed.
c) The number of commercial fishers who have their claims denied.
d) The number of commercial fishers who receive unemployment insurance benefits.

8) Establishes within the Department of Industrial Relations, the Division of Fair Labor Standards Enforcement (DLSE) lead by the Labor Commissioner, tasked with administering and enforcing labor code provisions concerning wages, hours and working conditions. (Labor Code §56)

This bill extends from January 1 2023 to January 1, 2026, the sunset date on the exemption from the application of the ABC test for commercial fishers working on an American vessel.

Background

Dynamex and AB 5: The employer-employee relationship is at the core of the rights and obligations found within Labor Code. Being classified as an employee is essential to trigger most of the employer mandates and worker protections found within existing law. California's wage and hour laws (e.g., minimum wage, overtime, meal periods and rest breaks, etc.), workplace safety laws, and retaliation laws protect employees, but not independent contractors. Additionally, employees can go to state agencies such as the Labor Commissioner's office to seek enforcement of these laws, whereas independent contractors must resolve their disputes or enforce their rights under their contracts through other means.

For several decades, the employer-employee relationship was put under pressure due to the increased use of independent contractors and the misclassification of employees. For employers lawfully using the independent contractor model, they trade control over the working conditions for being released from many of the primary obligations of being an employer, including paying overtime, remitting payroll taxes, securing workers' compensation coverage, and ensuring a healthy and safe work environment. Unfortunately, this model created incentives for employers to misclassify employees as independent contractors. In 2017, California's Employment Development Department Tax Audit Program conducted

7,937 audits and investigations, resulting in assessments totaling $249,981,712, and identified nearly half a million unreported employees.[1]

The issue culminated with a 2018 Supreme Court decision, *Dynamex Operations West, Inc. v. Superior Court (2018) 4 Cal.5th 903.* Under Dynamex, the test for whether a worker is an independent contractor or an employee is a greatly simplified to a three-prong test:

> *(A) The worker is free from the control and direction of the hirer in connection with the performance of the work, both under the contract for the performance of such work and in fact;*
> *(B) The worker performs work that is outside the usual course of the hiring entity's business; and*
> *(C) The worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed for the hiring entity.*

In 2019, AB 5 (Gonzalez, Chapter 296, Statutes of 2019) codified the Dynamex decision requiring that employers prove that their workers can meet the ABC test in order to be lawfully classified as independent contractors, and exempted from the test certain professions and business-to-business relationships. AB 5 also provided specified industrial categories where the long-standing Borello test would remain the standard for determining who is an employee. Under Borello, in *S. G. Borello & Sons, Inc. v Dept. of Industrial Relations* (1989) 48 Cal.3d 341, the California Supreme Court created an 11 point "economic realities" test on whether someone could lawfully be considered an independent contractor.

[NOTE: Please see Senate Labor, Public Employment and Retirement Committee analysis on this bill for more background information on existing exemptions to AB 5 and the ABC test.]

EDD Report: Use of Unemployment Insurance in the Commercial Fishing Industry
According to the March 1, 2021 report by EDD on the use of the UI system by commercial fishermen, per existing law as noted above, from January 1 – December 31, 2020:

- The number who applied for UI benefits: 441

[1] Employment Development Department 2018 Annual Report on Fraud Deterrence and Detection Activities, **https://edd.ca.gov/About_EDD/pdf/Fraud_Deterrence_and_Detection_Activities_2018.pdf**.

- The number of claims disputed: 7
- The number of claims denied: 0
- The number who received UI benefits: 391
- The total amount of UI benefits paid: $5,613,933.50

Comments

Need for this bill? According to the author, "AB 2955 is a simple bill that addresses clean-up from AB 5 (Gonzalez) of 2019. It merely extends the sunset on the commercial fishermen's exemption from AB 5 for three years while maintaining critical reporting requirements from the EDD about the extent of unemployment claims filed by these workers. This reporting allows the Legislature to deepen its understanding of the employment relationship between fishermen and vessel owners."

Related/Prior Legislation

AB 1561 (Committee on Labor and Employment, Chapter 422, Statutes of 2021) extended the sunset dates on the exemptions granted to licensed manicurists and construction trucking subcontractors under AB 5 (Gonzalez, Chapter 296, Statutes of 2019) to January 1, 2025, providing each industry three more years to determine compliance. The bill also clarified the scope of the exemption previously granted to a data aggregator and a research subject who willingly engages with a data aggregator to provided individualized feedback, as specified, and clarifies that the exemption previously granted to occupations in the insurance industry also extends to an individual providing claims adjusting or third party administration work.

AB 1506 (Kalra, Chapter 328, Statutes of 2021) extended for three years an existing exemption for newspaper distributors and carriers from the "ABC Test" under *Dynamex* (AB 5, Gonzalez, Chapter 296, Statutes of 2019), and (2) requires them to submit specified information to the Labor and Workforce Development Agency (LWDA) on the number of carriers for which the publisher or distributor paid and did not pay payroll taxes for, as well as the wage rates and information to demonstrate compliance of their carriers with the *Borello* test.

AB 2257 (Gonzalez, Chapter 38, Statutes of 2020) recast and clarified the business-to-business referral agency, and professional services exemption to the 3-part ABC test for employment status and exempted additional occupations and business relationships.

AB 323 (Rubio, Chapter 341, Statutes of 2020) extended an existing exemption for newspaper distributors from the "ABC" test from January 1, 2021, to January 1, 2022, and required an assessment of the effectiveness of contracts to conduct outreach and marketing to specified communities.

AB 170 (Gonzalez, Chapter 415, Statutes of 2019) provided that until January 1, 2021, newspaper distributors working under a contract with newspaper publisher, and for a newspaper carries working for a newspaper distributor, the applicable test for determining if an individual is an employee or an independent contractor is the predecessor test to *Dynamex* developed by the California Supreme Court in *S. G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341.

AB 5 (Gonzalez, Chapter 296, Statutes of 2019) codified the decision of the California Supreme Court in *Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018)* requiring that employers prove that their workers can meet a 3 part (ABC) test in order to be lawfully classified as independent contractors, and exempted from the test certain professions and business-to-business relationships.

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

SUPPORT: (Verified 8/1/22)

California Wetfish Producers Association
Del Mar Seafoods, Inc.
Morro Bay Commercial Fishermen's Organization
Pacific Coast Federation of Fishermen's Association
San Francisco Crab Boat Owners' Association

OPPOSITION: (Verified 8/1/22)

None received

ARGUMENTS IN SUPPORT: According to the San Francisco Crab Boat Owners, "Three years ago the Legislature granted the commercial fishing industry an exemption from AB 5 and directed the EDD to report back data on UI applicants annually. The first report showed no irregularities, but the 2022 report is yet to be completed. A three-year extension of the sunset is appropriate to give the Legislature some additional data when contemplating a more permanent solution in the future. We appreciate the time Senators, members of the Assembly, and their staffs have spent meeting with our partners at Pacific Coast Federation of Fishing Associations and learning the peculiarities of the fishing industry. Extending the sunset date is in the best interests of California's commercial fishing industry, the

local communities and business which are dependent on our operations, and the State's food security."

ASSEMBLY FLOOR: 72-0, 5/19/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Cervantes, Medina, Nazarian, Quirk-Silva, Blanca Rubio

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
8/3/22 14:42:54

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

SENATE RULES COMMITTEE AB 2956
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2956
Author: Committee on Transportation
Amended: 6/16/22 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 17-0, 6/28/22
AYES: Newman, Bates, Allen, Archuleta, Becker, Cortese, Dahle, Dodd, Hertzberg, Limón, McGuire, Melendez, Min, Rubio, Skinner, Wieckowski, Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 72-0, 5/19/22 (Consent) - See last page for vote

SUBJECT: Transportation

SOURCE: Author

DIGEST: This bill is the annual transportation omnibus bill to make noncontroversial and minor changes to provisions of law related to transportation.

ANALYSIS: Existing law includes numerous provisions related to transportation.

This bill:

1) Updates federal program references for the Active Transportation Program.

2) Updates the reference of required motorcycle range and street instruction to be under the guidance of the California Motorcyclist Safety Program.

3) Makes numerous changes for federal conformity regarding the operation of commercial vehicles and enforcement by the California Highway Patrol.

4) Clarifies process for when a license issued by the Department of Motor Vehicles is automatically cancelled if the licensee's seller's permit is

suspended, revoked, or canceled by the California Department of Tax and Fee Administration (CDTFA).

5) Updates a subsection reference for valid permitting to operate a motor vehicle.

6) Deletes obsolete references to "household goods carriers" and the Public Utilities Commission and replaces them with "household movers," and Department of Consumer Affairs and updates appropriate cross references.

7) Updates the testing standard of vehicular exhaust systems in accordance with the most current Society of Automotive Engineers International standard.

8) Deletes obsolete reference in the Vehicle Code regarding the New Motor Vehicle Board.

Comments

1) *Purpose*. The Assembly Transportation Committee is authoring this year's transportation omnibus bill as a cost-effective way of making a number of minor, non-controversial changes to statute at one time. There is no known opposition to any of the items in the bill. If issues arise that cannot be resolved, the provision of concern will be deleted from the bill.

2) *Updates*. AB 2956 includes the following provisions, with the proponent of each provision noted in brackets:

   a) Federal program references for the Active Transportation Program are out of date. The Transportation Alternatives Program (TAP) and Recreational Trails Program have been eliminated as individual programs and consolidated into the Surface Transportation Block Program under Section 133(h) of Title 23 of the U.S. Code. The entire TAP program (referred to in code as the "STP set-aside") is under Section 133(h) and the recreational trails portion of the program is under Section 133(h)(5). *This section updates the state highway code to reference Section 133(h) of Title 23 of the U.S. Code.* [Metropolitan Transportation Commission]

   b) The California Motorcyclists Safety Program, administrated by the California Highway Patrol, is the only official range and street teaching motorcycle driving instruction certified by the State. *This section updates the required motorcycle range and street instruction and to be under the guidance of the Motorcycle Safety Foundation California Motorcyclists Safety Program.* [ABATE of California, Motorcyclists Rights & Safety Organization]

c) Numerous sections of the California Vehicle Code (CVC) contain outdated references to federal code. *To maintain consistency with federal mandates, this section:*

   i) Amends Section 2400 of the CVC, which applies to size and weight certification.

   ii) Amends Section 2800 of the CVC, which relates to vehicle inspection requirements.

   iii) Amends Section 2813 of the CVC, which applies to vehicle inspection requirements (adding driver's license (DL) and hours-of-service compliance).

   iv) Amends Section 12505(g) of the CVC, which is applicable to foreign commercial driver licenses.

   v) Amends Section 26710 of the CVC, which applies to windshield requirements.

   vi) Amends Section 27903(c) of the CVC, which applies to explosives transportation permits and regulatory exemptions.

   vii) Amends Section 34501(b) of the CVC, related to explosives transportation permits and regulatory exemptions.

   viii) Amends state statute applicable to vehicle equipment condition by adding new Section 34501.19 of the CVC.

   ix) Amends Section 34505.6 of the CVC, which applies to household goods carriers; and,

   x) Amends Section 16028(b) of the CVC to mandate that a peace officer request and verify evidence of financial responsibility from the driver of a vehicle, and remove the nonessential mandate that a peace officer write the vehicle insurance policy number on a notice to appear. [California Highway Patrol]

d) Current statute requires the California Department of Motor Vehicles (DMV) to cancel a dealer license when a dealer voluntarily surrenders their seller's permit to CDFTA for cancellation. *This section closes a loophole that enables dealers to continue to sell vehicles as licensed dealers without*

remitting sales and use tax to CDTFA. [California Department of Tax and Fee Administration]

e) AB 1343 (Spitzer, Chapter 768, Statutes of 2003) inadvertently exempted adults with an instruction permit from the requirement to drive under the supervision of an accompanying licensed driver. *This section amends subdivision (d) to include paragraph (5) of subdivision (a). This will restore adult drivers to subdivision (d).* The language is in print as AB 1898 (Fong, 2022). [Republican Caucus]

f) CVC Sections 2810.1, 16020, 16560, 34505.6, 34507.5, 34601, 34603, 34622, 34264 contain outdated cross-references for the exemption related to household movers and the permit required, and outdated reference to "goods carrier" rather than "mover." *This section reflects the proper cross-reference, and updates the term "mover" rather than "goods carrier."* [California Moving and Storage Association]

g) California measures a motor vehicle's exhaust using a Society of Automotive Engineers' (SAE) methodology. SAE periodically updates the standard to reflect the latest best practices and to account for changing vehicle technology. As a result, the CVC must be updated to reflect these changes. *This section updates the California Vehicle Code to allow the Bureau of Automotive Repair to use the latest SAE testing standard when measuring a motor vehicle's exhaust noise.* [Specialty Equipment Market Association]

h) AB 179 (Reyes, Chapter 796, Statutes of 2019), in part, repealed Article 3 of Chapter 6 of the Vehicle Code (§§3052-3058), which granted the New Motor Vehicle Board (Board) the authority to hear appeals of decisions made by the Director of the DMV. Vehicle Code Section 3008 currently makes reference to the conduct of the Board in regard to hearing those appeals and must be deleted. In addition, Vehicle Code Sections 3065.3 and 3065.4 were added to the Board's jurisdiction and therefore Section 3069.1 needs to be amended to incorporate these protests. Subdivisions (b) and (c) of Section 3008 must be removed to correct obsolete references. *The new protests added to the Board's jurisdiction in Sections 3065.3 and 3065.4 need to be incorporated into Section 3069.1 for consistency purposes.*

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

SUPPORT: (Verified 7/28/22)

None received

OPPOSITION: (Verified 7/28/22)

None received

ASSEMBLY FLOOR: 72-0, 5/19/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Cervantes, Medina, Nazarian, Quirk-Silva, Blanca Rubio

Prepared by: Katie Bonin / TRANS. / (916) 651-4121
8/8/22 16:08:44

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

SENATE RULES COMMITTEE AB 2958
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2958
Author: Committee on Judiciary
Amended: 6/15/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 6/21/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, McGuire, Stern, Wiener

ASSEMBLY FLOOR: 65-0, 5/12/22 (Consent) - See last page for vote

SUBJECT: State Bar of California

SOURCE: Author

DIGEST: This bill authorizes the State Bar of California (State Bar) to collect annual license fees of $390 for active licensees for 2022. This bill makes various changes to enhance the State Bar's main priority of public protection, including requiring the State Bar to comply with existing notice requirements related to a data breach of confidential information. This bill requires the State Auditor to evaluate each program or division of the State Bar receiving support from the annual State Bar licensing fees and other fees required of active and inactive licensees.

ANALYSIS:

Existing law:

1) Requires all attorneys who practice law in California to be licensed by the State Bar and establishes the State Bar for the purpose of regulating the legal profession. The Legislature sets the annual fees. (Bus. & Prof. Code § 6000 et seq.) The State Bar is governed the Board of Trustees of the State Bar (Board). (Bus. & Prof. Code § 6010 et seq.; § 6016.)

2) Authorizes the State Bar to collect the following fees from active licensees for the year 2021.

3) Authorizes the State Bar to collect the following fees from inactive licensees for the year 2021.

4) Requires the State Bar to charge a $45 optional legal services fee for the purposes of funding legal services, as provided. (Bus. & Prof. Code § 6140.03.)

5) Requires that the mandatory State Bar outreach for its Attorney Diversion and Assistance Program include continuing legal education courses relating to the prevention, detection, and treatment of substance abuse. (Bus. & Prof. Code §6236.)

6) Establishes a Public Interest Task Force within the Stat Bar that is required to prepare a report every three years that includes recommendations for enhancing the protection of the public and ensuring protection of the public is the highest priority in licensing, regulation, and discipline. (Bus. & Prof. Code § 6001.2(a).)

7) Requires the State Bar to contract with the California State Auditor's Office to conduct a performance audit of the State Bar's operations every two years.[1] (Bus. & Prof. Code § 6145 (b).)

8) Requires the Auditor to conduct an independent audit to determine whether the State Bar's attorney complaint and discipline process adequately protects the public from misconduct by licensed attorneys or those who wrongfully hold themselves out as licensed attorneys. (Bus. & Prof. Code § 6145(c).)

9) Requires, under the Information Practices Act of 1977, that any agency, as defined, that owns or licenses computerized data that includes personal information, as defined, to disclose, pursuant to specific notice requirements, any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of California, as specified. (Civ. Code § 1798.29.)

This bill:

1) Authorizes the State Bar to collect an annual license fee of $390 for active licensees for 2022, and $97.40 for inactive licensees.

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[1] *The State Bar of California: It Is Not Effectively Managing Its System for Investigating and Disciplining Attorneys Who Abuse the Public Trust* (Auditor of the State of California) April 2021, available at https://www.auditor.ca.gov/pdfs/reports/2020-030.pdf (as of May 1, 2021).

a) Reduces the active licensee fee by $4 and inactive license fee by $1 if the State Bar has entered into a contract to sell its San Francisco office building by December 31, 2022.

b) Authorizes the Board to provide each licensee with the option of including up to $5 to the annual fee to support lobbying and related activities by the State Bar, as provided.

2) Provides that any filing of a vacancy on the Board mid-term does not count toward the two-term limit for appointments of trustees.

3) Repeals the Public Interest Task Force. Also repeals obsolete provisions.

4) Requires $5 of the $45 optional legal services fee to be allocated to qualified legal services projects or qualified support centers, as defined, to fund law student summer fellowships for the purpose of supporting law students interested in pursuing a career in legal services until January 1, 2025.

5) Requires that the mandatory State Bar outreach for its Attorney Diversion and Assistance Program include continuing legal education courses addressing behavioral health issues.

6) Requires the 2023 audit by the State Auditor to evaluate each program or division of the State Bar receiving support from the annual State Bar licensing fees and other fees required of active and inactive licensees, as specified.

7) Requires any committee or subcommittee of the State Bar exploring a regulatory sandbox or the licensing of non-attorneys as paraprofessionals to:

a) Prioritize protecting individuals, especially those in need of legal assistance, from unscrupulous actors, including those actors seeking to do business in the legal field above all else;

b) Prioritize increasing access to justice for indigent persons;

c) Exclude corporate ownership of law firms and splitting legal fees with non-lawyers, which has historically been banned by common law and statute due to grave concerns that it could undermine consumer protection by creating conflicts of interests that are difficult to overcome and fundamentally infringe on the basic and paramount obligations of attorneys to their clients;

d) Adhere to, and not propose any abrogation of, the restrictions on the unauthorized practice of law, including but not limited to, Corporations Code Section 13405 and Corporations Code Section 16951; and

e) Not expend any funds, regardless of the source, on activities that do not meet these requirements.

8) Requires the State Bar to comply with the requirement, under the Information Practices Act of 1977, that any agency, as defined, that owns or licenses computerized data that includes personal information must disclose any breach of the security of the system following discovery or notification of the breach to any resident of California.

Comments

The State Bar is a public corporation and the largest state bar in the country. Attorneys who wish to practice law in California generally must be admitted and licensed in this state and must be members of the State Bar. (Cal. Const., art. VI, § 9.) This bill is the annual State Bar licensing fee bill. This bill authorizes the State Bar to collect attorney licensing fees of $390 for active licensees for 2022, which is the same as for 2021. However, this bill provides that the active license fee is to be reduced by $4 and the inactive licensee fee by $1 if the State Bar has entered into a contract to sell its San Francisco office building by December 31, 2022. The State Bar is planning on putting this building up for sale sometime this year. When the license fee was increased in 2020, it provided for a $4 increase to be used by the State Bar for capital improvements needed at its San Francisco building. If the building is sold, obviously the State Bar will no longer need these funds for capital improvements.

This bill makes various changes related to the State Bar, including, among others, requiring the State Bar to comply with requirements under the Information Practices Act of 1977 related to notice of data breaches of confidential information, repealing the Public Interest Task Force, specifying that any filling of a vacancy on the Board mid-term does not count toward the two-term limit for appointments of trustees, and requiring that the mandatory State Bar outreach for its Attorney Diversion and Assistance Program include continuing legal education courses addressing behavioral health issues.

This year’s audit of the State Bar’s discipline program found that weak policies are limiting the State Bar’s ability to protect the public from attorney misconduct,

which is its highest priority.[2] The State Bar generally agrees with the recommendations by the State Auditor and even began implementing some of the recommendations during the audit. In regards to other recommendations, the State Bar states it will need a significant increase in resources in order to implement them, i.e. a significant increase in attorney licensing fees; however, the State Auditor disagrees about the need for many of the requests for additional resources. Accordingly, the bill requests the California State Auditor to evaluate each program or division of the State Bar receiving support from the annual State Bar licensing fees and other fees required of active and inactive licensees, as provided.

Earlier this year, the chairs of the Senate Judiciary Committee and the Assembly Judiciary Committee raised concerns in a letter to the State Bar about two working groups within the State Bar and the wisdom of using scarce resources of the State Bar, particularly given its long-standing lack of attention to the discipline system, on these working groups. The Closing the Justice Gap Working Group is tasked with "exploring the development of a regulatory sandbox to encourage the development of innovative legal service delivery models serving clients at all income levels through the collaboration of lawyers, law firms, technologists, entrepreneurs, and others.[3]" The other working group is the California Paraprofessional Program Working Group, which is charged with creating a "paraprofessional licensure/certification program to increase access to legal services in California.[4]"

In light of the concerns raised by these workgroups, the results of the most recent audit, and the Legislature's clear direction to focus on discipline—the core mission of the State Bar—this bill provides that any committee or subcommittee of the State Bar exploring a regulatory sandbox or the licensing of non-attorneys as paraprofessionals is required to:

1) Prioritize protecting individuals, especially those in need of legal assistance, from unscrupulous actors, including those actors seeking to do business in the legal field above all else;

2) Prioritize increasing access to justice for indigent persons;

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[2] For a detailed description of the audit's findings please refer to the Sen. Jud. Comm. Analysis of AB 2958 (2021-2022 Reg. Sess.) as amended Jun. 15, 2022.
[3] Cal. State Bar *Closing the Justice Gap Working Group*, available at https://www.calbar.ca.gov/About-Us/Who-We-Are/Committees/Closing-the-Justice-Gap-Working-Group.
[4] Cal. State Bar, Paraprofessional Program Working Group, *available at* https://www.calbar.ca.gov/About-Us/Who-We-Are/Committees/California-Paraprofessional-Program-Working-Group.

3) Exclude corporate ownership of law firms and splitting legal fees with non-lawyers, which has historically been banned by common law and statute due to grave concerns that it could undermine consumer protection by creating conflicts of interests that are difficult to overcome and fundamentally infringe on the basic and paramount obligations of attorneys to their clients;

4) Adhere to, and not propose any abrogation of, the restrictions on the unauthorized practice of law, including but not limited to, Corporations Code Section 13405 and Corporations Code Section 16951; and

5) Not expend any funds, regardless of the source, on activities that do not meet these requirements.

This provision is intended to ensure that State Bar's resources are used to focus on its core priority of discipline, and is intended to apply not only to a committee or subcommittee itself, but to employees and contractors who assist and support their work.

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

SUPPORT: (Verified 6/23/22)

None received

OPPOSITION: (Verified 6/23/22)

Institute for the Advancement of the American Legal System
Justice Technology Association
Legal Profession at Stanford Law School
National Center for Access to Justice at Fordham Law
Responsive Law
Three individuals

ARGUMENTS IN SUPPORT: The author writes:

> This bill reauthorizes the State Bar to collect annual membership fees, but reduces fees by $5 and instead allows licensees who so choose to pay $5 extra for the Bar's lobbying activities. It also makes other changes to make the State Bar more accountable.

ARGUMENTS IN OPPOSITION: The Institute for the Advancement of the American Legal System writes in opposition to the provisions related to the working groups of the State Bar:

> […] core pieces of our framework for professional regulation [in the legal field] are assumption based. The provisions on the unauthorized practice of law and restrictions on fee-sharing and joint ownership with "non-lawyers" are among these. While these rules purport to protect the consumer from harm, the absence of evidence linking UPL, fee-sharing, and/or co-ownership to actual harm is difficult to reconcile.
>
> The profession is operating on assumption alone—assumptions that are decades and decades old. It is time that we revisit these regulations with a view toward data-driven reform. Proposed Section 3 of A.B. 2958 would prohibit the California State Bar from doing so.

ASSEMBLY FLOOR: 65-0, 5/12/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Salas, Santiago, Seyarto, Smith, Stone, Ting, Villapudua, Voepel, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Boerner Horvath, Cunningham, Davies, Gray, Grayson, Kiley, Lackey, Lee, Quirk-Silva, Rodriguez, Blanca Rubio, Valladares, Ward

Prepared by: Amanda Mattson / JUD. / (916) 651-4113
6/24/22 12:51:26

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

SENATE RULES COMMITTEE AB 2959
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2959
Author: Committee on Judiciary
Introduced: 3/8/22
Vote: 21

SENATE JUDICIARY COMMITTEE: 7-0, 6/8/22
AYES: Umberg, Durazo, Gonzalez, Hertzberg, Laird, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas, Caballero, Jones, Stern

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 65-0, 5/12/22 - See last page for vote

SUBJECT: Childhood sexual assault: claims

SOURCE: Author

DIGEST: This bill provides that claims for childhood sexual assault are not required to be presented to any governmental entity prior to the commencement of an action.

ANALYSIS:

Existing law:

1) Provides that in an action for recovery of damages suffered as a result of childhood sexual assault, the time for commencement of the action shall be within 22 years of the date the plaintiff attains the age of majority or within five years of the date the plaintiff discovers or reasonably should have discovered that psychological injury or illness occurring after the age of majority was caused by the sexual assault, whichever period expires later, for any of the following actions:

    a) An action against any person for committing an act of childhood sexual assault;

b) An action for liability against any person or entity who owed a duty of care to the plaintiff, if a wrongful or negligent act by that person or entity was a legal cause of the childhood sexual assault that resulted in the injury to the plaintiff; or

c) An action for liability against any person or entity if an intentional act by that person or entity was a legal cause of the childhood sexual assault that resulted in the injury to the plaintiff. (Code Civ. Proc. § 340.1(a).)

2) Authorizes a person who is sexually assaulted and proves it was the result of a cover up to recover up to treble damages against a defendant who is found to have covered up the sexual assault of a minor, unless prohibited by another law. (Code Civ. Proc. § 340.1(b).)

3) Provides that the actions above, not including those against the actual perpetrator of the assault, shall not be commenced on or after the plaintiff's 40th birthday unless the person or entity knew or had reason to know, or was otherwise on notice, of any misconduct that creates a risk of childhood sexual assault by an employee, volunteer, representative, or agent, or the person or entity failed to take reasonable steps or to implement reasonable safeguards to avoid acts of childhood sexual assault. (Code Civ. Proc. § 340.1(c).)

4) Provides that, notwithstanding any other provision of law, any such claim for damages that has not been litigated to finality and that would otherwise be barred as of January 1, 2020, because the applicable statute of limitations, claim presentation deadline, or any other time limit had expired, is revived, and these claims may be commenced within three years of January 1, 2020. (Code Civ. Proc. § 340.1(q).)

5) Establishes the Act and provides procedures and timelines for presenting claims against governmental entities in California. (Gov. Code § 810 et seq.)

6) Requires a claim against a public entity relating to a cause of action for death or for injury to person or to personal property or growing crops to be presented not later than six months after the accrual of the cause of action. (Gov. Code § 911.2.)

7) Exempts claims made pursuant to Section 340.1 of the Code of Civil Procedure for the recovery of damages suffered as a result of childhood sexual abuse from the claims presentation requirements of the Act as against local public entities. (Gov. Code § 905.)

This bill provides that claims for childhood sexual assault described above are not required to be presented to any government entity prior to the commencement of an action.

Background

The Government Claims Act (the Act), or Government Tort Claims Act, generally governs damage claims brought against public entities. (Gov. Code § 810 et seq.) In addition to any time limitations placed by other statutes on such claims, the Act requires that a claim that is brought against a public entity relating to a cause of action for death or for injury to a person be presented in writing to the public entity not later than six months after accrual of the cause or causes of action. (Gov. Code § 911.2.)

Recent legislation has made clear that such claims presentation requirements do not apply with respect to childhood sexual assault claims. Therefore, a plaintiff is not required to present the claim to the relevant governmental defendant, prior to commencement of an action. However, that waiver of these requirements only pertained to local public entities.

This bill expands this exception and removes any claims presentation requirements for childhood sexual assault against any public entities in California, including state governmental entities.

This bill is author sponsored. It is supported by the Consumer Attorneys of California. There is no known opposition.

Comments

Laws governing childhood sexual assault

In 2002, the Legislature enacted SB 1779 (Burton, Chapter 149, Statutes of 2002) to provide that an action for recovery of damages suffered as a result of childhood sexual abuse may be commenced on or after the plaintiff's 26th birthday if the third party defendant person or entity knew, had reason to know, or was otherwise on notice of any unlawful sexual conduct by an employee, volunteer, representative, or agent and failed to take reasonable steps and implement reasonable safeguards to avoid future acts of unlawful sexual conduct. (Code Civ. Proc. § 340.1(b)(2).) SB 1779 also enacted Section 340.1(c) to allow a claim under Section 340.1(b)(2) to be brought within a one-year window, January 1 to December 31, 2003, even if that claim would otherwise be time barred as of January 1, 2003, because of an applicable statute of limitations.

The Act generally governs damage claims brought against public entities. (Gov. Code § 815 et seq.) In addition to any time limitations placed by other statutes on such claims, the Act requires that a claim that is brought against a public entity relating to a cause of action for death or for injury to a person be presented in writing to the public entity not later than six months after accrual of the cause or causes of action. (Gov. Code § 911.2.)

In *Shirk v. Vista Unified School District* (2007) 42 Cal.4th 201, the California Supreme Court held that, notwithstanding Section 340.1, a timely claim to a public entity pursuant to the Act is a prerequisite to maintaining an action for childhood sexual abuse against a public entity school district. The Court based its holding primarily on its finding that nothing in the express language of SB 1779 or the bill's legislative history indicated an intent by the Legislature to exempt Section 340.1 claims from the Act and its six-month claim presentation requirement. Essentially, many claims for childhood sexual abuse against a public entity could not benefit from the change to Section 340.1 because the six-month presentation requirement for such claims was not addressed by SB 1779.

To address this loophole for childhood sexual abuse claims against public entities, SB 640 (Simitian, Chapter 383, Statutes of 2008) was enacted into law. It added an explicit exception to the claims presentation requirements to Section 905 of the Act for "[c]laims made pursuant to Section 340.1 of the Code of Civil Procedure for the recovery of damages suffered as a result of childhood sexual abuse." (Gov. Code § 905(m).) Section 905(m) applied to claims arising out of conduct occurring on or after January 1, 2009.

Despite this additional legislation making it clear the Legislature intended Section 340.1 to apply to claims against local public entities, numerous public entities, including school districts, were using another statute, Section 935 of the Government Code, to circumvent and undermine SB 640 and Section 905(m) of the Government Code. These public entities were attempting to defeat lawsuits alleging claims of childhood sexual abuse based on claims-presentations requirements the local public entities have set in their own charter, ordinance, or regulation.

To address this issue, SB 1053 (Beall, Chapter 153, Statutes of 2018) provided that the procedures authorized to be prescribed by Section 935 relating to claims for money or damages against local public entities do not apply to claims of childhood sexual abuse made as described in Section 905(m). SB 1053 thereafter effectuated the intent of the Legislature in enacting SB 640, thereby ensuring the delayed

discovery provisions in Section 340.1 apply to all childhood sexual abuse claims against local public entities.

Expanding the exemption to all governmental entities

The bills discussed above exempted claims for childhood sexual assault from claims presentation requirements pursuant to the Act, but only as against local public entities. This bill takes the next step and provides that claims for childhood sexual assault under Section 340.1 are not required to be presented to any government entity prior to the commencement of an action. This evens the playing field among various public entities for the same conduct.

According to the author:

> Current law provides an exception to the presentation requirement for cases of childhood sexual abuse perpetrated by public employees, but only for actions brought against a local public entity. (*See* Government Code Section 905 (m).) Therefore, a victim of childhood sexual abuse by a state entity is still required to fulfill the claim presentation requirement. There is no logical reason to limit the exemption to the claims presentation requirement for a person victimized by a local public entity, but not extend the exemption to person victimized by a state public entity. This bill would remove this inconsistency from existing law.
>
> Survivors of childhood sexual abuse (and their families) should not have to endure the costly and [time-consuming] process of presenting their claims to the government and exhausting administrative remedies before bringing claims against the government based on such abuse. These cases are relatively rare, yet traumatic. AB 2959 merely updates California law to exempt survivors of childhood sexual abuse perpetrated by public employees - whether local or state - from the requirement to formally present their claims to the government prior to filing a civil lawsuit against the government and recovering damages for their injuries.

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

SUPPORT: (Verified 6/20/22)

Consumer Attorneys of California

OPPOSITION: (Verified 6/20/22)

None received

ARGUMENTS IN SUPPORT: The Consumer Attorneys of California write:

> AB 2959 will allow child victims of sexual assault to bring a claim within the new extended statute without being barred by failure to present a claim to the state pursuant to the government tort claim act. Essentially, this change will put the state in the same position as all other government entities and hold state entities accountable for child sexual assault the same way local entities are held accountable.

ASSEMBLY FLOOR: 65-0, 5/12/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Villapudua, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Boerner Horvath, Cunningham, Davies, Gray, Grayson, Kiley, Lackey, Lee, Quirk-Silva, Blanca Rubio, Valladares, Voepel, Ward

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
6/22/22 14:51:36

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

SENATE RULES COMMITTEE AB 2960
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2960
Author: Committee on Judiciary
Amended: 8/9/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 6/14/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 37-0, 6/30/22 (Consent)
AYES: Allen, Archuleta, Atkins, Bates, Becker, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Borgeas, Gonzalez, Laird

ASSEMBLY FLOOR: 65-0, 5/12/22 (Consent) - See last page for vote

SUBJECT: Judiciary omnibus

SOURCE: Author

DIGEST: This bill makes various noncontroversial changes to existing law, including clarifying existing law, updating obsolete references, and removing a sunset on providing electronic notices of lien sales by self-storage facilities.

Senate Floor Amendments of 8/9/22 change erroneous reference to "support witness" to "support person" in the amendments to Family Code Section 6308 to conform to defined term in statute and makes other nonsubstantive changes to address chaptering out issues related to SB 189 (Committee on Budget and Fiscal Review, Chapter 48; Statutes of 2022) becoming effective.

ANALYSIS:

Existing law and this bill:

1) Existing law provides that certain provisions authorizing and governing electronic communications between self-storage facility owners and self-storage unit occupants, such as sending preliminary lien notices, notices of lien sale, and blank declarations in opposition to lien sales, sunset on January 1, 2023. (Bus. & Prof. Code § 21701, 21703, 21705, and 21712.)

   This bill deletes that sunset thereby indefinitely extending these provisions.

2) Existing law requires specified disclosures to be made in connection with sales and other transfers of single-family residential real property. (Civ. Code § 1102-1102.19.)

   This bill clarifies that the disclosures to be made are those that are statutorily required on the date the parties enter into a contract, and that if an amendment to the disclosure statutes becomes effective after the date the contract is entered into, that amendment does not affect the disclosures required to be made during the transaction, unless the applicable statute provides otherwise.

3) Existing law establishes the Unclaimed Property Law (UPL), provides that it is the intent of the Legislature that property owners be reunited with their property, and prohibits property received by the state under the UPL from permanently escheating to the state. (Code Civ. Proc. §§ 1500 et. seq.; § 1501.5(a) & (c).) Existing law provides requirements for escheatment, reporting, and delivery to the State Controller of unclaimed securities under the UPL, and requires the Controller to sell unclaimed securities between 18 to 20 months from the date they were due to be reported to the Controller by the holder. (Code Civ. Proc. § 1516 & 1563.)

   This bill clarifies that under the UPL, holders of securities with a per share value of one cent or less do not need to report these securities to the Controller unless the aggregate value of the securities held exceeds $1,000, and provides that the deadline by which the Controller is required to sell unclaimed securities is 18 to 20 months from the date on which the securities were actually reported to the Controller, not the date on which the report was due to be filed.

4) Existing law authorizes joint applicants to the superior court for recognition of a tribal court order that establishes a right to child support, spousal support

payments, or marital property rights to be eligible for a $100 filing fee. (Code Civ. Proc. § 1733.1.)

This bill clarifies that a single applicant is eligible for that $100 filing fee in addition to joint applicants.

5) Existing law authorizes a local child support agency to issue a notice directing that child support payments be made to the agency itself, another county office, or the State Disbursement Unit, and requires this notice to be served on both the parent obligated to pay support and the parent entitled to receive it. (Fam. Code § 4204.)

This bill requires local child support agencies to provide notice to both parents and to the court when they are no longer providing child support-related services. This bill also deletes two references to the "person having custody" of a child in provisions that deal with court-ordered child support and replaces one of the references with "support obligor or obligee," to clarify that the statute's application is tied to child support obligations, and not to which parent has custody.

6) Existing law establishes procedures for the electronic filing of petitions for domestic violence restraining orders and gun violence restraining orders. (Fam. Code §§ 6307 & 6308; Pen. Code §§ 18122 & 18123, respectively.

This bill makes the following changes to those procedures:

a) Conforms the timing for processing electronically-filed petitions to existing statutory timeframes for processing petitions filed in person;

b) Replaces the provision of telephone-based information with information through the self-help center and on the court website;

c) Provides for electronic provision of the notice of court date, copies of the request to serve on the opposing party, and the temporary restraining order, unless the petitioner notes, at the time of electronic filing, that the documents will be picked up from the court; and

d) Permits a "support person," as defined, to appear remotely at the hearing on a petition for a domestic violence restraining order.

7) Existing law provides that records are only presumptively sealed in cases involving assisted reproduction for actions filed beginning January 1, 2023 under the Uniform Parentage Act. (Fam. Code §§ 7643 & 7643.5.)

This bill clarifies that actions filed on or after January 1, 2023, are only presumptively sealed in cases involving assisted reproduction.

8) Existing law authorizes the Department of Fair Employment and Housing (DFEH) to provide assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on protected categories under the Fair Employment and Housing Act, but only when, in the Department's judgment, peaceful relations among the citizens of the community are threatened. (Gov. Code § 12931.)

   This bill clarifies that DFEH can assist in resolving disputes, disagreements, or difficulties when peaceful relations among persons of the community are threatened.

9) Existing law provides that citizens are eligible to serve, without pay, on advisory agencies and conciliation councils that work with the Fair Employment and Housing Council. (Gov. Code § 12935.)

   This bill clarifies that persons are eligible to serve, without pay, on advisory agencies and conciliation councils that work with the Fair Employment and Housing Council.

10) Existing law provides DFEH a period of either one year or two years, depending on whether the complainant is an individual or a group or class, to investigate a complaint alleging unlawful employment practices. (Gov. Code § 12965.)

    This bill tolls (stops) the period in which DFEH must complete its investigation of a complaint alleging unlawful employment practices during any mandatory or voluntary dispute resolution proceeding.

11) Existing law requires the California Commission on Disability Access to make an annual report to the Legislature, by January 31 of each year, regarding accessibility violations alleged in demand letters and court complaints for the preceding calendar year. (Gov. Code § 14985.8.)

    This bill changes the date the report is due to March 31 of each year.

12) Existing law specifies procedures for the appointment of counsel for conservatees, proposed conservatees, and persons alleged to lack legal capacity who neither have, nor plan to retain, legal counsel. (Prob. Code §§ 1471, 1821, 1823, 1826, 1828, 1894, 1895, 2250.6, 2253, & 2356.5.)

This bill clarifies terminology in these provisions in order to facilitate courts' implementation of these provisions.

13) Specifies the duties of trustees if no person holding the power to revoke a trust is competent and the trust instrument does not otherwise address this situation. (Prob. Code § 15800.)

This bill clarifies terminology used in this provision.

14) Existing law requires the Judicial Council to adopt rules of court meant to allow for telephonic or other remote appearance options by tribes in child welfare proceedings involving an Indian child, if the federal Indian Child Welfare Act of 1978 applies, by July 1, 2021. (Welf. &Inst. Code § 224.2.)

This bill authorizes courts, in child welfare proceedings involving an Indian child in which the federal Indian Child Welfare Act of 1978 applies, the flexibility to provide for remote appearance by tribes via any method of appearance that is both consistent with court capacity and contractual obligations, and takes into account the capacity of the tribe, so long as the method chosen is sufficient to allow a tribe to fully exercise its rights.

15) Existing law provides that when a local child support agency accepts and disburses payments as provided relating to a child who is the subject of a court-issued support order, the local child support agency or Department of Child Support Services must issue a notice that the payments will be directed to the local child support agency on the child support obligor and oblige, and may serve the notice on the court in which the support order was issued. (Fam. Code, § 17404.4.)

This bill requires that notice to be served on the court in which the support order was issued.

Comments

According to the author, provisions in this bill were proposed to the Assembly Judiciary Committee by the Attorney General, California Association of Realtors, California Bankers Association, California Commission on Disability Access, California Self Storage Association, California Tribal Families Coalition, County Recorders Association of California, Department of Fair Employment and Housing, Judicial Council of California, and the State Controller's Office.

Extends provisions allowing electronic notices of liens for self-storage facilities indefinitely

Self-storage facilities in California are governed by the California Self-Storage Facility Act (the Act). (Bus. & Prof. Code, §§ 21700-21716.) The Act imposes a lien on any property that an occupant stores in a self-storage unit, in favor of the owner, and sets forth the procedures by which the owner can proceed with the attachment of the lien and a lien of sale if the occupant does not pay the agreed-upon rent. (Bus. & Prof. Code, §§ 21702-21707, & 21710.) Until 2018, the only way an owner could send the preliminary notice of lien, the notice of lien sale, and blank declarations in opposition to lien sales was via certified mail, postage prepaid, or by regular mail if the owner obtained a certificate of mailing indicating the date the notice was mailed, to the occupant's last known address (and to an alternative address, if the occupant provided one). In 2017, the Legislature passed AB 1108 (Daly, Chapter 227, Statutes of 2017), which adopted, on a trial basis, alternative procedures by which an owner could send the preliminary lien notices, notices of lien sale, and blank declarations in opposition to lien sales, such as via email. Statutory provisions were put into place that were meant to ensure that facility owners could demonstrate that occupants had actually received and read these emails. A sunset date of January 1, 2023, was put into place in order to verify whether any consumer harm resulted from email notice. The Assembly Judiciary Committee analysis states that neither of its committee staff nor the staff of the Assembly Privacy Committee have received reports of consumer harm from these electronic notices.[1] This bill removes the sunset date on these electronic notice provisions, thereby extending them indefinitely.

Clarifies the effect of real estate disclosure statutes on transactions that are in progress

The Civil Code provides for various disclosures that must be made in connection with any sale of a single-family residential real property. (Civ. Code § 1102 et. seq.) This bill provides that if an amendment to a disclosure statute becomes effective after the date the parties enter into a contract, that amendment does not affect the disclosures required to be made during the transaction—unless the applicable statute specifies otherwise. This latter provision allows the Legislature to designate in statute that particularly-important disclosures are required to be updated mid-transaction and gives the parties to the contract clear guidance on what disclosures are required to be made.

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[1] Asm. Comm. on Judiciary, analysis of Asm. Bill No. 2960 (2021-2022 Reg. Sess.) as amended Apr. 7, 2022, at p. 5.

Updates to UPL

This bill makes two changes to the UPL. First, it clarifies that the deadline for the Controller to sell unclaimed securities begins on the date the required report is received by the Controller, not on the date it was due as is required under existing law. This change ensures the owner of the securities are allotted the same sufficient time to reunite with their property before the securities are sold, regardless of when the holder of the securities files the required report (i.e. in time or late).

Second, this bill clarifies that securities with a per share value of one cent or less are not required to be reported the Controller unless the aggregate value of the security held exceeds $1,000. Securities that do not meet this criteria will continue to be maintained by the holder in the name of the owner, and, if the securities gain value, the holder will be required to report and deliver the securities during the next reporting cycle.

Requires local child support agencies to provide notice to parents and to the court when terminating services

This bill requires local child support agencies to provide notice to both parents and the court when no longer providing services with the goal streamlining court scheduling, assisting parents in understanding the child support process, and establishing a consistent procedure among local child support agencies.

Electronic filing of domestic violence restraining orders and gun violence restraining order petitions

SB 538 (Rubio, Chapter 686, Statutes of 2021) established procedures meant to allow parties to file petitions electronically for domestic violence restraining orders and gun violence restraining orders. According to the Judicial Council, the bill language did not conform to existing court processes and has created some difficulties for the courts in implementing its provisions.

Updating a tolling provision in the Fair Employment and Housing Act

This bill clarifies that DFEH may toll (pause) the statute of limitations under Section 12965 of the Government Code for bringing a civil action for unlawful employment practices during a mandatory or voluntary dispute resolution proceeding. The tolling begins on the date DFEH refers the case to its dispute resolution division and ends on the date the dispute resolution division closes its mediation record and returns the case to the division that referred it.

This bill makes various other nonsubstantive and technical changes to update cross-references and terminology and various changes to clarify existing law.

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

SUPPORT: (Verified 8/9/22)

California Association of Realtors
California Judges Association
California Self Storage Association
County Recorders' Association of California
Self Storage Association

OPPOSITION: (Verified 8/9/22)

None received

ARGUMENTS IN SUPPORT: The author writes:

> AB 2960 is the Civil Law omnibus bill, generally introduced by Assembly Judiciary Committee annually or biennially. This year's measure includes a host of topics that are generally non-controversial or technical and have been merged into one vehicle to assist the Legislature in efficiently managing minor Judiciary-related matters this session.

In support of this bill, the California Association of Realtors writes:

> Among other provisions, AB 2960 clarifies what disclosures are required by law in a real estate transaction when a real estate contract is entered into at one point during the year and closes escrow at another point after a new disclosure law has gone into effect. There has been confusion in the past about this issue that has caused buyers to attempt to back out of transactions. It is in the best interest of both consumers and the real estate industry to bring clarity to the law.

ASSEMBLY FLOOR: 65-0, 5/12/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-

Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Salas, Santiago, Seyarto, Smith, Stone, Ting, Villapudua, Voepel, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Boerner Horvath, Cunningham, Davies, Gray, Grayson, Kiley, Lackey, Lee, Quirk-Silva, Rodriguez, Blanca Rubio, Valladares, Ward

Prepared by: Amanda Mattson / JUD. / (916) 651-4113
8/10/22 14:57:28

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

SENATE RULES COMMITTEE AB 2969
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2969
Author: Committee on Governmental Organization
Introduced: 3/17/22
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 14-0, 6/14/22
AYES: Dodd, Nielsen, Allen, Becker, Borgeas, Bradford, Hertzberg, Hueso, Jones, Kamlager, Melendez, Portantino, Roth, Wilk
NO VOTE RECORDED: Glazer

ASSEMBLY FLOOR: 61-0, 5/5/22 (Consent) - See last page for vote

SUBJECT: Horse racing: out-of-state thoroughbred races: Blue Grass Stakes

SOURCE: Author

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

ANALYSIS:

Existing law:

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

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

3) Authorizes thoroughbred racing associations or fairs to distribute the audiovisual signal and accept wagers on the results of out-of-state and international thoroughbred races during the calendar period the association or

fair is conducting live racing, including days on which there is no live racing being conducted by the association or fair.

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

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

6) Authorizes and defines "advanced deposit wagering" (ADW) as a form of pari-mutuel wagering in which a person residing within California or outside of this state establishes an account with an ADW provider, and subsequently issues wagering instructions concerning the funds in this account, thereby authorizes the ADW provider holding the account to place wagers on the account owner's behalf.

This bill:

1) Adds the Blue Grass Stakes to the existing list of out-of-state horseraces that are exempt from the 50 imported race per day limitation.

2) Makes technical, non-substantive changes.

Background

Purpose of this bill. According to the author's office, "this bill would exempt all races imported by a thoroughbred association or fair that are part of the race card of the overall Blue Grass Stakes day from the 50-race per day limit as defined in current law. The law has been amended over the years to allow the importation of certain prominent races outside this cap for promotional and financial reasons. This bill will help increase the wagering handle on this specific day, which will induce higher purses, racetrack revenue, and breeders' awards in California. Purses are important to California's racing industry because they provide revenue to horse owners for their racing operations and to breeders through an increase in the value of their breeding stock."

Horse Racing in California. Wagering on horse racing in California was legalized via a constitutional amendment in 1933 and since that time Thoroughbred and Quarter horses have been allowed to race in virtually all flat races offered in the state while Arabians have generally been restricted to racing at fair race meets throughout California. The CHRB approves many different types of horse racing, including flat racing, jump racing, harness racing, and endurance racing. Each type of racing has different breeds that excel in a specific type of race and generally, entry in such races is restricted to certain breeds.

Parimutuel Wagering. Horse racing has been taking place in California since the 1800s, but horse racing as we now know it – under the parimutuel wagering system – was not made possible until the electorate passed a constitutional amendment in 1933. The expressed intent of the Horse Racing Law is to allow parimutuel wagering on horse races. Parimutuel, from the French Pari-Mutuel or mutual betting, is a betting system in which all bets of a particular type are placed together in a pool, and payoff odds are calculated by sharing the pool among all winning bets. Parimutuel betting differs from fixed-odds betting in that the final payout is not determined until the pool is closed – in fixed-odds betting, the payout is agreed at the time the bet is sold.

Advance Deposit Wagering. ADW is a form of gambling that has become increasingly popular across the United States. ADW is best defined in a general sense as a form of gambling in which the bettor must fund an account before begin allowed to place bets. That means you cannot place a wager on a race or event if you do not have sufficient money in your account to cover your stake. It is most usually specifically applied to off-track betting on horse racing.

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

The Blue Grass Stakes. The Blue Grass Stakes, currently the Toyota Blue Grass Stakes due to sponsorship by the Toyota Motor Corporation, is a horse race for 3-year-old Thoroughbreds held annually in April at Keeneland Racecourse in Lexington, Kentucky. The race is run at 1 1/8 miles on the dirt and offers a purse of $1,000,000. The race was named for the Bluegrass region of Kentucky, characterized by grass having bluish-green culms, which is known as the "heart" of the thoroughbred racing industry. First run at the Kentucky Association track in Lexington in 1911, the Blue Grass has, from its inception, served as an important prep for the Kentucky Derby.

Nineteen Thoroughbreds have parlayed a run in the Blue Grass Stakes into a Kentucky Derby victory, including ten runners who won both races: Shut Out (1942), Tomy Lee (1959), Chateaugay (1963), Northern Dancer (1964), Lucky Debonair (1965), Forward Pass (1968), Dust Commander (1970), Riva Ridge (1972), Spectacular Bid (1979), and Strike the Gold (1991). Other notable winners of the Blue Grass Stakes include Essential Quality, Holy Bull, Skip Away, Alydar and Round Table.

Related/Prior Legislation

SB 1403 (Jones, 2022) authorizes a thoroughbred racing association or fair to accept wagers on out-of-country races up to 6:30 p.m., Pacific Standard Time, on the first Saturday in November, as specified. (Pending in the Assembly Appropriations Committee)

AB 2012 (Aguiar-Curry, 2022) authorizes the CHRB to permit a California harness racing association conducting a live racing meeting to accept wagers on the full card of races conducted by another racing association on the day that other association conducts the Metro Pace, as specified. (Pending in the Senate Governmental Organization Committee)

AB 2736 (Santiago, 2022) requires distribution of funds, which would have otherwise gone to a purse account, to a thoroughbred racing association hosting the Breeders' Cup World Championship, not just the organization operating the series. This bill repeals the requirement that the thoroughbred racing association hosting the Breeders' Cup consult and cooperate with a now-defunct statewide marketing organization when entering into an agreement with the organization operating the Breeders' Cup regarding how to expend those funds to promote the Breeders' Cup. (Pending in the Senate Governmental Organization Committee)

AB 1173 (Cooper, Chapter 531, Statutes of 2021) required the contractual compensation received by the ADW provider to be the average of the contractual compensation specified in the hub agreement that is the subject of the arbitration and the contractual compensation set forth in the arbitration notice. Required the arbitrator to select the set of terms that most accurately reflects the then-existing market rate of compensation for the services provided by the ADW provider based on all relevant facts and circumstances relating to California resident ADW wagering. Authorized either party to bring an action in state court to review the arbitrator's decision.

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

SUPPORT: (Verified 6/16/22)

None received

OPPOSITION: (Verified 6/16/22)

None received

ASSEMBLY FLOOR: 61-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Friedman, Gallagher, Cristina Garcia, Gipson, Levine, McCarty, Medina, Villapudua, Waldron, Wicks

Prepared by: Brian Duke / G.O. / (916) 651-1530
6/23/22 11:08:43

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

SENATE RULES COMMITTEE AB 2971
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2971
Author: Committee on Governmental Organization
Amended: 6/21/22 in Senate
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 13-0, 6/28/22
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Bradford, Hueso, Jones, Kamlager, Melendez, Portantino, Rubio, Wilk
NO VOTE RECORDED: Borgeas, Glazer

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 73-0, 5/25/22 (Consent) - See last page for vote

SUBJECT: Alcoholic beverage control: fees

SOURCE: Author

DIGEST: This bill extends the sunset date on an existing provision in law that permits certain alcoholic manufacturers to hold free invitation-only promotional events in connection with the sale or distribution of a distilled spirit or wine. Additionally, the bill makes various technical and conforming changes to the alcoholic Beverage Control Act (ABC). Finally, this bill extends the current tied-house exception, until January 1, 2026, which authorizes a beer manufacturer to give, free of charge, up to five cases of retail advertising glassware to an on-sale retail licensee, per licensed location, each calendar year, and authorizes an on-sale retail licensee to accept, free of charge, up to 10 cases of retail advertising glassware, per licensed location, from licensed beer manufacturers each calendar year, subject to specified conditions.

ANALYSIS:

Existing law:

1) Establishes the Department of ABC and makes the department responsible for regulating the application, issuance, and suspension of alcoholic beverage licenses.

2) Prescribes a schedule of fees for different license types and distinguishes between new licenses and duplicate licenses.

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

4) Provides, if an alcoholic beverage license application includes multiple new permanent licenses to be issued at the same premises, the application fee is to be required for only one of the applied-for licenses, and an application fee may not be charged for the remainder of the licenses. Current law requires that the application fee to be paid shall be the highest of the applicable fees.

5) Prescribes the amounts of fees required in connection with applications to transfer specified alcoholic beverage licenses.

6) Provides, if the application for a transfer includes multiple licenses issued at the same premises, an application fee is required for only one of the licenses being transferred, in which case the application fee is the highest of the applicable fees.

7) Requires a corporation, limited partnership, or limited liability company holding an alcoholic beverage license, or holding 10% or more of the ownership of a license, to provide specified reports to ABC and a fee for submission of the report.

8) Prohibits an alcoholic beverage licensee from giving any premium, gift, or free goods in connection with the sale or distribution of any alcoholic beverage, except as authorized by rules adopted by ABC.

9) Provides, until January 1, 2023, authorizes a manufacturer of distilled spirits, distilled spirits manufacturer's agent, out-of-state distilled spirits shipper's certificate holder, winegrower, rectifier, or distiller to provide, free of charge, entertainment, food, and distilled spirits, wine, or nonalcoholic beverages to

consumers at an invitation-only event in connection with the sale or distribution of wine or distilled spirits, subject to specified conditions.

10) Authorizes, until January 1, 2023, a beer manufacturer to give, free of charge, up to five cases of retail advertising glassware to an on-sale retail license, per license location, each calendar year, and authorizes an on-sale retail licensee to accept, free of charge, up to 10 cases of retail advertising glassware, per licensed location, from licensed beer manufacturers each calendar year, subject to specified conditions.

This bill:

1) Extends the sunset date, from January 1, 2023, to January 1, 2028, on an existing provision in law that permits distilled spirits manufacturers, winegrowers, or an authorized agent, to provide, free of charge, entertainment, food, and distilled spirits, wine, or nonalcoholic beverages to consumers at an invitation-only event, held on specified premises, in connection with the sale or distribution of wine or distilled spirits, as provided.

2) Prescribes the application fee for a special use, Type 99, license.

3) Requires that when an application for a new permanent license is combined with a specified application for a license transfer at the same premises, only the transfer application fee or the new permanent license application fee be paid, whichever is highest.

4) Requires that when an application for a transfer of a license is combined with an application for a new permanent license at the same premises, only the transfer application fee or the new permanent license application fee be paid, whichever is highest.

5) Provides that the annual fee payable for each new permanent license issued pursuant to certain provisions.

6) Prohibits requiring payment of the above-described report fee for duplicate licenses issued to branch office locations, as specified, or for club licenses or veterans' club licenses issued to nonprofit or fraternal organization, as specified.

7) Extends a current tied-house exception, until January 1, 2026, which authorizes a beer manufacturer to give, free of charge, up to five cases of retail advertising glassware to an on-sale retail licensee, per licensed location, each calendar year, and authorizes an on-sale retail licensee to accept, free of charge, up to 10

cases of retail advertising glassware, per licensed location, from licensed beer manufacturers each calendar year, subject to specified conditions.

Comments

Purpose of the Bill. According to the author's office, "this bill represents the annual Assembly Governmental Organization Committee omnibus alcohol committee bill that makes various technical and non-controversial changes to the Act."

Additionally, the author's office, "extending the sunset for five years on California's hosted entertainment law will allow wine and spirits suppliers to continue to present their brands before a variety of audiences. AB 2971 recognizes the value of this important marketing tool that benefits both consumers and suppliers while ensuring proper oversight of these invitation-only events by the ABC. It should be noted that no other changes to current law (invitation-only promotional events) are being allowed under this bill."

Supporters of this bill note that these events are beneficial to manufacturers when they launch a new brand or conduct a product extension campaign. To the best of their knowledge, the ABC has not experienced any significant enforcement issues regarding the events authorized by this bill.

Additionally, AB 2971 resolves several errors, inequities, and duplicative fees related to the application and annual renewal fee provisions for licenses issued by ABC resulting from comprehensive fee changes enacted in 2019. This bill also recognizes the license type number established by ABC for unique special licenses codified by the Legislature. Lastly, this bill makes various technical changes within the Act, including erroneous code section references.

Current Exception. Existing law generally prohibits an alcoholic beverage licensee, including a producer, from giving any gift or free goods in connection with the sale or distribution of any alcoholic beverage. However, several exceptions to these restrictions have been enacted. One such exception is related to hosted events where alcohol producers can promote a new brand or varietal. Specifically, AB 609 (Santiago, Chapter 295, Statutes of 2017), AB 1116 (Hall, Chapter 461, Statutes of 2013), and AB 2293 (de León, Chapter 638, Statutes of 2008). These three bills allowed specific alcohol producers to entertain consumers at private parties and events by invitation-only where potential buyers can sample their alcohol product. This bill will extend the sunset of this exception from January 1, 2022 to January 1, 2028.

Tied-house laws. As noted, Tied-house laws separate the alcoholic beverage industry into a three-tier license system (manufacturer, wholesaler, and retailers) and generally prohibit alcoholic beverage licensees from giving any gift in connection with the sale or distribution of an alcoholic beverage.

The original policy rationale for this body of law was to (1) promote the state's interest in an orderly market; (2) prohibit the vertical integration and dominance by a single producer in the market place; (3) prohibit commercial bribery and to protect the public from predatory marketing practices; and, (4) discourage and/or prevent the intemperate use of alcoholic beverages. Exceptions to these restrictions have been enacted throughout the years in those specific instances where the Legislature determined that the public's interests are protected.

With respect to beer, existing law provides that premiums, gifts, or free goods, including advertising specialties that have no significant utilitarian value other than advertising, shall be deemed to have greater than inconsequential value if they cost more than $0.25 per unit, or cost more than $15 in the aggregate for all those items given by a single supplier to a single retail premises per calendar year. The Department of ABC Rule 106(e)(2) provides the following examples of the kinds of consumer giveaway items with "inconsequential" value: ash trays, bottle or can openers, litter or shopping bags, matches, recipe cards, pamphlets, pencils, post cards, hats, posters, bottle or can stoppers, etc.

In addition, AB 1133 (Low, Chapter 623, Statutes of 2019) authorized, until January 1, 2023, a beer manufacturer to give, free of charge, up to five cases of retail advertising glassware to an on-sale retail licensee, per licensed location, each calendar year, and authorizes an on-sale retail licensee to accept, free of charge, up to 10 cases of retail advertising glassware, per licensed location, from licensed beer manufacturers each calendar year, subject to specified conditions.

This bill extends this tied-house exception to January 1, 2026.

Related/Prior Legislation

AB 1133 (Low, Chapter 623, Statutes of 2019) authorized, until January 1, 2023, a beer manufacturer to give, free of charge, up to five cases of retail advertising glassware to an on-sale retail licensee, per licensed location, each calendar year, and authorizes an on-sale retail licensee to accept, free of charge, up to 10 cases of retail advertising glassware, per licensed location, from licensed beer manufacturers each calendar year, subject to specified conditions.

AB 2573 (Low, 2018) would have allowed a beer manufacturer to give up to five cases of glassware to an on-sale retail licensee, as specified. (Vetoed by Governor Brown)

AB 609 (Santiago, Chapter 295, Statutes of 2017) extended the sunset, from January 1, 2018 to January 1, 2023, on an existing provision in law that permits certain alcohol manufacturers to hold free invitation-only promotional in connection with the sale or distribution of a distilled spirit or wine.

AB 711 (Low, Chapter 226, Statutes of 2017) allowed a beer manufacturer to provide consumers free or discounted rides through taxicabs, transportation network companies, or any other ride service for the purpose of furthering public safety. Additionally, the bill allowed the person authorized to conduct a hosted event to provide attendees at the event with a free ride home.

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

According to the Senate Appropriations Committee, the Department of ABC's activities are funded by regulatory and license fees and generally the department does not receive support from the General Fund. New legislative mandates, although modest in scope, may in totality create new cost pressures and impact the department's operating costs and future budget requests.

SUPPORT: (Verified 8/1/22)

Diageo

OPPOSITION: (Verified 8/1/22)

None received

ARGUMENTS IN SUPPORT: According to Diageo, "[the bill] contains a provision that extends the sunset date, until January 1, 2028, for a promotional program the Legislature previously authorized to permit invitation-only events during which distilled spirits manufacturers and winegrowers may showcase their products to consumers. This promotional opportunity has been very beneficial to manufacturers when conducting brand launches or product extension campaigns. To the best of our knowledge, ABC has not experienced any significant enforcement issues regarding the events authorized by this section."

ASSEMBLY FLOOR: 73-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Bloom, Irwin, O'Donnell, Blanca Rubio

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
8/8/22 16:21:13

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

SENATE RULES COMMITTEE AB 2972
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2972
Author: Committee on Jobs, Economic Development, and the Economy
Amended: 6/6/22 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 12-0, 6/13/22
AYES: Roth, Melendez, Bates, Becker, Dodd, Eggman, Hurtado, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Archuleta, Jones

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 73-0, 5/25/22 (Consent) - See last page for vote

SUBJECT: California Business Investment Services Program

SOURCE: Author

DIGEST: This bill requires, that in undertaking program activities related to the California Business Investment Services Program ("the Program", or CalBIS), the Program director will encourage activities that support the upward mobility of existing small businesses and residents and will work with partners to mitigate the impacts of gentrification that may lead to the displacement of residents and small businesses. This bill requires the Governor's Office of Business and Economic Development (GO-Biz) to submit a report on the program activities to the Legislature, as specified, on or before February 1, 2024, and annually after that.

ANALYSIS:

Existing law:

1) Establishes GO-Biz within the Governor's Office for the purpose of serving as the lead state entity for economic strategy and marketing of California on

issues relating to business development, private sector investment and economic growth. (Government Code (GC) § 12096 et. seq)

2) Creates the Program within GO-Biz. (GC § 12096.5(a))

3) States the purpose of the program is to serve employers, corporate executives, business owners, and site location consultants who are considering California for business investment and expansion. (GC § 12096.5(c))

4) Requires in implementing the program, the director shall establish and implement a process for convening teams on key business development situations, including, but not limited to, attracting new businesses, relocation of large manufacturers, or the closure of a large business employer. (GC § 12096.5(d))

5) Requires in implementing the program, the director shall work cooperatively with local, regional, federal, and other state public and private marketing institutions and trade organizations in attracting, retaining, and helping businesses grow and be successful in California. (GC § 12096.5(e))

This bill:

1) Adds attracting public and private investors to the list of key business development situations, and adds serving investors to the list of purposes of the Program.

2) Requires the Director of GO-Biz to encourage activities that support the upward mobility of existing small businesses and residents and requires working with partners to mitigate the impacts of gentrification that may lead to the displacement of residents and small businesses.

3) Requires, on or before February 1, 2024, and annually thereafter, GO-Biz to submit a report on the Program activities to the Legislature, as specified in GC § 9795.

Background

GO-Biz. In February 2010, the Little Hoover Commission undertook a review of the state's economic and workforce development programs. In its final report, *Making up for Lost Ground: Creating a Governor's Office of Economic Development*, it analyzed the status and effectiveness of current programs since the

2003 demise of the Technology, Trade and Commerce Agency and recommended the creation of a new governmental entity to fill the void left by the dismantled agency.

The report called for a single entity that would promote greater economic development, foster job creation, serve as a policy advisor and deliver specific services (i.e., permitting, tax, regulatory, and other information) directly to the California business community. In April 2010, Governor Schwarzenegger issued Executive Order S-05-10 as a means to operationalize the report recommendations including the creation of the Governor's Office of Economic Development (GOED).

In October 2011, the Governor signed AB 29 (John A. Pérez, Chapter 475, Statutes of 2011), which effectively codified GOED and changed its name to GO-Biz. Since its inception, the office has served thousands of businesses, 95 percent of which are small businesses. The most frequent types of assistance include help with permit streamlining, starting a business, relocation and expansion of businesses, and regulatory challenges.

In March 2012, Governor Brown initiated a reorganization process to realign the state's administrative structure. Key changes include dismantling of the Business, Transportation and Housing Agency and the shifting of a number of key programs to GO-Biz including the Small Business Loan Guarantee Program, the California Travel and Tourism Commission, the California Film Commission, the Film California First Program, and the Infrastructure and Economic Development Bank (IBank). Currently, GO-Biz administers the following programs and units:

- “Made In California” program for the purpose of encouraging consumer product awareness and to foster the purchases of products manufactured in California.

- The California Inclusive Innovation Hub Program (iHub2) to incubate and/or accelerate technology and science-based firms, with a focus on underserved regions and communities.

- The California Competes Tax Credit Program under which “businesses who want to come to California or stay and grow in California” can receive an income tax credit.

- The California Business Investment Services Unit, which provides no-fee, tailored site selection services to employers and others who may be considering California for relocation or expansion.

- The California Business Portal, which provides information to California businesses about common questions, permitting, financial options, and more.

- The California Community Reinvestment Grants Program, which was included in Proposition 64, authorized GO-Biz to award grants to local health departments and certain nonprofit organizations to support communities disproportionately affected by the War on Drugs.

- Office of the Small Business Advocate which provides information and assistance to small businesses.

- The Zero Emission Vehicles (ZEV) Infrastructure Unit which works to accelerate the deployment of ZEV infrastructure.

- The International Affairs and Business Development Unit, which serves as California's primary point of contact for expanding international trade and investment relations. This unit focuses on foreign direct investment (services for foreign investors, foreign investment technical assistance, and the EB-5 Investor Visa Program), international trade promotion (STEP program, trade missions, export assistance, and the California-China Trade Office), and international agreements.

The CalBIS Program. As stated in statute, the Program's purpose is to "serve employers, corporate executives, business owners, and site location consultants who are considering California for business investment and expansion." The Program serves as a point of contact for firms interested in relocating or expanding in California. The unit is mostly designed to assist businesses in locating suitable site locations and business incentives. CalBIS provides confidential site selection services for businesses looking to relocate or expand in a new site in California. According to GO-Biz, some factors a company uses to determine how it will make a site selection include: utility cost and availability; land cost; available acreage; zoning; overall site readiness; rail service; water/sewer capacity and cost; and a ready and applicably trained workforce. CalBIS can also prepare a customized list of federal, state, and local business incentives and related information. A business can obtain information on available tax credits, financial assistance and loan programs, local workforce skills, transportation and infrastructure, and economic and demographic data. CalBIS staff are available to meet with businesses throughout the state.

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

SUPPORT: (Verified 6/28/22)

None received

OPPOSITION: (Verified 6/28/22)

None received

ASSEMBLY FLOOR: 73-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Bloom, Irwin, O'Donnell, Blanca Rubio

Prepared by: Dana Shaker / B., P. & E.D. /
6/29/22 18:47:41

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

SENATE RULES COMMITTEE AB 2973
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2973
Author: Committee on Higher Education
Amended: 6/8/22 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 6-0, 6/15/22
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, McGuire, Pan
NO VOTE RECORDED: Glazer

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 72-0, 5/19/22 (Consent) - See last page for vote

SUBJECT: Postsecondary education: omnibus bill

SOURCE: Author

DIGEST: This bill makes non-controversial, technical and conforming changes to various provisions of the Education Code.

ANALYSIS:

Existing law:

1) Establishes the California Community Colleges (CCC), under the administration of the Board of Governors (BOG) of the CCC, the California State University (CSU), under the administration of the Board of Trustees (BOT) of the CSU, and the University of California (UC), under the administration of the Regents of the UC, as the three segments of public postsecondary education in this state.

2) Sets forth the missions and functions of California's public and independent segments of higher education, and details the ways in which their respective institutions are to be differentiated. Existing law specifies that community

colleges shall only offer instruction through, but not beyond, the 2nd year of college, and includes in the mission of the community colleges the provision of remedial instruction for those in need of it.

3) Exempts, effective for academic terms beginning after August 1, 2021, a student enrolled at a campus of the California Community Colleges or the California State University from paying nonresident tuition or any other fee that exclusively applies to nonresident students if the student resides in California, meets the definition of "covered individual" under federal law, and is eligible for education benefits under three specified categories of beneficiaries under the federal GI Bill, as the federal law read on January 5, 2021.

4) Provides that the name "California State University" and the names of various campuses of the CSU, and abbreviations of those names, are the property of the state, and prohibits the use of any of these names without the permission of the BOT; a violation of this provision is punishable as a misdemeanor.

5) Requires the CSU BOT to ensure that a change in the criteria for admission to a campus of the university complies with specified community notice and consultation requirements, and requires that these community notice and consultation requirements apply to determinations regarding impaction of majors.

6) Authorizes the BOG of the CCC may award grants to community college districts with associate degree nursing programs to expand enrollment, reduce program attrition, or both. In order to qualify for these funds, a community college associate degree nursing program must do either of the following:

   a) Have a program attrition rate, as determined by the Board of Registered Nursing's Annual School Report or the Information Program Data System of the Chancellor's Office of the California Community Colleges, of 15 percent or less for the year prior to before application for funding.
   b) Commit to implement a comprehensive program of diagnostic assessment, pre-nursing enrollment preparation, and program-based support to enrolled students, as defined in this article.

7) Requires the CCC chancellor's office to compile and provide information pursuant to 6) above and report to the Legislature and the Governor by March 1 of each year.

This bill:

1) Revises the mission of the community colleges to include the provision of instruction and additional learning supports to close learning gaps for those in need of it, and the provision of student support services to facilitate academic success and achievement.

2) Replaces the term "remedial," for "pretransfer," and the term" basic skills," for "foundational skills," through the education code and makes other non-substantive and conforming changes to these provisions.

3) Adds the Colonel John M. McHugh Tuition Fairness for Survivors Act of 2021 to the list of existing categories of beneficiaries under the Federal GI Bill, thereby exempting a student enrolled at a campus of the CCC or the California State University from paying nonresident tuition or any other fee that exclusively apples to nonresident students.

4) Updates the list of campuses of the California State University that are the property of the state to include "California State Polytechnic University, Humboldt" to reflect the recent name change and transition of Humboldt State University.

5) Provides that a decision to end additional admission criteria for an impacted program or campus may be implemented without following existing requirements for adopting a change to the admission criteria, provided that the decision is published on the campus internet website, described to community official and local high schools, and submitted to the Chancellor of the CSU for approval.

6) Delays, by three months, the date that the CCC Chancellor's Office must provide the specified nursing report to the Legislature and Governor.

Comments

1) *Non-controversial provisions.* This bill is the annual higher education omnibus clean-up bill and proposes technical, non-controversial amendments to existing law. By tradition, if any affected agency, stakeholder group, the Department of Finance, or any for the four legislative caucuses objects to a provision in the bill or one that is being considered, that particular provisions cannot be included.

2) *Rationale for inclusion in the omnibus bill.* This omnibus measure makes several changes to the EDC, below is the rationale for each change:

   a) *Changes to the CCC Mission*. Section 1 of the bill, proposed by the CCC Chancellor's office (CCCCO), seeks to capture the present day role of the community college system by including the provision of academic support services and the closing of learning gaps as defined functions of the CCC system within its mission. Specifies that closing of learning gaps be provided in the form of concurrent support consistent with current law.

   b) *Other CCC related changes*. The bill additionally updates the terms "remedial" to pretransfer" and the term "basic skills," to "foundational skills" throughout the education code and makes technical and clarifying changes consistent with current law.

   c) *Colonel John M. McHugh Tuition Fairness for Survivors Act of 2021*. Federal law, the Colonel John M. McHugh Tuition Fairness for Survivors Act of 2021, requires that states exempt students using the Dependents' Educational Assistance Program from paying out-of-state tuition. This requirement goes into effect for terms beginning on or after August 1, 2022, and requires adding the Dependents' Educational Assistance Program to the list of benefits that provide the non-resident tuition fee waiver in California.

   d) *California State Polytechnic University, Humboldt*. The CSU BOT approved Humboldt State University's proposal on January 26, 2022 to become the first polytechnic university in Northern California and the third in the 23-campus system, renaming the campus officially to California State Polytechnic University, Humboldt. The language in Section 12 of AB 2973 codifies this change.

   e) *Ending impaction at CSU campuses.* Current law, established in AB 2402 (Block, Chapter 262, Statutes of 2010) requires a comprehensive process, including three public hearings, to make any change in impaction designation. This includes changes to discontinue impaction of formerly impacted campuses and programs. Section 13 of the bill would permit impaction to end without following community notice and consultation requirements, provided that the decision is published on the campus internet website, distributed to community officials and local high schools, and submitted to the Chancellor of the CSU for approval.

   f) *Change in nursing reporting date*. Section 8 of this bill changes the date of nursing reporting requirements from March 1 to July 1 to better align the

timeframe when the CCCCO receives data from the Board of Registered Nursing. The CCCCO indicated that it has been a challenge for them to meet the report deadline because they do not receive the necessary data until months after the statutory due date.

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

SUPPORT: (Verified 6/27/22)

None received

OPPOSITION: (Verified 6/27/22)

None received

ASSEMBLY FLOOR: 72-0, 5/19/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Cervantes, Medina, Nazarian, Quirk-Silva, Blanca Rubio

Prepared by: Olgalilia Ramirez / ED. / (916) 651-4105
6/29/22 18:47:30

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

SENATE RULES COMMITTEE ACA 3
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACA 3
Author: Kamlager (D), et al.
Amended: 6/27/22 in Senate
Vote: 27

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 5/31/22
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

SENATE ELECTIONS & C.A. COMMITTEE: 4-0, 6/13/22
AYES: Newman, Nielsen, Hertzberg, Leyva
NO VOTE RECORDED: Glazer

SENATE APPROPRIATIONS COMMITTEE: 5-0, 6/16/22
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NO VOTE RECORDED: Bates, Jones

SENATE FLOOR: 21-6, 6/23/22 (FAIL)
AYES: Atkins, Becker, Bradford, Cortese, Durazo, Eggman, Gonzalez, Hertzberg, Kamlager, Laird, Leyva, Limón, McGuire, Newman, Pan, Portantino, Rubio, Skinner, Stern, Umberg, Wiener
NOES: Dahle, Glazer, Grove, Nielsen, Ochoa Bogh, Wilk
NO VOTE RECORDED: Allen, Archuleta, Bates, Borgeas, Caballero, Dodd, Hueso, Hurtado, Jones, Melendez, Min, Roth, Wieckowski

ASSEMBLY FLOOR: 59-0, 3/21/22 - See last page for vote

SUBJECT: Slavery

SOURCE: Young Women's Freedom Center

DIGEST: This constitutional amendment removes language in the state Constitution that allows involuntary servitude as punishment to a crime.

Senate Floor Amendments of 6/27/22 add "involuntary servitude" as a form of slavery and provide that the prohibition on slavery is not intended to have any effect on voluntary work programs in correctional settings.

Senate Floor Amendments of 6/23/22 clarify the definition of slavery.

ANALYSIS:

Existing constitutional law:

1) Prohibits slavery. (Cal. Const., Art. I, § 6.)

2) Prohibits involuntary servitude except to punish crime. (Cal. Const., Art. I, § 6.)

Existing law:

1) Specifies that it is felony to hold any person in involuntary servitude, or assumes rights of ownership over any person, or who sells any person to another, or receives money or anything of value, in consideration of placing any person in the custody, or under the power or control of another. (Pen. Code § 181.)

2) Requires that whenever by any statute a price is required to be fixed for any services to be performed in connection with the work program of the California Department of Corrections and Rehabilitation (CDCR), the compensation paid to prisoners be included as an item of cost in fixing the final statutory price. (Pen. Code § 2700.)

3) Provides that one of the purposes of the California Prison Industry Authority (CalPIA) is to operate a work program for prisoners which will ultimately be self-supporting by generating sufficient funds from the sale of products and services to pay all the expenses of the program, and one which will provide goods and services which are or will be used by CDCR, thereby reducing the cost of its operation. (Pen. Code § 2801, subd. (c).)

This constitutional amendment removes language in the state Constitution that allows involuntary servitude as punishment to a crime.

Background

The Thirteenth Amendment of the U.S. Constitution was ratified in 1865 and prohibited slavery and involuntary servitude. However, an exception was allowed if involuntary servitude was imposed as punishment for a crime. Article I, Section

6, of the California Constitution contains the same prohibitions on slavery and involuntary servitude and the same exception for involuntary servitude as punishment for crime.

The U.S. Supreme Court has consistently recognized that the Thirteenth Amendment does not prevent enforced labor as punishment for crime, and does not prevent state or federal governmental entities from compelling the performance of civic duties such as jury service (*Hurtado v. United States* (1973) 410 U.S. 578, 589) and military service (*Selective Draft Law Cases* (1918) 245 U.S. 366, 390). The California Supreme Court has interpreted the prohibition on slavery and involuntary servitude contained in Article I, section 6 of the California Constitution to be coextensive with the protection afforded by the Thirteenth Amendment. (*Moss v. Superior Court* (1998), 17 Cal. 4th 396, 418.)

Prison Labor

Generally. Federal courts have held that the U.S. Constitution does not prohibit incarcerated individuals from being required to work and does not provide incarcerated individuals a right to wages for work done in custody. In *Serra v. Lappin*, 600 F.3d 1191 (9th Cir. 2010), current and former federal inmates alleged that the low wages they were paid for work performed in prison violated their due process rights and various sources of international law. The Ninth Circuit Court of Appeals held that the U.S. Constitution does not provide prisoners any substantive entitlement to compensation for their labor. (*Id.* at p. 1196 (citing *Piatt v. MacDougall*, 773 F.2d 1032, 1035 (9th Cir. 1985) (holding that the state does not deprive an inmate of a constitutionally protected liberty interest by forcing him to work without pay).) The court noted that, "Although the Constitution includes, in the Thirteenth Amendment, a general prohibition against involuntary servitude, it expressly excepts from that general prohibition forced labor 'as a punishment for crime whereof the party shall have been duly convicted.' " (*Id*.)

CDCR. Penal Code Section 2700 provides that CDCR "require of every able-bodied prisoner imprisoned in any state prison as many hours of faithful labor in each day and every day during his or her term of imprisonment as shall be prescribed by the rules and regulations [of the department]." (*See also* Cal. Code Regs., tit. 15, § 3040, subd. (a).) Upon arrival at a prison reception center, incarcerated individuals go through a classification process. During the classification process, incarcerated individuals are placed on waiting lists for jobs and rehabilitative programs. Incarcerated individuals cannot refuse a job assignment and may be disciplined for refusing or failing to show up to work. Refusal to work can also lead to reduced privileges, including limitations on visits,

phone calls, canteen purchases, and yard, entertainment and recreation access. (https://www.cdcr.ca.gov/ombuds/ombuds/entering-a-prison-faqs/) Notably, incarcerated individuals may be assigned to a job in lieu of enrollment and participation in rehabilitative programs without the individual's consent. (Cal. Code Regs., tit. 15, § 3040, subd. (g).)

Prison Wages

Generally. According to a memo prepared by the Senate Office of Research, approximately 58,000 incarcerated individuals are assigned to jobs in the state's prisons. Each employed incarcerated person works an average of 6.5 hours/day and 32 hours/week in a variety of jobs, including food service, clerical work, maintenance and custodial work, and construction, among others. Existing law specifies that pay rates at each prison for paid assignments should reflect the level of skill and productivity required, and will be set with the assistance of the Institutional Inmate Pay Committee. (Cal. Code Regs., Tit. 15, § 3041.2, subd. (a)(1)(2).) Current pay rates for most jobs are as follows:

Skill Level	Hourly (Min/Max)	Monthly (Min/Max)
Level 1 (Lead Person)	$0.32-$0.37	$48-$56
Level 2 (Special Skill)	$0.19-$0.32	$29-$48
Level 3 (Technician)	$0.15-$0.24	$23-$36
Level 4 (Semi-Skilled)	$0.11-$0.18	$17-$27
Level 5 (Laborer)	$0.08-$0.13	$12-$20

Fire Camps. Incarcerated individuals housed at one of the state's conservation/fire camps are subject to a different pay scale with a pay rate of $1.45 to $3.90 per day based on skill level and position. When working as emergency firefighters during a wildfire, that pay is increased to $1 per hour.

CalPIA. Individuals working for CalPIA are also subject to a different pay scale. CalPIA is a self-supporting state entity that was established to operate industrial, agricultural, and service enterprises employing incarcerated individuals in CDCR facilities to provide products and services needed by the state or other public entity or public use. Penal Code Section 2801 provides that CalPIA is required to create and maintain working conditions within the enterprises as much like those which prevail in private industry as possible, to assure incarcerated individuals employed by CalPIA have the opportunity to work productively, to earn funds, and to acquire or improve effective work habits and occupational skills. CalPIA manages over 100 manufacturing, service, and consumable operations, including optical labs,

carpentry and custodial services, production of license plates, among others. Approximately 7,000 incarcerated individuals work for CalPIA's operations.

Penal Code Section 2811 prohibits CalPIA compensation from exceeding half of the minimum wage. CalPIA currently has a five-level pay scale with the lowest paid scale ranging from $0.35-$0.45 per hour and the highest scale ranging from $0.80 to $1 per hour.

Joint Venture Program. The Joint Venture Program was established via Proposition 139 in 1990 which allowed state prison and county jail officials to contract with public entities, businesses, and others to provide the labor of incarcerated workers. Wages are required to be comparable to the wages of non-incarcerated individuals doing similar work. These wages are subject to the following deductions which cannot in the aggregate exceed 80 percent of gross wages: federal, state, and local taxes, reasonable charges for room and board, court or victim restitution, and allocations for family support. (Pen. Code § 2717.8.)

The following distributions are made from an incarcerated individual's net wages:

- 20% is sent to CDCR as a reimbursement for room and board.
- 20% is used to pay restitution fines or paid directly to local crime victims' programs.
- 20% is sent directly to the incarcerated individual's family for support or used to pay court ordered wage garnishments (i.e., child support).
- 20% is deposited in a mandatory savings account which is available to the person upon their release.
- 20% is placed in the person's trust account at the institution for personal use (https://jointventureprogram.calpia.ca.gov/workers-wages/).

According to a memo prepared by the Senate Office of Research, 23 incarcerated individuals are currently employed through this program with wages ranging from $14 to $15.42 per hour.

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

According to the Senate Appropriations Committee:

- *CDCR/CalPIA:* Unknown, potentially significant costs to CDCR and CalPIA to increase wages for inmate labor (General Fund). Actual costs will depend on how involuntary servitude is legally defined. If CDCR and CalPIA are required to pay minimum wages for all prison jobs then actual costs could be in the billions annually.

- *Department of Justice (DOJ):* The DOJ reports costs of $560,000 in Fiscal Year (FY) 2022-23, and $772,000 in FY 2023-24 and annually thereafter (Special Fund – Legal Services Revolving Fund).

- *Courts:* Unknown, potentially significant cost pressures due to increased court workload resulting from an increase in court filings as a result of this constitutional amendment (Trial Court Trust Fund, General Fund).

- *Ballot Costs:* One-time Secretary of State costs in the range of $546,000 to $728,000 for printing and mailing costs to place the measure on the ballot for the next statewide general election (General Fund).

SUPPORT: (Verified 6/28/22)

Young Women's Center (source)
Abolish Bondage Collectively
ACLU Action California
Asian Solidarity Collective
Borderlands for Equity
CAIR California
California Lawyers for the Arts
California Native Vote Project
California Nurses Association
California Public Defenders Association
Change Begins With Me- Indivisible
Communities United for Restorative Youth Justice
Community Advocates for Just and Moral Governance
Del Cerro for Black Lives Matter
Democratic Club of Vista
Democratic Women's Club of San Diego County
Ella Baker Center for Human Rights

Episcopal Diocese of California
Freedom United
Friends Committee Legislation California
Hillcrest Indivisible
Initiate Justice
Legal Aid at Work
Legal Services for Prisoners with Children
Mission Impact Philanthropy
Muslim American Society
National Association of Social Workers, California Chapter
National Nurses United
Partnership for the Advancement of New Americans
Pillars of the Community
Prison Law Office
Progressive Democrats of America- Middle East Alliances
Racial Justice Coalition of San Diego
Rise Up San Diego
Root & Rebound
Rosen, Bien, Galvan & Grunfeld LLP
San Diego County Young Democrats
San Diego Progressive Democratic Club
San Diego - QTPOC
San Francisco Board of Supervisors
Showing Up for Racial Justice North County San Diego
Showing Up for Racial Justice San Diego
Sister Warriors Freedom Coalition
Social Workers for Equity & Leadership
Starting Over
Team Justice
Transformative In-Prison Workgroup
Transforming Young Minds for Future Solutions
University City Democratic Club
Uprise Theater
We the People- San Diego

OPPOSITION: (Verified 6/28/22)

East Valley Republican Women Patriots

ASSEMBLY FLOOR: 59-0, 3/21/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Choi, Cooley, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Chen, Cooper, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Maienschein, Mathis, Nguyen, Patterson, Seyarto, Smith, Voepel

Prepared by: Stephanie Jordan / PUB. S. /
6/28/22 14:38:41

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

SENATE RULES COMMITTEE ACR 92
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 92
Author: Petrie-Norris (D), et al.
Amended: 6/16/22 in Assembly
Vote: 21

ASSEMBLY FLOOR: 78-0, 6/29/22 (Consent) - See last page for vote

SUBJECT: Aromatic L-amino Acid Decarboxylase (AADC) Deficiency Awareness Day

SOURCE: Author

DIGEST: This resolution designates October 23, 2022, as Aromatic L-amino Acid Decarboxylase (AADC) Deficiency Awareness Day and encourages Californians to become better informed about, and aware of, AADC deficiency.

ANALYSIS: This resolution makes the following legislative findings:

1) A rare disease is generally considered to be a disease that affects fewer than 200,000 people in the United States at any given time. There are more than 6,800 rare diseases. Altogether, rare diseases affect an estimated 25,000,000 to 30,000,000 Americans.

2) Aromatic L-amino acid decarboxylase (AADC) deficiency is a life-limiting, severely debilitating genetic neurologic condition that significantly impacts a patient's development, motor skills, growth, and cognitive and language skills.

3) AADC deficiency results from an inherited genetic disease where patients lack the AADC enzyme that is required to create dopamine. Without dopamine, patients will never achieve motor milestones like holding their heads up, sitting, standing, or develop the ability to communicate or perform the most basic of life's needs. Patients are diagnosed through genetic and other biochemical tests.

4) AADC deficiency affects approximately one in 100,000 people in the United States. Patients suffering from AADC deficiency often have low muscle tone

that is unexplained and not improving. There are also other symptoms, such as developmental delays and involuntary eye movements.

5) Caregivers of patients with AADC deficiency face many challenges and are often responsible for the overall care of the patient.

6) An AADC deficiency clinical trial is scheduled at Lucile Packard Children's Hospital Stanford, concluding by July 15, 2023.

This resolution designates October 23, 2022, as Aromatic L-amino Acid Decarboxylase (AADC) Deficiency Awareness Day and encourages Californians to become better informed about, and aware of, AADC deficiency.

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

SUPPORT: (Verified 8/1/22)

AADC Family Network
California Chronic Care Coalition

OPPOSITION: (Verified 8/1/22)

None received

ASSEMBLY FLOOR: 78-0, 6/29/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Cunningham, Blanca Rubio

Prepared by: Jonas Austin / SFA / (916) 651-1520
8/3/22 15:04:32

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

SENATE RULES COMMITTEE ACR 95
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 95
Author: Cunningham (R) and Wicks (D), et al.
Amended: 7/8/21 in Assembly
Vote: 21

SENATE JUDICIARY COMMITTEE: 10-0, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, Jones, McGuire, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 73-0, 8/26/21 (Consent) - See last page for vote

SUBJECT: California Law Revision Commission: studies: antitrust

SOURCE: Author

DIGEST: This resolution directs the California Law Revision Commission (CLRC) to study whether revisions to the law should be made to address antitrust and market competition concerns.

ANALYSIS:

Existing law:

1) Provides, under the federal Sherman Act, that every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is illegal. (15 U.S.C. § 1.)

2) Authorizes the CLRC to study topics approved by concurrent resolution of the Legislature. (Gov. Code § 8293.)

3) Prohibits an employee or member of the CLRC, with respect to any proposed legislation concerning matters assigned to the CLRC for study, to advocate for

the passage or defeat of the legislation by the Legislature or the approval or veto of the legislation by the Governor or appear before any committee of the Legislature unless requested to do so by the committee or its chairperson. (Gov. Code § 8288.)

4) Establishes the Cartwright Act and therein prohibits unreasonable restraints on commerce. (Bus. & Prof. Code § 16700 et seq.) Defines, for purposes of the Cartwright Act, a "trust" as a combination of capital, skill, or acts by two or more persons for specified purposes. (Bus. & Prof. Code § 16720.)

5) Provides, with limited exceptions, that every trust is unlawful, against public policy and void. (Bus. & Prof. Code § 16726.)

6) Establishes the Unfair Competition Law (UCL) and therein defines "unfair competition" to mean and include any unlawful, unfair, or fraudulent business act or practice and unfair, deceptive, untrue, or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code (False Advertising Law). (Bus. & Prof. Code § 17200 et seq.)

7) Provides that any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined. The court may make such orders or judgments as may be necessary to prevent the use or employment by any person of any practice which constitutes unfair competition or as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition. (Bus. & Prof. Code § 17203.)

8) Prohibits, under the Unfair Practices Act, acts which injure competition, including sales below cost, locality discrimination, and secret rebates or unearned discounts. (Business & Professions Code Section 17000 et seq.)

This resolution:

1) Makes the following findings:

   a) On June 3, 2019, the House of Representatives' Judiciary Committee's Subcommittee on Antitrust, Commercial and Administrative Law, launched a bipartisan investigation into competition in digital markets which in part concluded: "...we firmly believe that the totality of the evidence produced during this investigation demonstrates the pressing need for legislative action and reform";

b) The American Antitrust Institute published a policy brief in 2016 finding that "[t]here is a growing consensus that inadequate antitrust policy has contributed to the concentration problem and associated inequality effects";

c) In February 2017, the director of the Open Markets program at the New America Foundation, stated: "The idea that America has a monopoly problem is now beyond dispute";

d) Concern about market power concentration has reached even the so-called "Chicago School," leading The Economist magazine's April 15, 2017, headline, about an antitrust conference held there, to read "The University of Chicago worries about a lack of competition. Its economists used to champion big firms, but the mood has shifted";

e) Federal legislative reforms are being considered. On February 4, 2021, Senator Amy Klobuchar introduced a comprehensive bill called the "Competition and Antitrust Law Enforcement Reform Act of 2021" that would make wholesale changes to federal antitrust jurisprudence;

f) While much of current federal antitrust law is premised upon market concentration leading to a rise in prices, the business models of some technology companies in part relies upon consumers paying with their data rather than their dollars, such that price alone may no longer be a viable basis upon which to base antitrust analysis and enforcement;

g) New York State is considering legislation that would fundamentally rewrite its antitrust laws. The legislative findings in the proposed act in part state that "The legislature hereby finds and declares that there is great concern for the growing accumulation of power in the hands of large corporations … It is time to update, expand and clarify our laws …";

h) California should be uniquely sensitive to the threat of market concentration because much of early state history was shaped by monopoly power wielded by the "Big Four" of Huntington, Crocker, Stanford, and Hopkins, who, through the Central Pacific Railroad, acted as monopolistic gatekeepers for businesses that needed to bring goods to market. California therefore should not depend on federal laws or federal enforcement to protect its citizens from monopolistic anticompetitive behavior;

i) No California statute deals expressly with monopolization or attempted monopolization by one giant company;

j) California's primary antitrust statute, the Cartwright Act, unlike Section 2 of the federal Sherman Antitrust Act of 1890, does not apply to monopoly conduct of single powerful companies, and, for the same reason, does not address mergers and contains statutory exemptions that lessen its impact;

k) While arguably such claims may be brought under California's Unfair Competition Law or California's Unfair Practices Act, neither expressly addresses monopolization and foundational issues such as what is needed for standing to bring such claims and the damages available are unsettled; and

l) The CLRC is authorized to study topics that have been referred to the commission for study by concurrent resolution of the Legislature or by statute.

2) Resolves that the Legislature approves for study by the CLRC the following new topics:

a) Whether the law should be revised to outlaw monopolies by single companies as outlawed by Section 2 of the Sherman Act, as proposed in New York State's "Twenty-First Century Anti-Trust Act" and in the "Competition and Antitrust Law Enforcement Reform Act of 2021" introduced in the United States Senate, or as outlawed in other jurisdictions;

b) Whether the law should be revised in the context of technology companies so that analysis of antitrust injury in that setting reflects competitive benefits such as innovation and permitting the personal freedom of individuals to start their own businesses and not solely whether such monopolies act to raise prices; and

c) Whether the law should be revised in any other fashion such as approvals for mergers and acquisitions and any limitation of existing statutory exemptions to the state's antitrust laws to promote and ensure the tangible and intangible benefits of free market competition for Californians.

3) Resolves that, before commencing work on the project, the CLRC submit a detailed description of the scope of work to the chairs and vice chairs of the Assembly and Senate Committees on Judiciary, and any other policy committee that has jurisdiction over the subject matter of the study, and if during the course of the project there is a major change to the scope of work, the CLRC submit a description of the change.

Background

The CLRC studies the law in order to discover defects and make related recommendations to the Legislature for needed reforms. The CLRC's enabling statute recognizes two types of topics the CLRC is authorized to study: (1) those that the CLRC identifies for study and lists in the Calendar of Topics that it reports to the Legislature; and (2) those that the Legislature assigns to the CLRC directly, by statute or concurrent resolution. Direct legislative assignments have become increasingly common. In recent years, there has been growing concern about market concentration in digital markets and the lack of adequate regulatory oversight over monopolies in this new age of technology. As the federal government and other states have introduced legislation to address these problems through changes to antitrust laws, this resolution directs the CLRC to undertake a review of California law to determine whether revisions should be made to address these concerns. This resolution is author sponsored. It is supported by various groups, including Media Alliance. There is no known opposition.

Comments

According to the author:

> The Cartwright Act was written half a century before the idea of computer networks even existed, and cannot possibly be expected to give government the tools it needs to ensure a fair and competitive modern marketplace. California's antitrust statues are ripe for modernization and the nonpartisan California Law Revision Commission is the best body to advise the legislature on how to do that.

Rising concern with anticompetitive markets, especially in the digital world

In June 2019, the House Committee on the Judiciary initiated a bipartisan investigation into the state of competition online, spearheaded by the Subcommittee on Antitrust, Commercial and Administrative Law.[1] The Subcommittee's report urged that the relevant laws "must be updated to ensure that our economy remains vibrant and open in the digital age." The Subcommittee "uncovered evidence that the antitrust agencies failed, at key occasions, to stop monopolists from rolling up their competitors and failed to protect the American people from abuses of monopoly power." Looking back and forward, the over 450-page report found:

[1] Subcommittee on Antitrust, Commercial, and Administrative Law, *Investigation of Competition in Digital Markets* (June 2019) House Committee on the Judiciary, https://judiciary.house.gov/uploadedfiles/competition_in_digital_markets.pdf?utm_campaign=4493-519.

> Over the past decade, the digital economy has become highly concentrated and prone to monopolization. Several markets investigated by the Subcommittee—such as social networking, general online search, and online advertising—are dominated by just one or two firms. The companies investigated by the Subcommittee—Amazon, Apple, Facebook, and Google—have captured control over key channels of distribution and have come to function as gatekeepers. Just a decade into the future, 30% of the world's gross economic output may lie with these firms, and just a handful of others.

In an article in The Atlantic, entitled *America's Monopolies Are Holding Back the Economy*, the director of the Open Markets program at New America makes the stakes and scope clear, arguing that "monopoly is a main driver of inequality, as profits concentrate more wealth in the hands of the few" and asserting that the "idea that America has a monopoly problem is now beyond dispute."[2]

In response, legislation has been introduced at the state and federal level. In February 2021, Senator Amy Klobuchar introduced the Competition and Antitrust Law Enforcement Reform Act of 2021, which, in part, grants the DOJ and FTC new authority to seek substantial civil monetary penalties for antitrust violations and prohibits dominant firms from engaging in "exclusionary conduct that presents an appreciable risk of harming competition." Senator Klobuchar explains:

> Competition and effective antitrust enforcement are critical to protecting workers and consumers, spurring innovation, and promoting economic equity. While the United States once had some of the most effective antitrust laws in the world, our economy today faces a massive competition problem. We can no longer sweep this issue under the rug and hope our existing laws are adequate. The Competition and Antitrust Law Enforcement Reform Act is the first step to overhauling and modernizing our laws so we can effectively promote competition and protect American consumers.[3]

Legislation has also been introduced in New York State. The *Twenty-First Century Anti-Trust Act* would, among other things, make it unlawful for any person or persons to monopolize or monopsonize any business, trade or commerce or the furnishing of any service in the state.[4] It would further make it unlawful for any

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[2] Barry C. Lynn, *America's Monopolies Are Holding Back the Economy* (February 22, 2017) The Atlantic, https://www.theatlantic.com/business/archive/2017/02/antimonopoly-big-business/514358/.

[3] Press Release, *Senator Klobuchar Introduces Sweeping Bill to Promote Competition and Improve Antitrust Enforcement* (February 4, 2021) Senator Klobuchar, https://www.klobuchar.senate.gov/public/index.cfm/2021/2/senator-klobuchar-introduces-sweeping-bill-to-promote-competition-and-improve-antitrust-enforcement.

[4] New York State Senate, Assembly Bill A1812A, https://www.nysenate.gov/legislation/bills/2021/A1812.

person or persons with a dominant position in the conduct of any business, trade or commerce, in any labor market, or in the furnishing of any service in this state to abuse that dominant position.

This resolution recognizes the concerns detailed above and the steps that other jurisdictions are taking, including introduction of sweeping legislation to reform antitrust and similar competition laws. This resolution resolves that the right path forward should be studied by the CLRC. Specifically, that the commission should determine whether the law should be updated to outlaw monopolies as done in other laws or revised in other ways to address such things as approvals of mergers and acquisitions. Specific to the digital market context, the CLRC is tasked with studying whether the law should be revised so that "analysis of antitrust injury in that setting reflects competitive benefits such as innovation and permitting the personal freedom of individuals to start their own businesses and not solely whether such monopolies act to raise prices."

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

SUPPORT: (Verified 8/3/22)

American Economic Liberties Project
California Conference of Machinists
California Labor Federation
California Teamsters Public Affairs Council
Consumer Attorneys of California
Consumer Federation of California
Consumer Watchdog
Foundation for Fairness in Commerce
Media Alliance
UFCW Western States Council
United Steelworkers District 12
Writers Guild of America West

OPPOSITION: (Verified 8/3/22)

None received

ARGUMENTS IN SUPPORT: Media Alliance writes that the proposed resolution points to a few key areas that are ripe for revision.

"One of them is using price-setting power to define inadequate competition and the existence of monopoly or oligopoly power in a marketplace. While this certainly one cogent definition of inadequate competition, the growth of

large and powerful technologies that provide their primary services free of charge, while operating secondary markets in data sales or advertising, has made that definition a mismatch with several heavily dominated technology marketplaces. When we can clearly see dominant market power as we do with online shopping and social media platforms, but cannot frame how those marketplaces work in our existing definitions of anti-competitive behavior and monopoly, then we force the use of statutes like the UCL to be distorted to try to address what are, in essence, issues of antitrust. We can and should do better."

ASSEMBLY FLOOR: 73-0, 8/26/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Maienschein, Mathis, Mayes, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bennett, Chen, Kiley, Low, McCarty, Nguyen

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
8/3/22 15:28:16

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

SENATE RULES COMMITTEE ACR 121
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 121
Author: Seyarto (R) and Mathis (R), et al.
Introduced: 1/11/22
Vote: 21

ASSEMBLY FLOOR: 78-0, 6/29/22 (Consent) - See last page for vote

SUBJECT: Purple Heart Day

SOURCE: Author

DIGEST: This resolution declares August 7, 2022, as Purple Heart Day in California.

ANALYSIS: This resolution makes the following legislative findings:

1) The Purple Heart is awarded to members of the Armed Forces who are killed or wounded in action.

2) Created in 1932, the Purple Heart has a long and storied past that dates back to the founders of the United States. The award takes its design from the Badge of Military Merit, which was commissioned by General George Washington on August 7, 1782. The official successor decoration of the Badge of Military Merit is the Purple Heart.

3) Originally, the Purple Heart award was only open to United States Army and Air Force service members and could not be awarded posthumously. President Franklin D. Roosevelt changed that in 1942 with an executive order that opened the award to members of the United States Navy, Marine Corps, and Coast Guard. Later that year, in a separate order, the award was made available for posthumous award to any member of the military.

4) To date, approximately two million Purple Heart Medals have been awarded. The award can be awarded retroactively as far back as 1917, allowing veterans from World War I to be eligible.

5) From 1942 to 1997, inclusive, civilians serving in, or affiliated with, the Armed Forces were eligible to receive the Purple Heart. Some of the earliest civilians to receive this honor were firefighters wounded or killed while fighting fires caused by the attack on Pearl Harbor.

6) Since California is home to more than 1.8 million veterans and more than 200,000 active and reserve members of the Armed Forces, it is especially appropriate for all Californians to honor those who have been awarded the Purple Heart.

This resolution encourages all Californians to honor those who have served in the Armed Forces, especially those who have been wounded and received the Purple Heart, and declares August 7, 2022, as Purple Heart Day in California.

Related/Prior Legislation

The following are the most recent measures relating to Purple Heart Day:

- ACR 12 (Seyarto, Resolution Chapter 105, Statutes of 2021).
- ACR 174 (Choi, 2020) died in the Assembly.
- ACR 100 (Choi, Resolution Chapter 132, Statutes of 2019).

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

SUPPORT: (Verified 8/1/22)

California Professional Firefighters
American Legion-Department of California
AMVETS-Department of California
California Association of County Veterans Service Officers
California State Commanders Veterans Council
Military Officers Association of America-California Council of Chapters
Vietnam Veterans of America-California State Council

OPPOSITION: (Verified 8/1/22)

None received

ARGUMENTS IN SUPPORT: Proponents write, "This annual remembrance by the state is important to not only honor the living Purple Heart recipients, but to also keep the memory alive of the sacrifices made by generations of veterans. Furthermore, this day of honoring also aids in the healing of surviving family members."

ASSEMBLY FLOOR: 78-0, 6/29/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Cunningham, Blanca Rubio

Prepared by: Melissa Ward / SFA / (916) 651-1520
8/3/22 15:04:33

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

SENATE RULES COMMITTEE ACR 122
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 122
Author: Seyarto (R) and Rodriguez (D), et al.
Amended: 5/11/22 in Assembly
Vote: 21

ASSEMBLY FLOOR: Read and adopted, 6/23/22

SUBJECT: California Firefighter Appreciation Month and California Firefighters Memorial Day

SOURCE: California Professional Firefighters

DIGEST: This resolution proclaims the month of July 2022 as California Firefighter Appreciation Month and July 30, 2022, as California Firefighters Memorial Day.

ANALYSIS: This resolution makes the following legislative findings:

1) The California Firefighters Memorial, located on the grounds of the State Capitol, serves to honor and commemorate California firefighters who unwaveringly serve our great state with pride, courage, and honor.

2) The California Firefighters Memorial is maintained by the California Fire Foundation to ensure that it continues to be a symbol of gratitude and appreciation to the men and women of the fire service who put their lives on the line each day to protect the people, property, and beauty of California.

3) Each of the over 1,400 names engraved on the brushed limestone walls of the California Firefighters Memorial serves as a timeless tribute to the finest and bravest of our state who have made the ultimate sacrifice as firefighters.

4) The California Firefighters Memorial is the only state monument capturing the names in perpetuity of those courageous firefighters in California who have put service to our great State of California above all else.

5) The California Fire Foundation is embarking on an important effort to expand the California Firefighters Memorial to preserve and continue the everlasting tribute to those who have made the ultimate sacrifice in service to our great state.

6) The California Firefighters Memorial must be modified to include a new wall that is sufficient in size to inscribe the names of the fallen for decades to come. These names are currently listed chronologically and include the name of the department where the firefighter served.

7) This year marks the 20th Anniversary of the California Firefighters Memorial. The California Firefighters Memorial Ceremony will be held on Saturday, July 30, 2022, in the City of Sacramento to commemorate the line-of-duty service and sacrifice of nearly 90 California fire service professionals from 2020, 2021, and 2022, after a two-year ceremony hiatus due to the ongoing pandemic.

This resolution:

1) Proclaims the month of July 2022 as California Firefighter Appreciation Month and July 30, 2022, as California Firefighters Memorial Day.

2) Urges the Californians to always remember the firefighters who have given their lives in the line of duty and express their appreciation to those firefighters who continue to protect our families.

Related/Prior Legislation

ACR 10 (Seyarto, Resolution Chapter 132, Statutes of 2021) proclaimed the month of September 2021 as California Firefighter Appreciation Month and September 25, 2021, as California Firefighters Memorial Day.

SCR 42 (Nielsen, Resolution Chapter 79, Statutes of 2019) proclaimed the month of September 2019 as California Firefighter Appreciation Month and September 28, 2019, as California Firefighters Memorial Day.

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

SUPPORT: (Verified 8/2/22)

California Professional Firefighters (source)
California Fire Chiefs Association
California Forestry Association

Fire Districts Association of California

OPPOSITION: (Verified 8/2/22)

None received

ARGUMENTS IN SUPPORT: The California Professional Firefighters, the sponsor of this bill writes:

> Over 20 years ago, the Legislature and Governor deemed it a worthy mission to build a memorial honoring our state's fallen firefighters. The California Firefighters Memorial is a place of remembrance and solemn reflection for California's fire service, with the names of over 1,400 firefighters dating back to 1850 etched on the Memorial Wall. Each year, hundreds of firefighters from throughout California gather in Capitol Park to pay their respects to those who have lost their lives in the previous year, honoring each individual and their families for their sacrifices. This year's ceremony will hold special significance as 82 firefighters, including those whose ceremonies were postponed or altered during the COVID-19 pandemic, will be honored with the respect, dignity, and honor that they deserve.
>
> California has a responsibility to pay tribute to the brave men and women who put their lives on the line every day to protect the citizens of this state. As firefighters put their lives on the line each day not only to combat wildfires but also on the front lines of the COVID-19 pandemic, it is more important than ever to recognize their service and honor the ultimate sacrifices of those who have given their lives to keep California safe.

Prepared by: Karen Chow / SFA / (916) 651-1520
8/3/22 15:04:34

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

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

THIRD READING

Bill No: ACR 135
Author: Seyarto (R), et al.
Introduced: 2/9/22
Vote: 21

ASSEMBLY FLOOR: 78-0, 6/29/22 (Consent) - See last page for vote

SUBJECT: Suicide Prevention Week

SOURCE: Author

DIGEST: This resolution proclaims the week of September 4, 2022, through September 10, 2022, as "Suicide Prevention Week in California."

ANALYSIS: This resolution makes the following legislative findings:

1) California recognizes suicide as a public health problem and suicide prevention as a statewide responsibility.

2) Designating the second week of September as "Suicide Prevention Week in California" would overlap with World Suicide Prevention Day, which occurs on September 10, 2022, and is recognized internationally and supported by the World Health Organization.

3) Suicide is the 10th leading cause of all deaths in the United States and the 44th leading cause of all deaths in California. On average, 130 people commit suicide every day in the United States, which equals approximately one person every 11 minutes.

4) A great number of suicides are preventable. Most suicidal people display warning signals of their intentions; however, others are often unaware of these signals or unsure what to do about them.

5) The stigma associated with mental illness and suicide works against suicide prevention by discouraging persons at risk for suicide from seeking lifesaving help and further traumatizes survivors of suicide.

6) Suicide Prevention Week in California is a time to acknowledge the tragic loss of individuals who have committed suicide and to commemorate the actions of organizations and individuals working to prevent suicide and raise awareness of suicide as a public health issue.

This resolution proclaims the week of September 4, 2022, through September 10, 2022, as "Suicide Prevention Week in California."

Related/Prior Legislation

ACR 37 (Seyarto, Resolution Chapter 134, Statutes of 2021) proclaimed the week of September 5, 2021, through September 11, 2021, as Suicide Prevention Week in California.

ACR 199 (Choi, 2020) would have proclaimed the week of September 6, 2020, through September 12, 2020, as Suicide Prevention Week in California. The resolution died at the Assembly Desk.

ACR 255 (Harper, ResolutionSeyarto Chapter 209, Statutes of 2018) proclaimed the week of September 9, 2018, through September 15, 2018, as Suicide Prevention Week in California.

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

SUPPORT: (Verified 8/1/22)

California Professional Firefighters
California Alliance of Child and Family Services

OPPOSITION: (Verified 8/1/22)

None received

ASSEMBLY FLOOR: 78-0, 6/29/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares,

Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Cunningham, Blanca Rubio

Prepared by: Jonas Austin / SFA / (916) 651-1520
8/3/22 15:04:34

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

SENATE RULES COMMITTEE ACR 154
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 154
Author: Seyarto (R) and Valladares (R), et al.
Introduced: 2/28/22
Vote: 21

ASSEMBLY FLOOR: 74-0, 6/23/22 (Consent) - See last page for vote

SUBJECT: Women in science, technology, engineering, and mathematics

SOURCE: Author

DIGEST: This resolution honors 100 years of women in science, technology, engineering, and mathematics during the month of June 2022.

ANALYSIS: This resolution makes the following legislative findings:

1) Julia Morgan, born on January 20, 1872, designed more than 700 buildings in California, most famously the Hearst Castle and many other Hearst buildings across the state, along with buildings on the campus of the University of California, Berkeley.

2) Ms. Morgan's early reputation was built on her use of steel-reinforced concrete and the building of the 72-foot bell tower at Mills College, which survived the 1906 San Francisco earthquake unscathed.

3) In 1904, Ms. Morgan was the first woman to obtain an architecture license in California, where she then opened her own office in the City of San Francisco. The 1906 earthquake and fire promoted Ms. Morgan to the front of the rebuilding and architecture world, as her tower had remained after the devastation and her use of steel-reinforced concrete was revolutionary.

4) Ms. Morgan then went on to serve the Hearst family through three generations, building and designing most of the family's buildings still standing today, including the Hacienda, the Los Angeles Examiner Building, Hearst Castle, Wyntoon, and five Young Women's Christian Association buildings in southern California. Ms. Morgan also built the famous North Star House in the

City of Grass Valley, the Chapel of the Chimes in the City of Oakland, and the Berkeley Playhouse.

5) While not much is known about Ms. Morgan's personal life, she is quoted as saying, "my buildings will be my legacy ... they will speak for me long after I'm gone".

This resolution honors 100 years of women in science, technology, engineering, and mathematics during the month of June 2022.

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

SUPPORT: (Verified 8/1/22)

California Builders Alliance
Sacramento Regional Builders Exchange

OPPOSITION: (Verified 8/1/22)

None received

ASSEMBLY FLOOR: 74-0, 6/23/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Cervantes, Chen, Choi, Cooper, Cunningham, Megan Dahle, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Calderon, Carrillo, Cooley, Daly, Gallagher, Waldron

Prepared by: Melissa Ward / SFA / (916) 651-1520
8/3/22 15:04:35

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

SENATE RULES COMMITTEE ACR 176
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 176
Author: Luz Rivas (D), et al.
Amended: 8/1/22 in Senate
Vote: 21

ASSEMBLY FLOOR: Read and adopted, 6/27/22

SUBJECT: Cruising

SOURCE: Author

DIGEST: This resolution celebrates the history and culture of cruising and encourages local officials and law enforcement to work with local car clubs to conduct safe cruising events.

ANALYSIS: This resolution makes the following legislative findings:

1) Cruising is the custom of leisurely driving on urban boulevards in dropped and dolled-up vehicles, that includes meetups of lowrider, vintage, and custom vehicle owners.

2) Cruising is all about fun, the love of cars, the love of culture, and the craft of maintaining a vintage vehicle.

3) Cruising can occur as gatherings where cars are parked and owners show off their cars and admire other cars, or as one-off cruises where people gather and drive their cars through the streets.

4) Cruising in some form has been popular in California since the first American teenagers obtained vehicles in the 1930s.

5) Cruising along a specific route became popular after World War II with individuals of Mexican heritage driving lowriders in southern California towns, and cruising rapidly became a popular activity among teenagers.

6) Lowriders are customized cars whose springs have been shortened so that the chassis rides close to the ground and which are often equipped with hydraulic lifts that are controlled by the driver.

7) Van Nuys Boulevard and the San Fernando Valley are popular hubs of lowrider culture and cruising in California.

8) The Sacramento Lowrider Commission was instrumental in the repeal of a 34-year-old city ordinance that prohibited cruising.

9) Cruising has resurged in the last 10 years and cruises and lowrider meetups occur every weekend throughout southern California, from Oxnard to Riverside to San Diego to Lancaster.

10) Car club gatherings have been drawing new types of vehicles driven by younger motorists influenced by the "Fast and the Furious" media franchise.

11) Car clubs are often engaged with their communities and collaborate with local law enforcement and elected officials to conduct toy drives, fundraisers, and other philanthropic activities.

This resolution celebrates the history and culture of cruising and encourages local officials and law enforcement to work with local car clubs to conduct safe cruising events.

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

SUPPORT: (Verified 8/2/22)

City of Sacramento
Sacramento Lowrider Commission
San Fernando Valley Car and Truck Club Council
Sonoma County Lowrider Council
United Lowrider Coalition

OPPOSITION: (Verified 8/2/22)

None received

Prepared by: Karen Chow / SFA / (916) 651-1520
8/3/22 15:04:36

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

SENATE RULES COMMITTEE ACR 179
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 179
Author: O'Donnell (D), et al.
Introduced: 4/20/22
Vote: 21

ASSEMBLY FLOOR: 61-0, 5/5/22 (Consent) - See last page for vote

SUBJECT: Student Mental Health Week

SOURCE: Author

DIGEST: This resolution declares the week of May 9, 2022, to May 13, 2022, inclusive, as Student Mental Health Week.

ANALYSIS: This resolution makes the following legislative findings:

1) Student mental health needs too often go unnoticed or unaddressed at school.

2) Reducing the stigma surrounding mental health will empower students to speak up when they need help.

3) Research has shown that adverse childhood experiences have lasting harmful impacts and can leave students feeling disenfranchised if not addressed.

4) The early identification of, intervention in, and treatment of mental health and behavioral issues is paramount for a healthy student body and school community.

5) The need for comprehensive, coordinated mental health services for students in school is a critical responsibility as part of an overall education plan.

This resolution declares the week of May 9, 2022, to May 13, 2022, inclusive, as Student Mental Health Week in California.

Related/Prior Legislation

ACR 68 (O'Donnell, Resolution Chapter 73, Statutes of 2021) declared the week of May 10, 2021, to May 14, 2021, inclusive, as Student Mental Health Week.

ACR 172 (Low, 2020) would have declared the week of May 4, 2020, to May 8, 2020, as Student Mental Health Week. The resolution died in the Assembly Rules Committee.

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

SUPPORT: (Verified 5/17/22)

ACLU California Action
Association of Pupil Services and Attendance Counselors
California Alliance of Child and Family Services
California Association of School Psychologists
Children Now
Jewish Family and Children's Services of San Francisco, the Peninsula, Marin and Sonoma Counties
Office of the Riverside County Superintendent of Schools
Wellness Together

OPPOSITION: (Verified 5/17/22)

None received

ASSEMBLY FLOOR: 61-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Friedman, Gallagher, Cristina Garcia, Gipson, Levine, McCarty, Medina, Villapudua, Waldron, Wicks

Prepared by: Karen Chow / SFA / (916) 651-1520
5/18/22 14:28:54

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

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

THIRD READING

Bill No: ACR 200
Author: Low (D), et al.
Amended: 6/21/22 in Assembly
Vote: 21

ASSEMBLY FLOOR: 78-0, 6/29/22 (Consent) - See last page for vote

SUBJECT: Hepatitis epidemic

SOURCE: Author

DIGEST: This resolution recognizes July 28, 2022, as World Hepatitis Day and encourages Californians to increase hepatitis awareness to win the fight against hepatitis B, hepatitis C, and liver cancer.

ANALYSIS: This resolution makes the following legislative findings:

1) Hepatitis B and C are the leading cause of liver cancer and liver transplants, liver cancer is one of the few cancers that continue to rise in California and the United States, and more people die in California from hepatitis B- and C-related liver disease than any other state.

2) An estimated 300,000 and 400,000 Californians are infected with hepatitis B and hepatitis C respectively, despite the medical system having simple and effective tools, including screening for both hepatitis B and C, that can prevent cancer, vaccination for hepatitis B, and a cure for hepatitis C.

3) Voluntary screening of adults would help stop this epidemic in its tracks and close disparities in diagnosis and treatment of hepatitis B and C by expanding testing and referral to care, most notably in the Asian and Pacific Islander American and the Black community.

4) Unfortunately, awareness of infections among patients remains critically low. Less than one-third of people who have hepatitis B were aware of their condition, while only 60 percent of hepatitis C patients had knowledge of their infection.

5) The passing and signing of Assembly Bill 789 in 2021 makes California the first state in the country to provide adults voluntary screenings for hepatitis B and C.

6) July 28 is World Hepatitis Day, a day bringing awareness of the global burden of viral hepatitis and to influence real change.

This resolution recognizes July 28, 2022, as World Hepatitis Day and encourages Californians to increase hepatitis awareness to win the fight against hepatitis B, hepatitis C, and liver cancer.

Comments

According to the author,

> Hepatitis B and C affect communities of color at a disproportionate scale that is unjust and demands immediate action. A 2018 study[1] found that approximately 88 percent of people with chronic hepatitis B in California are members of the Asian and Pacific Islander community. Meanwhile, Black Americans have the second-highest prevalence of chronic hepatitis B infection. Asian Americans are 8x and Black Americans are 2.6x more likely to die from hepatitis B than non-Latino White Americans. Further, Black Americans are 2x, American Indian 2.7x, and Latino Americans are 1.4x more likely to die from hepatitis C compared with non-Latino White Americans.[2]
>
> Liver cirrhosis and liver cancer resulting from undiagnosed or untreated hepatitis B and C account for over one third of the liver transplants in California each year and over half of the estimated 4,700 new cases of liver cancer in California in 2020.
>
> Most of the deaths and complications can be averted with diagnosis, monitoring, and antiviral treatment that can cure over 95 percent of hepatitis C cases and prevent hepatitis B disease progression.
>
> ACR 200 would recognize July 28, 2022, as World Hepatitis Day and would encourage Californians to increase hepatitis awareness to win the fight against hepatitis B, hepatitis C, and liver cancer.

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[1] **Racial/ethnic- and county-specific prevalence of chronic hepatitis B and its burden in California | Hepatology, Medicine and Policy | Full Text (biomedcentral.com)**

[2] **Hepatitis and Asian Americans - The Office of Minority Health (hhs.gov)**

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

SUPPORT: (Verified 8/1/22)

None received

OPPOSITION: (Verified 8/1/22)

None received

ASSEMBLY FLOOR: 78-0, 6/29/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Cunningham, Blanca Rubio

Prepared by: Jonas Austin / SFA / (916) 651-1520
8/3/22 15:04:36

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

SENATE RULES COMMITTEE ACR 205
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 205
Author: Wilson (D), et al.
Introduced: 6/8/22
Vote: 21

ASSEMBLY FLOOR: Read and adopted, 6/30/22

SUBJECT: Women Veterans Recognition Day

SOURCE: Author

DIGEST: This resolution proclaims June 12, 2022, as Women Veterans Recognition Day and urges all Californians to join in celebrating the many contributions of women to our armed forces.

ANALYSIS: This resolution makes the following legislative findings:

1) Women Veterans Recognition Day and Women Veterans Appreciation Day is the anniversary of the day the Women's Armed Services Integration Act was signed into law by President Harry S. Truman on June 12, 1948, and prior to then, only women nurses could serve in the regular and reserve forces during peacetime.

2) There are almost 2,000,000 women Veterans in the United States, the territories of the United States, and abroad according to the United States Department of Veterans Affairs (USDVA), and nearly 163,000 women veterans make California their home according to the California Department of Veterans Affairs (CalVet).

3) Women are the fastest growing group in the veteran population, as they account for approximately 10 percent of the overall veteran population today, and it is projected that women will make up 18 percent of the veteran population by 2040.

4) Women have formally been a part of the United States Armed Forces since the inception of the Army Nurse Corps in 1901 but have informally served since the inception of our nation's military.

5) With the passage of the Women's Armed Services Integration Act of 1948, women became a permanent part of the United States military, but the act continued to restrict women to 2% of the military population. That restriction was finally lifted in 1967 with the amendment of the Women's Armed Services Integration Act, which also opened senior officer ranks to women.

6) Though women have been officially serving in the military since 1901, they have not always been considered qualified for veteran status for the purpose of receiving benefits from the USDVA. Even after women were granted veteran status, issues of access, exclusion, and improper management of their health care still remained.

7) In 2008, the USDVA's Women Veterans Health Strategic Health Care Group began a five-year plan to redesign the nation's health care delivery system for women, and a fundamental component of this plan was to ensure that all women veterans had access to comprehensive primary care from skilled women's health providers.

8) Even though the USDVA and CalVet have introduced initiatives designed to improve health care access and quality of care for women veterans, women veterans disproportionately do not use their hard-earned veterans benefits.

This resolution proclaims June 12, 2022, as Women Veterans Recognition Day and urges all Californians to join in celebrating the many contributions of women to our armed forces.

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

SUPPORT: (Verified 8/1/22)

None received

OPPOSITION: (Verified 8/1/22)

None received

Prepared by: Melissa Ward / SFA / (916) 651-1520
8/3/22 15:04:37

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

SENATE RULES COMMITTEE ACR 207
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 207
Author: Wilson (D), et al.
Introduced: 6/15/22
Vote: 21

ASSEMBLY FLOOR: Read and adopted, 6/30/22

SUBJECT: Sickle Cell Awareness Day

SOURCE: Author

DIGEST: This resolution recognizes June 19, 2022, as Sickle Cell Awareness Day in California.

ANALYSIS: This resolution makes the following legislative findings:

1) Sickle cell disease is a chronic condition that can affect any organ, including the kidneys, lungs, and spleen, and research indicates that patients experience many severe complications, including stroke, infections, and pulmonary embolism, and have a shorter life expectancy than the general population.

2) Vasoocclusive crises are a common painful complication of sickle cell disease in adolescents and adults that may occur several times per year, and these recurrent episodes induce severe pain, decrease quality of life, can cause life-threatening complications, including stroke, are the primary cause of hospitalizations in sickle cell disease, and are associated with increased mortality.

3) Sickle cell disease can be a life-threatening condition, leading to a 25-year to 30-year reduction in life expectancy, and access to comprehensive care can be limited by social, economic, cultural, and geographic barriers.

4) Although there is no widely available cure for sickle cell disease, one-time gene therapies, including gene editing therapeutic approaches, are being developed and may offer potential cures for some patients.

This resolution recognizes June 19, 2022, as Sickle Cell Awareness Day in California.

Related/Prior Legislation

ACR 286 (Kamlager-Dove, Resolution Chapter 223, Statutes of 2018) recognized the month of September 2018 as Sickle Cell Disease Awareness Month in California.

ACR 128 (Brown, Resolution Chapter 171, Statutes of 2016) recognized the month of September 2016 as Sickle Cell Anemia Awareness Month.

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

SUPPORT: (Verified 8/2/22)

None received

OPPOSITION: (Verified 8/2/22)

None received

Prepared by: Karen Chow / SFA / (916) 651-1520
8/3/22 15:04:38

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

SENATE RULES COMMITTEE AJR 22
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AJR 22
Author: Gabriel (D), et al.
Introduced: 1/5/22
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 3/8/22
AYES: Bradford, Kamlager, Skinner, Wiener
NO VOTE RECORDED: Ochoa Bogh

ASSEMBLY FLOOR: 54-2, 1/10/22 - See last page for vote

SUBJECT: Select Committee to Investigate the January 6th Attack on the United States Capitol

SOURCE: Author

DIGEST: This resolution urges the United States House Select Committee to Investigate the January 6th Attack on the United States Capitol to uncover the facts, circumstances, and causes relating to the attack, and honors the individuals who died or were injured as a result of the attack.

ANALYSIS:

Existing law:

1) States that each state shall appoint electors pursuant to a process prescribed by the state's legislature to elect the President and Vice President of the United States. (U.S. Const., Art. II, Sec. 1)

2) States that electors shall sign and certify a list of the persons voted for and the number of votes for each, and transmit the list to the President of the Senate, who shall, in the presence of the U.S. Senate and House of Representatives, open the certificates and count the votes. (U.S. Const., Art II, Sec. 1; 12th Amend.)

3) States that the United States Congress may determine the time of choosing the electors, and the day on which they shall give their votes, which shall be the same throughout the country. (U.S. Const., Art II, Sec. 1)

4) Requires that the electors of each state forward, in a timely manner via registered mail, their lists and certificates to the President of the Senate. (3 U.S.C. §11)

5) Requires that Congress be in session on the sixth day of January succeeding every meeting of the electors, and that the Senate and the House of Representatives shall meet in the Hall of the House of Representatives at 1pm that day. (3 U.S.C. §15)

6) Requires that each house appoint two "tellers," who shall open and present, in alphabetical order by state, the certificates of the electors to the assembled members of the House and Senate. (3 U.S.C. §15)

7) Provides that upon the reading of the votes of each state, a tally of the results of each state shall be presented to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons elected President and Vice President of the United States. (3 U.S.C. §15)

8) Provides that subsequent to the announcement of results by the President of the Senate, the President of the Senate shall call for objections, which must be made in writing, and signed by at least one Senator and one member of the House of Representatives. (3 U.S.C. §15)

9) Provides that when all objections have been received and read, those objections shall be submitted to each house of the legislature for their independent decisions. (3 U.S.C. §15)

10) Requires that no electoral vote or votes from any state which were regularly given by lawfully certified electors may be rejected, but that the House and Senate may concurrently may reject the vote or votes when they agree that such vote or votes have not been given by lawfully certified electors. (3 U.S.C. §15)

11) Provides that when the two houses separate to decide upon an objection, each Senator and Representative may speak to such objection for five minutes, and not more than once, but after such debate has lasted two hours, it is the duty of the presiding officer of each house to put the main questions without further debate. (3 U.S.C. §17)

This resolution:

1) Finds that President Donald J. Trump's actions incited a violent insurrection that attempted to prevent the peaceful transfer of power at the United States Congress on January 6, 2021.

2) Finds that the insurrection was a horrific assault on our democracy as established by the Constitution of the United States.

3) Finds that the insurrection resulted in multiple deaths, physical harm to over 140 members of law enforcement, and terror and trauma among staff, institutional employees, press, and Members of the United States Congress.

4) Finds that the United States Congress has established a bipartisan Select Committee to Investigate the January 6th Attack on the United States Capitol.

5) Resolves that the Legislature urge the Select Committee to Investigate the January 6th Attack on the United States Capitol to uncover the facts, circumstances, and causes relating to the domestic terrorist attack on the United States Capitol on January 6, 2021.

6) Resolves that the Legislature condemns the insurrection and assault on our democracy on January 6, 2021.

7) Resolves that the Legislature recognizes the courage, bravery, and sacrifice of those who were injured and killed trying to protect the United States Capitol and honors those individuals on the first anniversary of the insurrection.

8) Resolves that the Legislature rejects all forms of political violence.

9) Resolves that the members of the Legislature reaffirm their duty to support and defend the Constitution of the United States.

Comments

The author states:

> We would be remiss not to condemn the violent, treasonous insurrection at the United States Capitol that occurred a year ago. This was the beginning of a sustained attack on democracy. Since the riot, countless state legislatures have fought to roll back voting rights, elected leaders have refused to acknowledge the legitimacy of our fair and free elections while others continue promoting conspiracy theories and misinformation that weakens our faith in government. In the State of California we need to be a model of democracy where political

violence, voter suppression and lies misinformation is not tolerated. AJR 22 serves as a reminder for how fragile our democracy is and it must be protected. I introduced this resolution because I believe people of all political ideologies need to be on the record recognizing our democratic electoral process as a sacred institution and unequivocally opposing efforts to harm our democracy. This resolution is to honor the law enforcement officers who heroically protected the Capitol that day. We recognize the courage, bravery, and sacrifice of those who were injured and killed trying to protect the United States Capitol and honors those individuals on the first anniversary of the insurrection.

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

SUPPORT: (Verified 3/8/22)

None received

OPPOSITION: (Verified 3/8/22)

None received

ASSEMBLY FLOOR: 54-2, 1/10/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Smith, Waldron
NO VOTE RECORDED: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Friedman, Gallagher, Holden, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Seyarto, Ting, Voepel

Prepared by: Alex Barnett / PUB. S. /
3/9/22 15:10:33

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

SENATE RULES COMMITTEE AJR 23
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AJR 23
Author: Boerner Horvath (D) and Cristina Garcia (D), et al.
Amended: 2/22/22 in Assembly
Vote: 21

ASSEMBLY FLOOR: 69-0, 6/23/22 - See last page for vote

SUBJECT: Title IX: 50th anniversary

SOURCE: Superintendent of Public Instruction Tony Thurmond
American Association of University Women of California

DIGEST: This resolution commemorates the 50th anniversary of the enactment of Title IX and urges Californians to continue to work together to achieve the goals set by Title IX.

ANALYSIS: This resolution makes the following legislative findings:

1) Title IX of the Education Amendments of 1972 is a federal law that specifically states that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.

2) All public and private elementary schools and secondary schools, school districts, colleges, and universities receiving any federal funding must comply with Title IX.

3) Title IX requires equal access in recruitment, admissions, counseling, financial assistance, discipline, employment, and athletics; protection from sex-based harassment; and equitable treatment of pregnant and parenting students.

4) Before the enactment of Title IX, many women and girls faced discrimination and limited opportunities in athletics, academics, and extracurricular activities.

5) The educational equity guaranteed in Title IX does not solely apply to women; it protects everyone from sex-based discrimination, regardless of real or perceived sex, gender identity, or gender expression.

6) Discrimination on the basis of sex can include sexual harassment or sexual violence, including rape, sexual assault, sexual battery, and sexual coercion.

7) Title IX has been used as a basis in a number of complaints alleging sexual violence on college campuses, as sexual violence interferes with a student's right to receive education free from discrimination.

8) Multiple California colleges and universities are currently under investigation by the United States Department of Education for their handling of sexual violence and sexual harassment cases.

9) Title IX, which governs educational equity generally, is widely known for ensuring equal access to women and girl athletes.

10) Nearly all of the members of the United States Women's National Soccer Team, which is ranked #1 in the world and continues to make our nation proud, played collegiate level soccer and had Title IX protections.

11) As of 2019, the girls' high school athletics participation rate is greater than 10 times what it was when Title IX passed, an increase of more than 1,000 percent.

12) Title IX regulations require that pregnant and parenting students have equal access to schools and activities, and that all separate programs for pregnant or parenting students be completely voluntary and equal to the regular programs.

13) Title IX has been the basis for California laws that protect graduate students from discrimination on the basis of pregnancy in research projects in California universities, laws requiring affirmative consent, and laws requiring lactation accommodations in California schools.

14) It is the policy of the state that all persons, regardless of their sex, should enjoy freedom from discrimination of any kind in the educational institutions of the state.

15) Although Title IX has increased opportunities for girls and women in academics, sports, and other educational activities, it has not yet achieved the goal of full equality.

This resolution commemorates the 50th anniversary of the enactment of Title IX and urges Californians to continue to work together to achieve the goals set by Title IX.

Background

This resolution acknowledges the profound impact of Title IX of the Federal Education Amendments of 1972 and emphasizes the importance of working together to achieve the goals set by Title IX of increased opportunities for girls and women in academics, sports, and other educational activities.

Title IX was signed into law on June 23, 1972, prohibiting sex discrimination in education programs and activities offered by entities receiving federal financial assistance. While it is best known for its impact on high school sports and collegiate athletics, the original statute made no explicit mention of sports. In fact, Title IX has had a multi-faceted impact, increasing gender equity in athletics and employment, and strengthening protections from gender-based harassment and violence, as well as discrimination based on sex, gender identity, sexual orientation, parenthood, and pregnancy.

Comments

According to the author,

> I appreciate growing up with fair treatment of women in education programs that Title IX afforded me and generations of American women. In the 50 years since Title IX became law, women and young girls have been able to thrive in an educational environment by having equal access to higher education and athletic opportunities. For decades, this law has taken down barriers and has allowed countless women and young girls to succeed in areas once considered beyond their reach. While there is still more work to be done, it is important to recognize and celebrate the profound victory for equality that we have achieved so far since the passage of Title IX. AJR 23 gives Title IX the recognition that it deserves, and urges us to continue the fight for equality.

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

SUPPORT: (Verified 8/1/22)

Superintendent of Public Instruction Tony Thurmond (co-source)
American Association of University Women of California (co-source)
California Association for Health, Physical Education Recreation and Dance
California Firefighter Joint Apprenticeship Committee

California Interscholastic Federation
California Partnership to End Domestic Violence
California Professional Firefighters
Young Women's Freedom Center

OPPOSITION: (Verified 8/1/22)

None received

ASSEMBLY FLOOR: 69-0, 6/23/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Cervantes, Chen, Choi, Cooper, Cunningham, Megan Dahle, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Stone, Ting, Valladares, Villapudua, Voepel, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Calderon, Carrillo, Cooley, Daly, Gallagher, Kiley, Lackey, Mathis, Nguyen, Smith, Waldron

Prepared by: Jonas Austin / SFA / (916) 651-1520
8/3/22 15:04:38

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

SENATE RULES COMMITTEE AJR 26
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AJR 26
Author: Medina (D), et al.
Amended: 6/2/22 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 6/1/22
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, McGuire, Pan

ASSEMBLY FLOOR: 70-0, 4/21/22 - See last page for vote

SUBJECT: Student loan debt repayment

SOURCE: Author

DIGEST: This resolution urges the United States Secretary of Education to establish and submit to the United States Congress for approval a monthly student loan payment plan for federal student loans, as specified.

ANALYSIS: Existing federal law provides for student loans through the William D. Ford Federal Direct Loan Program, administered by the Federal Student Aid Office within the United States Department of Education (USDE). These include:

1) *Direct Subsidized Loans*: These are need-based loans that cover the difference between a student's resources and the cost of attending a college or university; the amount of loan is dependent on the level of need, dependent status, and year in college. The federal government pays the interest while the student is attending the college or university and subsidizes the interest throughout the life of the loan.

2) *Direct Unsubsidized Loans*: Not based on financial need, these loans generally cover the difference between other financial aid received and the total cost of attending college. Loans are made to eligible undergraduate, graduate, and professional students. The student is responsible for paying the interest during all periods. The federal government sets the interest rates and fees.

3) *Parent Loans for Undergraduate Students (PLUS)*: These loans are available to creditworthy parents of dependent students. These are not need-based and are federally guaranteed. In addition, these types of loans have been expanded for graduate or professional degree students. The borrower is responsible for paying the interest on PLUS loans during all periods, starting from the date the loan is first disbursed.

4) *Direct Consolidation Loans*: These loans allow for consolidation of multiple federal education loans into one loan with a fixed interest rate at no cost.

This resolution:

1) Resolves that the Senate and the Assembly, jointly, urges the United States Secretary of Education to establish and submit to the United States Congress for approval a monthly student loan payment plan for federal student loans, based on the personal savings rate as published by the federal Bureau of Economic Analysis.

2) States a number of findings regarding student loan debt in the United States including all of the following:

   a) Student loan debt in the United States has increased more than 100% in the last 10 years.

   b) The Federal Reserve estimates that in 2021, four in 10 people who went to college incurred some form of debt for their education, and as of September 2021, the total amount of student loan debt in the nation rose to above $1.75 trillion.

   c) The USDE reports that as of September 2021, roughly one in 10 borrowers with federal student loans were in default.

   d) More than 3.5 million Californians owe a total of $140.1 billion in federal student loan debt, averaging $21,125 per person.

   e) The average monthly student loan payment in the United States is an estimated $460 and according to the United States Census Bureau in 2020, the median monthly earnings of all workers over the age of 15 was $3,461.25.

   f) The increasing cost of higher education has created an unprecedented financial burden, representing a strain on the borrower who must postpone

traditional life milestones such as buying a home, getting married, starting a family, and saving for retirement.

g) In 2019, the Assembly announced a new Select Committee on Student Debt, making California the first state in the nation to create a legislative committee focused on the problems facing millions of borrowers struggling under historic student debt.

h) In March 2020, the federal Coronavirus Aid, Relief, and Economic Security Act put into place a pause on federal student loan payments and interest, which has since been extended through May 1, 2022.

i) The United States Office of Federal Student Aid provides borrowers an array of options when determining to pay off their student loans including a monthly payment equal to 10 percent of the borrower's discretionary income.

Comments

1) *Need for the resolution.* According to the author, "as tuition rates and the cost of living have exponentially risen, student loan debt in the United States has increased by more than 100 percent over the last 10 years. The cost of higher education has created an unprecedented financial burden, representing a strain on the borrower who must postpone traditional life milestones like buying a home, getting married, starting a family, and saving for retirement. It is, therefore, essential that we recognize the strain that student loan debt places on all Americans and develop a new plan for repayment. AJR 26 urges the federal government to reconsider the student loan repayment plan for all student loans based on the monthly personal savings rate."

2) *Types of student loans*. In the Report on the Economic Well-being of U.S. Households in 2020, published in May 2021, by the Board of Governors of the Federal Reserve System, 30% of adults, representing around four in 10 people who went to college, indicated they incurred some debt for their education. The report confirmed a known trend in educational borrowing in that: "adults under the age of 30 who attend college are more likely to have taken out student loans than older adults". The Federal Reserve announced in December of 2021 that the total amount of national student loan debt had risen to $1.748 billion, this figure includes private and federal student loans.

   Private loans are defined as nonfederal loans provided by a private vendor such as a bank, credit union, state agency, or a school. Private student loans have

their own unique set of terms and conditions which are set by the vendor; however, generally private loans require payments while the borrower is in school, have high variable or fixed interest rates, are not subsidized (students pay interest on the lifetime of the loan), and these loans often require a cosigner with an established credit history.

Federal student loans are provided through the William D. Ford Federal Direct Loan program and are administered by the Federal Student Aid Office with the USDE. There are several types of direct loans available to students and their families under the federal programs (outlined in the background section of the analysis).

3) *Student loan debt of public and nonprofit college graduates.* According to The Institute for College Access and Success (TICAS) and its Project on Student Debt, 62 percent of college seniors who graduated from public and private nonprofit colleges in 2019 had student loan debt, with an average nationally of $28,950 per borrower. TICAS reports that the share of graduates with debt declined very slightly (less than 1%) from the 2018 average of 29,200. TICAS also reports that the average debt in California is $21,485 at public and private non-profit colleges and that about 47 percent of students graduate with debt, ranking California fourth lowest nationally. For-profit colleges are not included in the state averages because few of these colleges report relevant debt data. The report notes that, although student loan debt is slowing, the public health crisis has already reshaped the higher education landscape in important ways and has placed profound financial pressures on states, colleges, and students that could already be making college less affordable and increasing reliance on student debt.

4) *Existing loan repayment programs.* The USDE provides a number of student loan repayment plan options. Some of those plans include, but are not limited to the following:

   a) The Standard Repayment Plan – All borrowers are eligible and under this plan, the payments are fixed for an amount that ensures the loans are paid off within 10 years. While this plan may save the borrower money over time due to interest, the monthly payments are higher than those of other plans.

   b) The Extended Repayment Plan – This plan is for direct loan borrowers who have more than $30,000 in debt. Under this plan, the borrower will pay a fixed or graduated monthly payment that will pay off the loans within 25 years.

c) The Revised Pay As You Earn Repayment Plan – This plan is for direct loan borrowers with an eligible loan. Under this plan, the borrower will pay 10% of their discretionary income (different calculation from disposable income) and the payments are recalculated each year based on the borrower's income and family size. If the borrower has not paid off the balance of their loan within 20 years for undergraduates or 25 years for graduates, the loan will be forgiven.

5) *Proposed repayment plan.* This resolution urges the United States Secretary of Education to create a new payment plan option that is based on the personal savings rate as published by the federal Bureau of Economic Analysis. The rate is based on a percentage of disposable income, which means the percentage of people's incomes left after they pay taxes and spend money. In other words, it is the percentage of people's disposable income that they save instead of spend. For March 2022, the federal Bureau of Economic Analysis set the rate at 6.2%. Basing a repayment plan on the personal savings rate may result in a lower monthly payment but may prolong the life of the loan.

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

SUPPORT: (Verified 6/2/22)

Faculty Association of California Community Colleges

OPPOSITION: (Verified 6/2/22)

None received

ASSEMBLY FLOOR: 70-0, 4/21/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wilson, Wood, Rendon

NO VOTE RECORDED: Bennett, Bigelow, Cooley, Cooper, Gray, McCarty, Wicks

Prepared by: Olgalilia Ramirez / ED. / (916) 651-4105
6/3/22 11:28:43

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