

2019-20 SESSION

**SENATE
THIRD READING PACKET**

THURSDAY, AUGUST 20, 2020



JONAS AUSTIN
Director

OFFICE OF SENATE FLOOR ANALYSES
651-1520

SENATE THIRD READING PACKET

Attached are analyses of bills on the Daily File for Thursday, August 20, 2020.

<u>Note</u>	<u>Measure</u>	<u>Author</u>	<u>Location</u>
RA	SB 364	Mitchell	Unfinished Business
	SCR 59	Umberg	Senate Bills - Third Reading File
	SCR 61	Skinner	Senate Bills - Third Reading File
	SCR 89	Dahle	Consent Calendar Second Legislative Day
	AB 106	Committee on Budget	Assembly Bills - Third Reading File
	AB 168	Aguiar-Curry	Assembly Bills - Third Reading File
	AB 240	Irwin	Assembly Bills - Third Reading File
	AB 408	Frazier	Consent Calendar Second Legislative Day
RA	AB 465	Eggman	Assembly Bills - Third Reading File
RA	AB 736	Irwin	Assembly Bills - Third Reading File
	AB 831	Grayson	Assembly Bills - Third Reading File
	AB 838	Eggman	Consent Calendar Second Legislative Day
RA	AB 896	Low	Assembly Bills - Third Reading File
RA	AB 901	Gipson	Assembly Bills - Third Reading File
	AB 904	Chau	Consent Calendar Second Legislative Day
	AB 908	O'Donnell	Consent Calendar Second Legislative Day
	AB 992	Mullin	Assembly Bills - Third Reading File
+	AB 1080	Gonzalez	Assembly Bills - Third Reading File
	AB 1140	Mark Stone	Assembly Bills - Third Reading File
	AB 1145	Cristina Garcia	Assembly Bills - Third Reading File
	AB 1185	McCarty	Assembly Bills - Third Reading File
+	AB 1205	Limón	Assembly Bills - Third Reading File
	AB 1276	Bonta	Assembly Bills - Third Reading File
	AB 1350	Gonzalez	Consent Calendar Second Legislative Day
	AB 1426	Boerner Horvath	Assembly Bills - Third Reading File
	AB 1470	Quirk	Assembly Bills - Third Reading File
RA	AB 1512	Carrillo	Assembly Bills - Third Reading File
	AB 1561	Cristina Garcia	Assembly Bills - Third Reading File
	AB 1851	Wicks	Assembly Bills - Third Reading File
	AB 1859	Santiago	Consent Calendar Second Legislative Day
	AB 1927	Boerner Horvath	Consent Calendar Second Legislative Day
+	AB 1929	Blanca Rubio	Consent Calendar Second Legislative Day
	AB 1950	Kamlager	Assembly Bills - Third Reading File
	AB 1981	Nazarian	Assembly Bills - Third Reading File
	AB 1984	Maienschein	Consent Calendar Second Legislative Day
RA	AB 1989	Cristina Garcia	Assembly Bills - Third Reading File
	AB 2017	Mullin	Consent Calendar Second Legislative Day
	AB 2037	Wicks	Assembly Bills - Third Reading File
	AB 2038	Committee on Transportation	Consent Calendar Second Legislative Day
	AB 2046	Voepel	Consent Calendar Second Legislative Day
	AB 2049	Cooley	Consent Calendar Second Legislative Day
	AB 2068	Petrie-Norris	Consent Calendar Second Legislative Day
RA	AB 2077	Ting	Assembly Bills - Third Reading File
+	AB 2104	Cristina Garcia	Consent Calendar Second Legislative Day
	AB 2107	Rodriguez	Consent Calendar Second Legislative Day
	AB 2134	Chen	Consent Calendar Second Legislative Day

+ ADDS

RA Revised Analysis

* Analysis pending

<u>Note</u>	<u>Measure</u>	<u>Author</u>	<u>Location</u>
	AB 2141	Mathis	Consent Calendar Second Legislative Day
	AB 2143	Mark Stone	Consent Calendar Second Legislative Day
	AB 2151	Gallagher	Consent Calendar Second Legislative Day
	AB 2152	Gloria	Assembly Bills - Third Reading File
+	AB 2157	Wood	Assembly Bills - Third Reading File
RA	AB 2165	Robert Rivas	Assembly Bills - Third Reading File
RA	AB 2174	Gallagher	Assembly Bills - Third Reading File
	AB 2193	Committee on Veterans Affairs	Consent Calendar Second Legislative Day
+	AB 2199	Nazarian	Assembly Bills - Third Reading File
+	AB 2210	Aguiar-Curry	Consent Calendar Second Legislative Day
RA	AB 2231	Kalra	Assembly Bills - Third Reading File
	AB 2234	Chau	Consent Calendar Second Legislative Day
	AB 2247	Burke	Assembly Bills - Third Reading File
	AB 2253	Low	Consent Calendar Second Legislative Day
+	AB 2265	Quirk-Silva	Consent Calendar Second Legislative Day
	AB 2275	Nazarian	Consent Calendar Second Legislative Day
	AB 2300	Cooper	Consent Calendar Second Legislative Day
	AB 2311	Low	Consent Calendar Second Legislative Day
	AB 2314	Ramos	Consent Calendar Second Legislative Day
	AB 2321	Jones-Sawyer	Consent Calendar Second Legislative Day
	AB 2338	Weber	Assembly Bills - Third Reading File
	AB 2387	Grayson	Assembly Bills - Third Reading File
	AB 2399	Committee on Insurance	Consent Calendar Second Legislative Day
RA	AB 2400	Quirk	Assembly Bills - Third Reading File
	AB 2416	Gabriel	Assembly Bills - Third Reading File
RA	AB 2421	Quirk	Assembly Bills - Third Reading File
	AB 2426	Reyes	Assembly Bills - Third Reading File
	AB 2445	Reyes	Assembly Bills - Third Reading File
	AB 2471	Maienschein	Assembly Bills - Third Reading File
	AB 2479	Gipson	Consent Calendar Second Legislative Day
	AB 2512	Mark Stone	Assembly Bills - Third Reading File
	AB 2517	Gloria	Consent Calendar Second Legislative Day
	AB 2520	Chiu	Consent Calendar Second Legislative Day
+	AB 2524	Wicks	Consent Calendar Second Legislative Day
+	AB 2559	Bauer-Kahan	Consent Calendar Second Legislative Day
+	AB 2588	Kalra	Assembly Bills - Third Reading File
+	AB 2644	Wood	Assembly Bills - Third Reading File
	AB 2660	Burke	Consent Calendar Second Legislative Day
	AB 2717	Chau	Consent Calendar Second Legislative Day
	AB 2741	Blanca Rubio	Consent Calendar Second Legislative Day
	AB 2756	Limón	Assembly Bills - Third Reading File
+	AB 2759	Obernolte	Consent Calendar Second Legislative Day
	AB 2788	Gloria	Assembly Bills - Third Reading File
	AB 2805	Eggman	Consent Calendar Second Legislative Day
	AB 2844	Obernolte	Consent Calendar Second Legislative Day
	AB 2932	O'Donnell	Consent Calendar Second Legislative Day
	AB 2960	Gipson	Consent Calendar Second Legislative Day
+	AB 2967	O'Donnell	Assembly Bills - Third Reading File
	AB 3012	Wood	Assembly Bills - Third Reading File
	AB 3020	Gloria	Assembly Bills - Third Reading File

+ ADDS

RA Revised Analysis

* Analysis pending

<u>Note</u>	<u>Measure</u>	<u>Author</u>	<u>Location</u>
+	AB 3073	Wicks	Consent Calendar Second Legislative Day
+	AB 3087	Brough	Consent Calendar Second Legislative Day
	AB 3088	Chiu	Consent Calendar Second Legislative Day
	AB 3133	Aguiar-Curry	Assembly Bills - Third Reading File
	AB 3137	Voepel	Consent Calendar Second Legislative Day
	AB 3182	Ting	Assembly Bills - Third Reading File
	AB 3228	Bonta	Assembly Bills - Third Reading File
	AB 3242	Irwin	Assembly Bills - Third Reading File
+	AB 3277	Jones-Sawyer	Assembly Bills - Third Reading File
	AB 3308	Gabriel	Assembly Bills - Third Reading File
	AB 3312	Gray	Assembly Bills - Third Reading File
+	AB 3336	Carrillo	Assembly Bills - Third Reading File
RA	AB 3366	Committee on Judiciary	Assembly Bills - Third Reading File
	AB 3370	Committee on Elections and Redistricting	Consent Calendar Second Legislative Day
+	AB 3371	Committee on Veterans Affairs	Assembly Bills - Third Reading File
	AB 3372	Committee on Revenue and Taxation	Consent Calendar Second Legislative Day
	AB 3373	Committee on Revenue and Taxation	Consent Calendar Second Legislative Day
	AB 3374	Committee on Higher Education	Consent Calendar Second Legislative Day
	ACA 14	Gonzalez	Assembly Bills - Third Reading File
	ACR 97	Patterson	Consent Calendar Second Legislative Day
RA	ACR 107	Waldron	Consent Calendar Second Legislative Day
	ACR 112	Bigelow	Consent Calendar Second Legislative Day
	ACR 115	Kamlager	Assembly Bills - Third Reading File
	ACR 119	Flora	Consent Calendar Second Legislative Day
	ACR 120	Quirk	Consent Calendar Second Legislative Day
	ACR 124	Arambula	Consent Calendar Second Legislative Day
	ACR 127	Flora	Consent Calendar Second Legislative Day
	ACR 128	Gray	Consent Calendar Second Legislative Day
	ACR 139	Arambula	Consent Calendar Second Legislative Day
	ACR 147	Lackey	Consent Calendar Second Legislative Day
	ACR 165	Ting	Consent Calendar Second Legislative Day

+ ADDS

RA Revised Analysis

* Analysis pending

UNFINISHED BUSINESS

Bill No: SB 364
Author: Mitchell (D)
Amended: 7/27/20
Vote: 27

PRIOR SENATE VOTES NOT RELEVANT

ASSEMBLY FLOOR: 56-12, 8/3/20 - See last page for vote

SUBJECT: Change in ownership: nonresidential active solar energy systems:
initiative

SOURCE: Author

DIGEST: This bill changes the classification of nonresidential active solar energy systems from real property to personal property, and creates a new property tax exemption for systems constructed prior to January 1, 2025, if voters approve Proposition 15, an initiative constitutional amendment to require fair market value based property tax assessments for certain commercial and industrial real property.

Assembly Amendments delete the previous version of the bill, and insert its current contents.

ANALYSIS:

Existing law:

- 1) Provides that all property is taxable and shall be assessed at the same percentage of fair market value, unless explicitly exempted by the Constitution or federal law (California Constitution, Article XIII, Section One).
- 2) Authorizes the Legislature, with a 2/3 vote, to classify *personal* property for differential taxation or for exemption (California Constitution, Article XIII, Section Two).

- 3) Limits the maximum amount of any ad valorem tax on *real* property at 1% of full cash value, and directs assessors to only reappraise property when newly constructed, or when ownership changes (California Constitution, Article XIII A, Section One, as added by Proposition 13, 1978).
- 4) Excludes from new construction the addition of an active solar energy system (California Constitution, Article XIII A, Section Two, as added by Proposition 7, 1980)
- 5) Implements the active solar energy system new construction exclusion to apply to both residential and nonresidential systems equally, including a wide range of systems from a utility-scale solar farm to a rooftop installation on a home, which is due to sunset after the 2023-24 fiscal year.
- 6) Defines real property to include improvements.
- 7) Provides that the active solar energy system new construction exclusion applies only until there is a change in ownership.
- 8) Directs assessors to value personal property each year, generally based on its adjusted cost as reported by the taxpayer on its business personal property statement.

This bill:

- 1) Changes the classification of a "nonresidential" active solar energy system from real property to personal property by statutorily redefining terms, including:
 - a) Defining "personal property" as including a nonresidential active solar energy system; and,
 - b) Defining "improvements" as excluding a nonresidential active solar energy system.
- 2) Exempts nonresidential active solar energy systems from personal property tax, so long as the system:
 - a) Is constructed or installed before January 1, 2025; systems constructed or installed after that date are not exempt.
 - b) Was excluded from new construction on the effective date of thIS bill.

- 3) Provides that the exemption applies until there is a change in ownership, using the definition in current law.
- 4) Limits the current active solar energy system new construction exclusion to include only residential systems.
- 5) Defines “nonresidential active solar energy system” using the same definition from the new current new construction exclusion to include a system that is not constructed on a residential property, defined as real property used as residential property, including both single-family and multiunit structures, and the land on which those structures are constructed or placed.
- 6) Provides that it takes effect only if voters approve an initiative at the November 2020 general election that adds a new Section 4.5 to Article XIII A of the California Constitution, and repeals its provisions if the initiative does not receive a majority of votes.
- 7) States that its provisions are to be construed liberally so as to effectuate their intent, policy, and purposes.
- 8) Provides that its provisions are severable.
- 9) Makes legislative findings and declarations supporting its purposes.
- 10) Makes technical and conforming changes.
- 11) Takes effect immediately as a tax levy.

Background

If Proposition 15 passes, nonresidential active solar energy systems that are currently excluded from new construction reassessment would become subject to fair market value assessment under current law. This bill seeks to preemptively reclassify nonresidential active solar energy systems from real property to personal property, and then exempt them from personal property taxation, but only if voters approve the initiative. As such, SB 364 converts a current real property "exclusion" into a personal property tax exemption to maintain the status quo for nonresidential active solar energy systems should voters approve Proposition 15.

Residential active solar energy systems would continue to be classified as real property, and eligible for the new construction exclusion. Nonresidential active solar energy systems would become ineligible for the new construction exclusion

but would be exempt from personal property taxation so long as they are currently excluded or if they are installed or constructed before January 1, 2025.

Related/Prior Legislation

Earlier this year, the Senate approved AB 105 (Ting), which is almost identical to this bill. SB 364 differs from AB 105 by limiting the personal property tax exemption for nonresidential active solar energy systems to only those systems that are excluded from new construction on the effective date of the bill.

AB 105 Support. American Wind Energy Association; California Community Choice Association; Capital Dynamics, Inc.; Coalition for Clean Air; De Shaw Renewable Investments; EDF Renewables; First Solar, Inc.; Idemitsu Renewables; National Electrical Contractors Association; Natural Resources Defense Council; RWE Renewables Americas, LLC; Recurrent Energy, LLC; Spowe; State Building & Construction Trades Council of California; Sunpower Corporation; Union of Concerned Scientists; and, Vote Solar supported AB 105.

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

According to the State Board of Equalization, the revenue impact of SB 364 is indeterminable.

SUPPORT: (Verified 8/19/20)

Advancement Project
Alliance San Diego
Almond Alliance of California
Berkshire Hathaway Energy
BHE Renewables
California Calls
California League of Conservation Voters
California Solar & Storage Association
California Tax Reform Association
California Teachers Association
City of San Jose
Clearway Energy Group
Climate Resolve
Common Sense
Communities for a Better Environment
Evolve California
Housing California

Independent Energy Producers Association
Large-scale Solar Association
League of Women Voters of California
Los Angeles Mayor Eric Garcetti
SEIU California
Sierra Club California
Silicon Valley Clean Energy
Solar Energy Industries Association
TechEquity Collaborative
Tenaska
Working Partnerships USA

OPPOSITION: (Verified 8/4/20)

California Assessors' Association
California Business Roundtable
California Farm Bureau Federation

ARGUMENTS IN SUPPORT: According to the author, “Since the 1980s, California voters and the Legislature have provided tax exemption to residential and commercial projects for solar energy projects to incentivize the state's transition to renewable energy and help reduce the upfront cost of solar energy system installation. Existing law provides exemption from taxation to nonresidential active solar energy systems constructed or installed prior to January 1, 2025 under the 'newly construction' exclusion, until there is subsequent change in ownership. Unfortunately, the Schools and Communities First (SCF) split-roll initiative, currently on the November 3rd ballot, removes this definition, inadvertently causing full value re-assessment of nonresidential solar energy systems that are exempt under current law. SB 364 seeks to preemptively correct the unintended impact of the upcoming SCF split-roll initiative on nonresidential solar energy systems in the state. SB 364 ensures that nonresidential active solar energy systems in the state constructed or installed prior to January 1, 2025, as already provided in current law, continue to be exempted from taxation by reclassifying them as personal property. In the event the split-roll initiative passes, SB 364 will ensure preservation of the existing exemption as intended. If, however, the split-roll ballot initiative is not approved at the statewide general election, SB 364 becomes inoperative preserving the existing law exemption for nonresidential solar energy generation systems.”

ARGUMENTS IN OPPOSITION: According to the California Assessors' Association, “Active solar systems have always been considered by assessors, the

Board of Equalization and the Legislature to be real property subject to the property tax imposed by the state constitution. After the passage of Proposition 13 in 1978, the Legislature passed SCA 28 (Proposition 7 of 1980) to allow a limited exclusion from the term 'new construction' for 'active solar systems' added by homeowners and businesses. The ballot materials clearly identified such systems as 'real property'; indeed, there would have been no need to amend the constitution had such systems not been improvements to real property. It is well settled that the Constitution imposes the property tax on real property and the Legislature has no authority to exempt real property from taxation. At the same time, the Constitution allows the Legislature, with a 2/3's vote of both houses, to exempt personal property from property taxes. The courts have closely guarded against the legislative temptation to evade the prohibition against exemptions from the property tax by reclassifying "real property" as something else."

ASSEMBLY FLOOR: 56-12, 8/3/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Chau, Chen, Chiu, Cooley, Cooper, Daly, Eggman, Flora, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Levine, Limón, Low, Mayes, McCarty, Medina, Mullin, Muratsuchi, O'Donnell, Petrie-Norris, Quirk, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Weber, Wood, Rendon

NOES: Bigelow, Brough, Choi, Megan Dahle, Fong, Kiley, Lackey, Mathis, Obernolte, Patterson, Quirk-Silva, Waldron

NO VOTE RECORDED: Cervantes, Chu, Cunningham, Diep, Frazier, Gray, Maienschein, Nazarian, Ramos, Voepel, Wicks

Prepared by: Colin Grinnell / GOV. & F. / (916) 651-4119
8/19/20 9:04:38

**** END ****

THIRD READING

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

SUBJECT: Veterans of the Republic of Vietnam Armed Forces Day

SOURCE: Author

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

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

ANALYSIS: This resolution makes the following legislative findings:

- 1) The Republic of Vietnam Military Forces, or South Vietnamese Armed Forces, were formally established on December 30, 1955, by Ngo Dinh Diem, the first President of South Vietnam.
- 2) The Republic of Vietnam Military Forces consisted of four branches: the Army of the Republic of Vietnam, the Republic of Vietnam Air Force, the Republic of Vietnam Navy, and the Republic of Vietnam Marine Division.
- 3) The duties of all four branches included: protecting the sovereignty of the free Vietnamese nation and that of the Republic, maintaining the political and social order and the rule of law by providing internal security, defending the newly independent Republic of Vietnam from external and internal threats, and ultimately, helping to reunify Vietnam, a country that had been divided since the Geneva Accords of 1954.
- 4) The Vietnam War brought about the loss of more than 250,000 members of the South Vietnamese Armed Forces and more than 58,000 members of the United States Armed Forces.

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

This resolution recognizes June 19, 2020, as Veterans of the Republic of Vietnam Armed Forces Day, in memory of the soldiers who sacrificed their lives for freedom and democracy and the victims of the Vietnam War, and in honor of the survivors, activists, and freedom fighters of that war.

Related/Prior Legislation

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

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

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

SUPPORT: (Verified 6/12/20)

None received

OPPOSITION: (Verified 6/12/20)

None received

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

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

THIRD READING

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

SUBJECT: Sister state relationships with Ethiopian regional states

SOURCE: EDGET at Silicon Valley

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

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

ANALYSIS: This resolution makes the following legislative findings:

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

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

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

Related/Prior Legislation

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

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

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

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

SUPPORT: (Verified 1/9/20)

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

OPPOSITION: (Verified 1/9/20)

None received

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

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

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

CONSENT

Bill No: SCR 89
Author: Dahle (R) and Dahle (R), et al.
Amended: 7/30/20
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 13-1, 8/4/20
AYES: Beall, Bates, Allen, Dahle, Dodd, Galgiani, Lena Gonzalez, McGuire,
Morrell, Roth, Rubio, Umberg, Wieckowski
NOES: Skinner
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Deputy Sheriff Brian “Ish” Ishmael Memorial Highway

SOURCE: Author

DIGEST: This resolution designates a portion of State Route 50 in the County of El Dorado as the Deputy Sheriff Brian “Ish” Ishmael Memorial Highway.

ANALYSIS: This resolution designates the portion of State Route 50 in the County of El Dorado as the Deputy Sheriff Brian “Ish” Ishmael Memorial Highway. It requests that the Department of Transportation to erect appropriate signs upon receiving sufficient donations from non-state sources to cover the costs.

Background

Brian David “Ish” Ishmael was born at Marshall Hospital in Placerville, California, on December 12, 1981. He was a police officer with the Placerville Police Department and, later, the El Dorado County Sheriff’s Office. In the early hours of October 23, 2019, Brian was on patrol and responded to a call for a theft of marijuana from what was later found to be an illegal marijuana grow. Brian was met with gunfire and, during the gun battle, struck multiple times. Sadly, Brian

passed away in the ambulance on the way to the same hospital where he was born 37 years before.

Brian is remembered as a hard worker, a role model, and leader who shared his joy for life with everyone he met. He is survived and forever remembered by his wife, Katie, their children Prudence, Zoey, and Cash, his parents Kim and Don, and his sister Brenda.

Comments

Purpose. According to the author, “Deputy Brian ‘Ish’ Ishmael was a well-liked Deputy with the El Dorado County Sheriff’s office who took pride in serving his community every day. Sadly on October 23, 2019 while responding to a burglary call, Deputy Ishmael encountered gunfire and was struck multiple times. Despite life savings measures, he passed away on the way to the very hospital he was born in 37 years earlier. Deputy Ishmael lost his life while trying to protect those he served and is deserving of the honor of having the Deputy Sheriff Brian ‘Ish’ Ishmael memorial Highway.”

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

SUPPORT: (Verified 8/13/20)

California Professional Firefighters
California State Sheriffs' Association
County of El Dorado
El Dorado County Board of Supervisors District 3

OPPOSITION: (Verified 8/13/20)

None received

Prepared by: Amy Gilson / TRANS. / (916) 651-4121
8/14/20 12:36:46

**** END ****

THIRD READING

Bill No: AB 106
Author: Committee on Budget
Amended: 7/27/20 in Senate
Vote: 21

SENATE BUDGET & FISCAL REVIEW COMMITTEE: 12-5, 7/30/20
AYES: Mitchell, Beall, Caballero, Durazo, Hurtado, Leyva, McGuire, Monning,
Pan, Roth, Stern, Wieckowski
NOES: Nielsen, Dahle, Melendez, Moorthach, Morrell
NO VOTE RECORDED: Skinner

ASSEMBLY FLOOR: Not relevant

SUBJECT: State employment: State Bargaining Units

SOURCE: Author

DIGEST: This bill makes statutory changes to ratify and implement a memorandum of understanding (MOU) and addenda between the state and Bargaining Unit (BU) 12 and 13. This bill also makes conforming statutory changes for successor agreements and addenda between the state and BUs 2, 5, 7, 8, 9, 10, 16, 18, and 19.

ANALYSIS:

Existing law:

- 1) Establishes the Ralph C. Dills Act, which requires the state to collectively bargain with the exclusive representatives of employee groups (i.e., bargaining units) - regarding wages and working conditions, and to define negotiated agreements in MOUs.
- 2) Establishes the California Department of Human Resources (CalHR) as the official representative of the Governor in all matters related to collective bargaining with state employees.

- 3) Requires that any MOU between the state and an exclusive representative be ratified by the Legislature.
- 4) Establishes the California Public Employees' Retirement System (CalPERS), which administers health and retirement benefits for state employees.
- 5) Requires the Legislative Analyst's Office (LAO) to analyze all state MOUs and to provide analysis of an MOU and its fiscal impact to the Legislature within 10 days of receipt of an MOU from CalHR.
- 6) Provides that fully vested state retirees (e.g., with 20 or more years of state employment or with 25 years or more, depending on the bargaining unit) are entitled to an employer contribution for retiree health care equal to 80 or 100 percent of the weighted average premium of the four health plans most highly utilized by all members. Depending on the bargaining unit, dependents are eligible for a contribution based on 80 or 90 percent of the average additional premiums paid for dependents during the benefit year in which the formula is applied. These are referred to as the 80/80 and 100/90 formulas.
- 7) Requires that Medicare-eligible retirees enroll in Medicare and choose a Medicare-coordinated health plan.
- 8) Provides that the employer contribution for active state employee health care shall be determined through collective bargaining.
- 9) Ratifies and approves, pursuant to AB 119 (Ting, Chapter 23, Statutes of 2020), provisions requiring the expenditure of funds in MOU, addenda, or both, entered between the state employer and other state BUs no later than June 30, 2020, if the MOU or addenda includes savings measures that contribute to meeting the budgeted employee compensation reductions as specified in the Budget Act of 2020. This ratification and approval is notwithstanding the requirement for LAO to produce a fiscal analysis.
- 10) Specifies a reduction of \$1.45 billion General Fund and \$1.39 billion special fund, pursuant to the 2020 Budget Act, in employee compensation through any combination of MOUs or addenda, furloughs and other reductions for nonrepresented employees achieved through administration or statutory authority.

This bill approves the agreements entered into by the state and BUs 12 and 13, and also makes conforming statutory changes to implement the MOUs or addenda entered into the state and BUs 2, 5, 7, 8, 9, 10, 16, 18, and 19. This bill specifically:

- 1) Ratifies the agreements, notwithstanding the requirement for LAO to produce a fiscal analysis, entered into by the state employer and the following BUs:
 - a) BU 12: International Union of Operating Engineers (IUOE) - Craft and Maintenance; successor agreement reached on June 25, 2020, and addendum reached on July 22, 2020.
 - b) BU 13: IUOE - Stationary Engineers; addendum reached on July 21, 2020.
- 2) Approves provisions requiring the expenditure of funds in the addenda entered into between the state employer and BUs 12 and 13.
- 3) Makes conforming statutory changes for agreements and addenda entered into by the state employer and the following BUs:
 - a) BU 2: Attorneys and Hearing Officers as represented by California Attorneys, Administrative Law Judges and Hearing Officers in State Employment; addendum reached on June 30, 2020.
 - b) BU 5: Highway Patrol as represented by California Highway Patrolmen; addenda reached on June 29, 2020, and June 30, 2020.
 - c) BU 7: Protective Services and Public Safety as represented by California Statewide Law Enforcement Association; addendum reached on June 26, 2020.
 - d) BU 8: California Department of Forestry and Fire Protection (CalFIRE) Firefighters as represented by CalFIRE Local 2881; addendum reached on June 30, 2020.
 - e) BU 9: Professional Engineers as represented by Professional Engineers of California Government; addendum reached on June 30, 2020.
 - f) BU 10: Professional Scientists as represented by California Association of Professional Scientists; addendum reached on June 25, 2020.
 - g) BU 16: Physicians, Dentists, and Podiatrist as represented by Union of American Physicians and Dentist; successor agreement reached on June 30, 2020.
 - h) BU 18: Psychiatric Technicians as represented by California Association of Psychiatric Technicians; addendum reached June 30, 2020.
 - i) BU 19: Health and Social Services/Professional as represented by American Federation of State, County and Municipal Employees; addendum reached June 23, 2020.

- 4) Provides that provisions requiring the expenditure of funds in the MOUs, addenda or both, entered into between the state employer and BUs 2, 5, 7, 8, 9, 10, 16, 18, and 19 were approved consistent with Section 3 of AB 119 (Ting, Chapter 23, Statutes of 2020), notwithstanding the requirement for LAO to produce a fiscal analysis.
- 5) Provides that the expenditure of funds shall not take effect unless funds are appropriated by the Legislature. This bill also authorizes the state employer to reopen negotiations on all or part of the MOU or addenda, or both, if funds are not appropriated by the Legislature to implement the agreements.
- 6) Provides that the provisions of the MOU or addenda, or both, that require the expenditure of funds shall become effective even if the provisions of the MOU or addenda, or both, are approved by the Legislature in legislation other than the annual Budget Act.
- 7) Revises the expiration date of the MOU for BU 5 from June 30, 2023, to July 3, 2024.
- 8) Adjusts the normal rates of pension compensation for employees, as specified.
 - a) For BU 2: reduces the employee contribution rates for specified miscellaneous and industrial members, effective July 1, 2022, from 10 percent to 9.5 percent, in excess of \$317 for members whose service is not included in the federal system, and from nine percent to 8.5 percent, in excess of \$513 for members whose service is including in the federal system.

Effective July 1, 2023, and each year thereafter, the employee contribution rate for all miscellaneous, industrial and safety members shall be adjusted if 1) CalPERS determines the total normal contribution rate increases or decreases by more than one percent of payroll above or below the total normal rate, and 2) 50 percent of the new normal cost rate, rounded to the nearest one-quarter of one percent, is greater or less than the normal contribution rate, as specified.

If 1) and 2) are met, the board shall adjust the normal contribution rate for members to 50 percent of the normal contribution rate, rounded to the nearest one quarter of one percent, but not to adjust more than one percent, as specified.
 - b) For BU 5: suspends any changes to employee contribution rates until July 1, 2022, or July 1, 2023, depending on when other postemployment benefit (OPEB) contributions are restored.

- c) For BU 10: accelerates the schedule to reduce employee contribution rates to 2018 levels, as specified in a prior MOU, from July 1, 2021, to July 1, 2020.
- 9) Requires the normal rate of contribution for a state employee who is excepted from a specific definition of “state employee” and an officer or employee of the executive branch of state government who is not a member of the civil service to be the same as all respective associated members represented by BUs 2, 5, and 10.
- 10) Makes conforming statutory changes for MOUs addenda entered into by the state and various BUs relating to the Public Employees’ Medical Hospital Care Act:
 - a) For BU 2: suspends the employees’ monthly contributions for prefunding OPEB from the first pay period following ratification through June 30, 2022. BU 2 employees currently contribute two percent toward prefunding OPEB.
 - b) For BU 5: suspends both the employees’ and state employer’s monthly contribution for prefunding OPEB from the July 2020 pay period through June 30, 2022. The state employer currently contributes both 3.4 percent on behalf of the state employees and on the employer’s behalf.
 - i) Requires on July 1, 2022, if the Director of the Department of Finance does not restore the employer and employee contribution rates for prefunding OPEB, the employer and employee shall incorporate the 3.4 percent employee share of pensionable compensation into the salary survey conducted pursuant to Government Code Section 19827.
 - ii) Requires, if the projected state revenues continue to be insufficient, then the employee and employer OPEB contributions and the inclusion of the 3.4 percent employee share of OPEB into the salary survey shall become effective on July 1, 2023. Funding determination is at the sole discretion of the Director of Finance.
 - iii) Upon restoration of OPEB contributions, the 3.4 percent employee contribution rate would no longer be contributed by the state. The trailer bill establishes a three-year phase in schedule for the 3.4 percent to be paid for by the employee.
 - c) For BU 7: suspends the employees’ monthly contribution for prefunding OPEB for the first pay period following ratification through June 30, 2022. BU 7 employees currently contribute four percent towards prefunding OPEB.

- d) For BU 8: suspends the employees' monthly contribution for prefunding OPEB for the first pay period following ratification through June 30, 2021. BU 8 employees currently contribute 4.4 percent towards prefunding OPEB.
 - e) For BU 9: suspends the employee's monthly contribution for prefunding OPEB for the July 2020 pay period through June 30, 2022.
 - f) For BU 10: suspends the employees' monthly contribution for prefunding OPEB effective the first pay period following ratification from through June 30, 2022. BU 10 employees currently contribute 2.8 percent towards prefunding OPEB.
 - g) For BU 12: suspends the employees' monthly contribution for the prefunding OPEB effective the first pay period following ratification through June 30, 2021. BU 12 employees currently contribute 3.5 percent towards prefunding OPEB.
 - h) For BU 13: suspends the employees' monthly contribution for prefunding OPEB effective with the August 2020 pay period ending on June 30, 2022. BU 13 employees currently contribute 3.9 percent towards prefunding OPEB.
 - i) For BU 16: suspends the employees' monthly contribution for prefunding OPEB effective the first pay period following ratification through June 30, 2022. BU 16 employees currently contribute 1.4 percent towards prefunding OPEB.
 - j) For BU 18: suspends the employees' monthly contribution for prefunding OPEB effective the first pay period following ratification through June 30, 2022. BU 18 employees currently contribute four percent towards prefunding OPEB.
 - k) For BU 19: suspends the employees' monthly contribution for prefunding OPEB effective with the July 2020 pay period through June 30, 2022. BU 19 employees currently contribute three percent towards prefunding OPEB.
 - l) This bill continues to require the employer's monthly contribution for prefunding OPEB during the fiscal years, as specified.
- 11) Appropriates \$3.13 million General Fund and \$2.78 million in other funds to implement the MOUs and addenda.

Comments

In addition to the provisions above, below is a summary of some of the major provisions of the MOUs and addenda entered between the state and the 11 bargaining units.

- 1) BU 2: Attorneys and Hearing Officers addendum for the term of July 1, 2020, to June 30, 2022.
 - a) Implements a 9.23 percent pay reduction.
 - b) Provides 16 hours credited monthly for the Personal Leave Program 2020 (PLP 2020).
 - c) Continues the \$260 monthly Health Care Affordability payments for the duration of PLP 2020.
 - d) Provides consolidated benefits premium increases related to the 80/80 formula on January 1, 2021, and January 1, 2022.
 - e) Provides 2.5 percent General Salary Increase (GSI) effective July 1, 2022, or July 1, 2023.
- 2) BU 5: Highway Patrol addenda for the term of July 1, 2020, to June 30, 2022.
 - a) Implements a 4.62 percent pay reduction.
 - b) Provides nine hours credited monthly for PLP 2020.
 - c) Suspends the \$920 annual uniform allowance.
 - d) Suspends the \$25 monthly uniform maintenance and cleaning allowance.
- 3) BU 7: Protective Services and Public Safety addenda for the term of July 1, 2020, to June 30, 2022.
 - a) Implements a 9.23 percent pay reduction.
 - b) Provides 16 hours credited monthly for PLP 2020.
 - c) Suspends and defers the 2.5 percent GSI scheduled for July 1, 2020, and 2.5 percent GSI scheduled for July 1, 2021, until July 1, 2022, or July 1, 2023, respectively, as specified.
 - d) Provides a 5.74 percent Special Salary Adjustment (SSA) for Licensing Registration Examiners.
 - e) Specifies that the minimum salary range for BU 7 employees shall be no less than \$15 per hour and no BU 7 employee shall make less than \$15 per hour as a result of the implementation of PLP 2020.

- f) Increases the monthly Bilingual Pay Differential from \$100 to \$200.
 - g) Increases the monthly commuter program reimbursement by \$35.
 - h) Specifies that, effective September 1, 2020, the monthly pay differential of \$800 for a Peace Officer I employed at the Department of Development Services and Hospital Police Officers employed at the Department of State Hospitals will be considered compensation for retirement purposes.
 - i) Provides, effective October 1, 2020, an increase in Longevity Pay by one percent for BU 7 Peace Officer/Firefighter Retirement members with 19 years of service or more.
- 4) BU 8: Firefighters addendum for the term of July 1, 2020, to June 30, 2021.
- a) Implements a 7.5 percent pay reduction.
 - b) Provides 16 hours credited monthly for PLP 2020 for specified Fire Protection employees and 14 hours credited monthly for PLP 2020 for specified Specialty Classes employees.
 - c) Suspends and defers the two percent and 2.5 percent SSAs scheduled for July 1, 2020, until July 1, 2021.
 - d) Changes the formula allowing Extended Duty Week Compensation and overtime compensation to be compensated at the time and one-half rate based on a 53-hour-clock.
 - e) Provides Fire Mission pay every month through June 30, 2021.
- 5) BU 9: Professional engineers addendum for the term of July 1, 2020, to July 31, 2020.
- a) Acknowledges the employee compensation savings of a 9.23 percent pay reduction to be achieved through a furlough program until an agreement is fully ratified, and suspends the employees' monthly contribution for prefunding OPEB for the July 2020 pay period.
- 6) BU 10: Professional Scientists addendum for the term of July 1, 2020, to June 30, 2022.
- a) Implements a 9.23 percent pay reduction.
 - b) Provides 16 hours credited monthly for PLP 2020.
 - c) Suspends and defers the five percent GSI scheduled for July 1, 2020, to July 1, 2022, or July 1, 2023.

- 7) BU 12: Craft and Maintenance successor agreement and addendum for the term of July 1, 2020, through June 30, 2021.
 - a) Implements a 9.23 percent pay reduction.
 - b) Provides 16 hours credited monthly for PLP 2020.
 - c) Provides for each full time BU 12 employee during the July 2020 pay period 8 hours of PLP 2020 to mitigate the impact of BU 12 employees subject to the 9.23 percent furlough payroll deduction and continuing to prefund OPEB.
- 8) BU 13: Operating Engineers addendum for the term July 1, 2020, to June 30, 2022.
 - a) Implements a 9.23 percent pay reduction.
 - b) Provides 16 hours credited monthly for the PLP 2020.
 - c) Provides, effective August 2020 pay period, seven hours PLP 2020, which is the hourly equivalent of the 3.9 percent employee OPEB contribution, credited for each month employees were subject to the furlough program that took effect in accordance with Government Code Section 19849 and continued to prefund OPEB.
 - d) Defers the three percent increase to the maximum salary range scheduled for July 1, 2020, and 2.75 percent increase to the maximum salary range scheduled for July 1, 2021, to July 1, 2022, and July 1, 2023, respectively.
- 9) BU 16: Physicians, Dentists and Podiatrists successor agreement for the term of July 1, 2020, through July 1, 2022.
 - a) Implements a 9.23 percent pay reduction.
 - b) Provides 16 hours credited monthly for PLP 2020.
 - c) Increases the annual continuing medical education reimbursement from \$1,000 to \$2,500.
 - d) Increases the monthly Bilingual Pay Differential from \$100 to \$200.
 - e) Increases the monthly commuter program reimbursement by \$35. This increases the reimbursement to \$100 or \$135 for specified employees.
 - f) Provides a 2.5 percent GSI effective July 1, 2022, or July 1, 2023.
- 10) BU 18: Psychiatric Technicians addendum for the term of July 1, 2020, to June 30, 2022.

- a) Implements a 9.23 percent pay reduction.
 - b) Provides 16 hours credited monthly for PLP 2020.
 - c) Suspends and defers a 2.75 percent GSI scheduled for July 1, 2020, and 2.75 percent GSI scheduled for July 1, 2021, until July 1, 2022, or July 1, 2023, respectively.
 - d) Specifies that the minimum salary range for BU 18 employees shall be no less than \$15 per hour and no BU 18 employee shall make less than \$15 per hour as a result of the implementation of PLP 2020.
 - e) Effective July 1, 2022, Shift Differential will be considered compensation for retirement purposes.
- 11) BU 19: Health and Social Services/Professionals addenda for the term of July 1, 2020, to June 30, 2022.
- a) Implements a 9.23 percent pay reduction.
 - b) Provides 16 hours credited monthly for PLP 2020.
- 12) Additional details regarding the MOUs and addenda can be found at:
<https://www.calhr.ca.gov/state-hr-professionals/Pages/bargaining-contracts.aspx>

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

According to the Senate Budget & Fiscal Review Committee, appropriates \$3.13 million General Fund and \$2.78 million in other funds to implement the MOUs and addenda.

SUPPORT: (Verified 7/30/20)

None received

OPPOSITION: (Verified 7/30/20)

None received

Prepared by: Anita Lee / B. & F.R. / 916-651-4103
7/31/20 17:51:54

**** END ****

THIRD READING

Bill No: AB 168
Author: Aguiar-Curry (D), et al.
Amended: 6/23/20 in Senate
Vote: 27 - Urgency

SENATE HOUSING COMMITTEE: 11-0, 7/2/19
AYES: Wiener, Morrell, Bates, Caballero, Durazo, McGuire, Moorlach, Roth,
Skinner, Umberg, Wieckowski

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 7-0, 7/3/19
AYES: Allen, Bates, Dahle, Hill, Skinner, Stern, Wieckowski

SENATE GOVERNANCE & FIN. COMMITTEE: 7-0, 7/10/19
AYES: McGuire, Moorlach, Beall, Hertzberg, Hurtado, Nielsen, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE HOUSING COMMITTEE: 10-0, 8/6/20 (Pursuant to Senate Rule
29.10)
AYES: Wiener, Bates, Caballero, Durazo, McGuire, Moorlach, Roth, Skinner,
Umberg, Wieckowski
NO VOTE RECORDED: Morrell

ASSEMBLY FLOOR: 76-0, 5/13/19 - See last page for vote

SUBJECT: Planning and zoning: annual report: housing development:
streamlined approvals

SOURCE: Author

DIGEST: This bill requires a pre-consultation process with a California Native American tribe prior to the submission of an SB 35 (Wiener, Chapter 366, Statutes of 2017) permit, which entitles a developer to a streamlined housing approval process, in order to identify and protect tribal cultural resources.

ANALYSIS:

Existing law:

- 1) Provides that specified development projects, under SB 35 (Wiener, 2017), may submit an application subject to a streamlined, ministerial approval process and not subject to a conditional use permit if the development is not on a site that is any of the following:
 - a) A coastal zone.
 - b) Either prime farmland or farmland of statewide importance, as specified, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.
 - c) Wetlands, as defined.
 - d) Within a very high fire severity zone or within a high or very high fire hazard severity zone, as specified.
 - e) A hazardous waste site, as specified.
 - f) Within a delineated earthquake fault zone unless the development complies with applicable seismic protection building code standards adopted by the Building Standards Commission and any local building department.
 - g) Within a special flood hazard area or regulatory floodway as specified.
 - h) Lands identified for conservation, as specified.
 - i) Habitat for protected species, as specified.
 - j) Lands under conservation easement.
- 2) Defines “tribal cultural resource” (TCR) as any of the following:
 - a) Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either (i) included or determined to be eligible for inclusion in the California Register of Historical Resources, or (ii) included in a local register of historical resources.

- b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be a significant resource to a California Native American Tribe.
 - c) A cultural landscape, to the extent that the landscape is geographically defined in terms of the size and scope of the landscape.
- 3) Requires, under AB 52 (Gatto, Chapter 532, Statutes of 2014), the lead agency responsible for reviewing a project under the California Environmental Quality Act (CEQA), prior to the release of certain CEQA reports for a project, to consult with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project, as requested by the tribe. As a part of this consultation, the parties may propose mitigation measures capable of avoiding or substantially lessening potential significant impacts to a TCR or alternatives that would avoid significant impacts to a TCR. Declares that a project with an effect that may cause a substantial adverse change in the significance of a TCR is a project that may have a significant effect on the environment, and that public agencies must, when feasible, avoid damaging effects to any TCR.
- 4) Requires a local planning agency, annually by April 1, to submit a report to the legislative body, the Office of Planning and Research (OPR), and the Department of Housing and Community (HCD) development that includes data points and updates on housing plans and approvals.

This bill:

- 1) Adds to the annual report to OPR and HCD the progress of a local planning agency in adopting or amending its general plan or local open-space element in compliance with its obligations to consult with California Native American tribes, and to identify and protect, preserve, and mitigate impacts to places, features, and objects in sacred sites, as specified.
- 2) Defines “consultation” as the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties’ cultural values and, where feasible, seeking agreement. Consultation between local governments and Native American tribes shall be conducted in a way that is mutually respectful of each party’s sovereignty. Consultation shall also recognize the tribes’ potential needs for confidentiality with respect to places that have traditional tribal cultural importance. A lead agency shall consult the tribal consultation best practices described in the

“State of California Tribal Consultation Guidelines: Supplement to the General Plan Guidelines” prepared by OPR.

- 3) Defines “scoping” as the act of participating in early discussions or investigations between the local government and California Native American tribe, and the development proponent if authorized by the California Native American tribe, regarding the potential effects a proposed development could have on a potential TCR or California Native American tribe, as defined.
- 4) States that it is the Legislature’s intent that the objective zoning standards, objective subdivision standards, and objective design review be adopted with the requirements in SB 18 (Burton, Chapter 905, Statutes of 2004), which requires a city or county, prior to the adoption or amendment of a general plan, to conduct consultations with California Native American tribes for the purpose of preserving places, features, and objects protected, as specified, that are within the city's or county's jurisdiction.
- 5) Requires, prior to submitting an SB 35 permit application, the developer shall submit a notice of intent to submit an application to the local government. The notice of intent shall be in the form of a preliminary application that includes specified information.
- 6) Requires the local government, upon receipt of the notice of intent to submit an SB 35 application, to engage in a scoping consultation regarding the proposed development with any California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed development. Requires the local government to contact the Native American Heritage Commission for assistance in identifying any California Native American tribe that is traditionally and culturally affiliated with the geographic area.
- 7) Requires the timeline for noticing and commencing the scoping consultation to be carried out as follows:
 - a) The local government shall provide formal notice of the developers’ intent to submit an SB 35 application to each specified California Native American tribe within 30 business days of receiving the notice of intent. The formal notice shall include the following information:
 - i) A description of the proposed development.
 - ii) The location of the proposed development.
 - iii) An invitation to engage in scoping consultation.

- b) Each California Native American tribe that receives a formal notice shall have 30 business days from the receipt of the notice to accept the invitation to engage in scoping consultation.
 - c) If the local government receives a response to engage in the scoping consultation, the local government shall begin the scoping consultation within 30 business days of receiving the response.
- 8) Requires the scoping consultation to recognize that California Native American tribes traditionally and culturally affiliated with a geographic area have knowledge and expertise concerning the resources at issue and shall take into account the cultural significance of the TCR to the culturally affiliated California Native American tribe.
- 9) Requires the parties to the scoping consultation to be the local government and any specified California Native American tribe. More than one specified California Native American tribe may participate in the scoping consultation, and each California Native American tribe may request to engage in separate scoping consultations with the local government.
- 10) Authorizes a developer and its consultants to participate in the scoping consultation if all of the following are met:
- a) The developer and its consultants agree to respect the principles set forth in this bill.
 - b) The California Native American tribe participating in the scoping consultation approves the participation. The California Native American tribe may rescind its approval at any time.
 - c) The parties shall comply with specified confidentiality requirements.
- 11) Prohibits the CEQA from applying to scoping consultation.
- 12) Authorizes a developer to submit an SB 35 application following the conclusion of scoping consultation if the parties find that no potential TCR would be affected by the proposed development.
- 13) Authorizes a developer to submit an SB 35 application following the conclusion of scoping consultation if the parties find that a potential TCR could be affected by the proposed development and an enforceable agreement is documented between the California Native American tribe and the local government on methods, measures, and conditions for TCR treatment. The

local government shall ensure that the enforceable agreement is included in the requirements and conditions for the proposed development.

- 14) Prohibits a developer from being eligible for SB 35 streamlining if, after concluding the scoping consultation, the parties find that a potential TCR could be affected by the proposed development and an enforceable agreement is not documented between the California Native American tribe and the local government regarding measures, methods, and conditions for TCR treatment.
- 15) Provides that the scoping consultation is concluded if either of the following occur:
 - a) The parties document an enforceable agreement concerning methods, measures, and conditions to avoid or address potential impacts to TCR that are or may be present.
 - b) One or more parties to the scoping consultation, acting in good faith and after reasonable effort, conclude that a mutual agreement on methods, measures, and conditions to avoid or address impacts to TCR that are or may be present cannot be reached.
- 16) Requires that, if the development or environmental setting substantially changes after the completion of the scoping consultation, the local government shall notify the California Native American tribe of the changes and engage in a subsequent scoping consultation if requested by the California Native American tribe.
- 17) Authorizes a local government to accept an SB 35 application only if one of the following applies:
 - a) A California Native American tribe that received formal notice of the development proponent's notice of intent did not accept the invitation to engage in a scoping consultation.
 - b) The California Native American tribe accepted an invitation to engage in a scoping consultation but substantially failed to engage in the scoping consultation after repeated documented attempts by the local government to engage with the California Native American tribe.
 - c) The parties to a scoping consultation find that no TCR will be affected by the proposed development.

- d) A scoping consultation between a California Native American tribe and the local government has occurred and resulted in an agreement.
- 18) Prohibits a project from eligibility for SB 35 streamlining if any of the following apply:
- a) There is a TCR on a national, state, tribal, or local historic register list located on the site of the project.
 - b) There is a potential TCR that could be affected by the proposed development and the parties do not document an enforceable agreement on methods, measures, and conditions for TCR treatment.
 - c) The parties to the scoping consultation do not agree as to whether a potential TCR will be affected by the proposed development.
- 19) Requires, if a project is ineligible for SB 35 streamlining, the local government to provide written documentation to a developer that shall include information on how the developer may seek a conditional use permit or other discretionary approval of the development from the local government.
- 20) Provides that this bill is not intended to limit consultation and discussion between a local government and a California Native American tribe pursuant to any other applicable law, confidentiality provisions under other applicable law, the protection of religious exercise to the fullest extent permitted under existing law, or the ability of a California Native American tribe to submit information to the local government or participate in the process of the local government.
- 21) Provides that this bill shall not apply to any project that has been approved for SB 35 streamlining before the effective date of this bill.

NOTES: Please refer to the most recent Senate Housing Committee policy analysis for further information.

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

SUPPORT: (Verified 8/7/20)

Agua Caliente Band of Cahuilla Indians
Barona Band of Mission Indians
Big Valley Band of Pomo Indians
California Nations Indian Gaming Association

California Tribal Business Alliance
Dry Creek Rancheria Band of Pomo Indians
Federated Indians of Graton Rancheria
Fernandeño Tataviam Band of Mission Indians
Habematolel Pomo of Upper Lake
Jamul Indian Village of California
Livable California
Middletown Rancheria
Mooretown Rancheria
Morongo Band of Mission Indians
Nototomne Cultural Preservation
Pala Band of Mission Indians
Pechanga Band of Luiseno Mission Indians
Rincon San Luiseno Band of Indians
Santa Ynez Band of Chumash Indians
Sycuan Band of the Kumeyaay Nation
Tolowa Dee-Ni' Nation
Tribal Alliance of Sovereign Indian Nations
Tule River Tribe
Twenty-Nine Palms Band of Mission Indians
United Auburn Indian Community
Wilton Rancheria
Yocha Dehe Wintun Nation

OPPOSITION: (Verified 8/7/20)

Bay Area Housing Action Coalition
California Association of Realtors
California Building Industry Association
California Business Properties Association
International Council of Shopping Centers
NAIOP of California

ARGUMENTS IN SUPPORT: According to the author, “AB 168 is consistent with existing California law, which protects tribal sacred sites. Without this bill, tribal cultural resources may be subject to avoidable destruction and desecration. We have lost much of our State’s Native history, and once a religious or cultural artifact, site, or burial ground is lost, it cannot be replaced. To honor California’s history and diversity, it is important that we continue to honor the consultation process with Native American tribes and protect tribal cultural resources. Early identification and consultation with California tribes will ensure that generations of

Californians will play a role in honoring the culture and sovereignty of Native American tribes and communities, and facilitate necessary housing development by avoiding litigation. On June 18, 2019, Governor Newsom issued an Executive Order about California's history saying, 'California must reckon with our dark history. We can never undo the wrongs inflicted on the peoples who have lived on this land that we now call California since time immemorial, but we can work together to build bridges, tell the truth about our past and begin to heal deep wounds.' It is time our Legislature put the Governor's words into action by restoring the right of tribal governments to engage the development process under SB 35."

ARGUMENTS IN OPPOSITION: According to a coalition, which includes the California Building Industry Association, the California Business Properties Association, California Association of Realtors, the International Council of Shopping Centers, and NAIOP California submitted an oppose unless amended letter. This coalition supports the intent to provide California Native American tribes with consultation as part of the SB 35 permitting process, but states that the language in AB 168 goes beyond the AB 52 process by "giving tribes an unchallengeable veto over whether a housing project is eligible for SB 35's entitlement process." This group requests the author to mirror existing California state law and ensure that a decision as to whether a housing project is eligible for SB 35 be able to challenge the decision in court. This group also requests that AB 168 be amended to clarify that its provisions only apply to applications submitted after the bills effective date. "Basic principles of fairness and due process dictate that the validity of already submitted applications should be judged by the law that was in effect at the time the application was submitted."

ASSEMBLY FLOOR: 76-0, 5/13/19

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

NO VOTE RECORDED: Arambula, Brough, Burke, Frazier

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
8/7/20 17:31:38

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

THIRD READING

Bill No: AB 240
Author: Irwin (D), et al.
Amended: 6/30/20 in Senate
Vote: 21

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

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

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

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

SUBJECT: Veterans' homes: lease of property

SOURCE: Author

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

Senate Floor Amendments of 6/30/20 remove the section defining terms, which keep them as currently defined in Military and Veterans Code §1010.

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

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

ANALYSIS:

Existing law:

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

This bill:

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

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

Background

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

DGS has general authority to lease state owned real property, including veterans' home properties, with the consent of the agency responsible for the property. DGS has specific authority to lease veterans' home property as long as the property is not needed for any direct or immediate purpose and the terms and conditions of the lease are in the best interests of the home.

In January 2019, the California State Auditor released an audit of CalVet and DGS subtitled "The Departments' Mismanagement of the Veterans Home Properties

Has Not Served the Veterans' Best Interests and Has Been Detrimental to the State.” The Auditor recommended to the legislature that “to prevent future leases of veterans home property that obligate the property to third parties for unnecessarily extended periods of time, the Legislature should amend state law to clarify that leases of veterans home property may not exceed five years unless a statutory exception applies.”

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

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

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

Comments

According to the author, “The property upon which the Yountville Veterans Home now stands was deeded under the state under clear terms: ‘...the support, maintenance and well-being of aged and infirm United States ex-soldiers, sailors and Marines.’ And yet repeated audits of the Yountville Home have found that it is almost inexorably put to uses that not only have nothing to do with veterans, but run counter to the interests of the home and the people who live there. By resolving the ambiguity in current law about lease terms, while also providing flexibility under specific conditions, this bill provides a better foundation for ensuring the

homes are chiefly operated for the benefit of their members, as well as the communities to which these homes belong, without compromising the interests of California veterans or the well-being of the home's members.”

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

SUPPORT: (Verified 6/26/20)

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

OPPOSITION: (Verified 6/26/20)

None received

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

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

NO VOTE RECORDED: Arambula, Grayson, Mullin, Quirk

Prepared by: Veronica Badillo / V.A. / (916) 651-1503

7/1/20 15:46:53

**** END ****

CONSENT

Bill No: AB 408
Author: Frazier (D), et al.
Amended: 1/23/20 in Assembly
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 14-0, 8/4/20
AYES: Beall, Bates, Allen, Dahle, Dodd, Galgiani, Lena Gonzalez, McGuire,
Morrell, Roth, Rubio, Skinner, Umberg, Wieckowski
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 78-0, 1/27/20 - See last page for vote

SUBJECT: Vehicles: disabled veterans

SOURCE: Author

DIGEST: This bill requires the Department of Motor Vehicles (DMV) to accept a certificate certifying a veteran is disabled for the purpose of a disability license plate from a County Veteran Service Officer (CVSO) or the Department of Veteran Affairs (CalVet).

ANALYSIS:

Existing law:

- 1) Requires a disabled person, in order to obtain a disabled placard or plate, to submit a certificate signed by a physician, surgeon, or licensed chiropractor indicating that the person has lost the use of one or more lower extremities or both hands (one hand for a disabled veteran), or who has a significant limitation in the use of his or her lower extremities.

- 2) Allows DMV to accept a certificate from the United States Department of Veteran Affairs (VA) in lieu of the certificate described above for a disabled veteran.
- 3) Defines a “disabled veteran” as a veteran who suffers any of the following:
 - a) Has a disability which has been rated at 100 by VA or the military service from which the veteran was discharged, due to a diagnosed disease or disorder which substantially impairs or interferes with mobility.
 - b) Is so severely disabled as to be unable to move without the aid of an assistant device.
 - c) Has lost, or has lost use of, one or more limbs.
 - d) Has suffered permanent blindness.

This bill expands who can certify to the DMV that a veteran is disabled, for the purpose of obtaining a disabled placard or plate, to also include a CVSO and CalVet.

Comments

- 1) *Author Statement.* “Historically California has used a California-unique letter issued by VA to substantiate that a veteran applying for Disabled Veteran license plates is qualified to receive them. This worked fine when all paperwork for California veterans came from one of the three VA regional offices located in California. This process has changed over the last 5-10 years. Today when a veteran makes a request for the disabled plate qualification letter from the VA, that request is more likely to be fulfilled by a regional office outside California. Regional Offices outside California are unaware of this California-unique documentation and typically send the veteran the wrong documentation. Subsequently, the veteran lacks the necessary documentation for DMV to issue the disabled veteran plate. The current process is overly bureaucratic, frustrating, and essentially denies eligible veterans a benefit they have justifiably earned.”
- 2) *Skip the Line.* Disabled veteran license plates allow free and unrestricted parking in most public parking spaces as well as use of preferential spaces. Disabled veterans are also entitled to an exemption of most vehicle fees for one passenger or commercial motor vehicle. Obtaining this benefit requires the

applicant to demonstrate that they are a qualified disabled veteran. This requires either certification by a medical professional or the VA. The VA currently has a substantial claims backlog, increasing from about 80,000 nationwide in the period from 2016 through 2019 to 180,000 in July 2020¹.

This bill allows CVSOs and CalVet to obtain certification of a veteran's disability, providing an alternative to going through from the VA. This certification is obtained from an existing VA database known as the Veterans Benefits Management System. The database indicates the degree to which the veteran is disabled so the CVSOs and CalVet won't be making an independent judgement of the veteran's disability. They will simply be accessing the same database the VA accesses, allowing applicants to skip the substantial VA backlog.

- 3) *General Concerns with Disabled License Plate Abuse.* California has a long track record of disabled license plate abuse. In 2016, the California State Auditor reported that the DMV does not sufficiently ensure that applications for placards or plates are legitimate and recommended several improvements to reduce fraud and abuse (Report 2016-121), some of which were legislatively enacted.

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

SUPPORT: (Verified 8/13/20)

American GI Forum of California
 American Legion, Department of California
 Amvets, Department of California
 California Association of County Veterans Service Officers
 California State Commanders Veterans Council
 County of Fresno
 County of San Diego
 County of Santa Clara
 County of Stanislaus
 County of Ventura
 Military Officers Association of America, California Council of Chapters
 National Guard Association of California
 National Veterans Group
 Vietnam Veterans of America, California State Council

¹ Veterans Benefits Administration Website (benefits.va.gov/reports/mmwr_va_claims_backlog.asp).

OPPOSITION: (Verified 8/13/20)

None received

ASSEMBLY FLOOR: 78-0, 1/27/20

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

NO VOTE RECORDED: Cervantes, Rendon

Prepared by: Randy Chinn / TRANS. / (916) 651-4121
8/14/20 12:31:16

**** END ****

THIRD READING

Bill No: AB 465
Author: Eggman (D), et al.
Amended: 6/30/20 in Senate
Vote: 21

PRIOR VOTES NOT RELEVANT

SENATE PUBLIC SAFETY COMMITTEE: 7-0, 7/31/20 (Pursuant to Senate Rule 29.10)

AYES: Skinner, Moorlach, Bradford, Jackson, Mitchell, Morrell, Wiener

SUBJECT: Mental health workers: supervision

SOURCE: Author

DIGEST: This bill requires that specified mental health professionals that respond in collaboration with law enforcement, or in the place of law enforcement, are supervised by licensed mental health professionals.

ANALYSIS:

Existing law:

- 1) Establishes the Mental Health Wellness Act of 2013 (MHWa), which has the following objectives: (Welf. & Inst. Code § 5848.5).
 - a) Expand access to early intervention and treatment services to improve the client experience, achieve recovery and wellness, and reduce costs.
 - b) Expand the continuum of services to address crisis intervention, crisis stabilization, and crisis residential treatment needs that are wellness, resiliency, and recovery oriented.
 - c) Add at least 25 mobile crisis support teams and at least 2,000 crisis stabilization and crisis residential treatment beds to bolster capacity at the

local level to improve access to mental health crisis services and address unmet mental health care needs.

- d) Add at least 600 triage personnel to provide intensive case management and linkage to services for individuals with mental health care disorders at various points of access, such as at designated community-based service points, homeless shelters, and clinics.
- e) Reduce unnecessary hospitalizations and inpatient days by appropriately utilizing community-based services and improving access to timely assistance.
- f) Reduce recidivism and mitigate unnecessary expenditures of local law enforcement.
- g) Provide local communities with increased financial resources to leverage additional public and private funding sources to achieve improved networks of care for individuals with mental health disorders.
- h) Provide a complete continuum of crisis services for children and youth 21 years of age and under regardless of where they live in the state. The funds included in the 2016 Budget Act for the purpose of developing the continuum of mental health crisis services for children and youth 21 years of age and under shall be for the following objectives:
 - i) Provide a continuum of crisis services for children and youth 21 years of age and under regardless of where they live in the state.
 - ii) Provide for early intervention and treatment services to improve the client experience, achieve recovery and wellness, and reduce costs.
 - iii) Expand the continuum of community-based services to address crisis intervention, crisis stabilization, and crisis residential treatment needs that are wellness-, resiliency-, and recovery-oriented.
 - iv) Add at least 200 mobile crisis support teams.
 - v) Add at least 120 crisis stabilization services and beds and crisis residential treatment beds to increase capacity at the local level to improve access to mental health crisis services and address unmet mental health care needs.

- vi) Add triage personnel to provide intensive case management and linkage to services for individuals with mental health care disorders at various points of access, such as at designated community-based service points, homeless shelters, schools, and clinics.
 - vii) Expand family respite care to help families and sustain caregiver health and well-being.
 - viii) Expand family supportive training and related services designed to help families participate in the planning process, access services, and navigate programs.
 - ix) Reduce unnecessary hospitalizations and inpatient days by appropriately utilizing community-based services.
 - x) Reduce recidivism and mitigate unnecessary expenditures of local law enforcement.
 - xi) Provide local communities with increased financial resources to leverage additional public and private funding sources to achieve improved networks of care for children and youth 21 years of age and under with mental health disorders.
- 2) Authorizes funds granted from the Legislature for the MHWA shall be made available to selected counties. Those awards consider linkage between law enforcement, mental health care, social services, and related assistance as applicable. (Welf. & Inst. Code § 5848.5, *subd. (d)(2).*)

This bill:

- 1) Specifies that any program or pilot program in which mental health professionals respond in collaboration with law enforcement personnel, or in a place of law enforcement personnel, to emergency calls related to mental health crises shall ensure that mental health professionals participating in the program are supervised by a licensed mental health professional.
- 2) Defines “licensed mental health professional” as the following:
 - a) A licensed clinical social worker.
 - b) A licensed professional clinical counselor.
 - c) A licensed marriage and family therapist.

d) A licensed psychologist.

Background

The 2013 Budget made various findings and declarations regarding the need for a renewed investment in community-based mental health treatment options. The bill established the Investment in Mental Health Wellness Act of 2013.

The bill authorized the California Health Facilities Financing Authority (CHFFA) to administer a competitive selection process for capital capacity and program expansion to increase capacity for mobile crisis support, crisis intervention, crisis stabilization services, crisis residential treatment, and specified personnel resources. These funds were made available to selected counties, or counties acting jointly. CHFFA was also authorized to give consideration to private nonprofit corporations and public agencies in an area or region of the state if a county, or counties acting jointly, affirmatively supports this designation and collaboration in lieu of county government directly receiving the funds.

The bill required CHFFA to develop a process to award these grants after consulting with representatives and interested stakeholders from the mental health community. CHFFA ensured that grants result in a cost-effective expansion of the number of community-based crisis resources in regions and communities selected for funding.

The 2013-14 Budget provided a one-time \$142 million from the General Fund for these purposes.

The bill implemented a process by which the mental Health Services Oversight and Accountability Commission allocates funding based upon requests for application of need and description of deployment of triage personnel to assist individuals in gaining access to needed services, including medical, mental health, substance use disorder assistance and other community services. The bill required these funds to be made available to selected counties, counties acting jointly, or city mental health departments, as determined by the Commission through a selection process.

The 2013-14 Budget provided \$54 million (\$32 million MHSA State Administrative Funds and \$22 federal funds) for this purpose. This funding was ongoing.

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

SUPPORT: (Verified 7/31/20)

Contra Costa County

National Association of Social Workers – California

OPPOSITION: (Verified 7/31/20)

None received

ARGUMENT IN SUPPORT: According to Contra Costa County:

Our county is committed to increasing safety and wellbeing for all our citizens and realizes that the presence of a firearm during domestic violence incidents increases the risk of homicide by 500%. It is of the utmost importance to provide an effective preventive method in cases of domestic violence. Relinquishment of firearms from subjects of restraining orders, when applied appropriately and at the earliest possible moment, promises to serve as an effective method of preventing future violence.

As you know, the current state of domestic violence restraining orders has some gaps in how they are applied throughout the 58 counties in California. This bill would strengthen the Rules of Court and help bring parity to the application of firearm relinquishment in domestic violence restraining orders in both civil and criminal courts. It is not clear why civil courts have the option to follow the procedures for firearm relinquishment in Rule 4.700, and we believe that this bill would improve the application of domestic violence restraining order.

Prepared by: Gabe Caswell / PUB. S. /
8/19/20 14:08:22

**** END ****

THIRD READING

Bill No: AB 736
Author: Irwin (D)
Amended: 8/7/20 in Senate
Vote: 27 - Urgency

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 8/5/20
AYES: Hill, Morrell, Jackson, Mitchell, Pan

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

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

SUBJECT: Employee classification: professional classification: specified
educational employees

SOURCE: Association of Independent California Colleges and Universities
California State Council of Service Employees International Union -
California

DIGEST: This bill explicitly clarifies when an adjunct instructor at an
independent institution of higher learning qualifies as an exempt professional
under wage and hour law.

ANALYSIS:

Existing law:

- 1) Requires any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek to be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. (Labor Code §510)
- 2) Exempts private school teachers from the requirements of overtime if the teacher is paid a monthly salary that is the equivalent of the local school district, as specified. (Labor Code §515.8)

- 3) Defines a private school teacher as an employee who is primarily engaged in the duty of imparting knowledge to pupils by teaching, instructing, or lecturing and customarily and regularly exercises discretion and independent judgment in performing the duties of a teacher. (Labor Code §515.8)
- 4) Sets the current California minimum wage at \$12.00 per hour. (Labor Code §1182.12)
- 5) Increases, incrementally, starting January 1, 2017, the state's minimum wage, depending on the size of the employer and future economic conditions, to \$15 per hour and then ties annual minimum wage increases to the U.S. Consumer Price Index (CPI), which is a measure of inflation. (Labor Code §1182.12)
- 6) Defines an "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 this state and are accredited by an agency recognized by the United States Department of Education. (Education Code §66010)
- 7) Provides, under federal regulations, that being paid on a "salary basis" means that the employee regularly receives each pay period on a weekly, or less frequent basis, a predetermined amount constituting all or part of the employee's compensation, which amount is not subject to reduction because of variations in the quality or quantity of the work performed. (29 CFR 541.602)
- 8) Creates, through state regulations, a specific professional duties' test, which permits certain employees to be exempt from overtime and minimum wage requirements. These are:
 - a) Work requiring knowledge of an advanced type in a field or science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study; or
 - b) Work that is original and creative in character in a recognized field of artistic endeavor, and the result of which depends primarily on the invention, imagination, or talent of the employee or work that is an essential part of or necessarily incident to any of the above work; and
 - c) Whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work) and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time. (IWC Wage Order 4-2001)

- 9) Requires that, in addition to meeting the duties list described above, an exempt profession must also earn a month salary of no less than twice the minimum wage for full time employment, or 40 hours in a workweek. (IWC Wage Order 4-2001)

This bill:

- 1) Classifies an employee in the educational field as an exempt professional if all of the following is applicable:
- a) The employee is primarily engaged in an occupation commonly recognized as a learned or artistic profession;
 - b) The employee customarily and regularly exercises discretion and independent judgment in the performance of duties discussed above; and
 - c) The employee receives a monthly salary that is no less than two times the state minimum wage in which the employee is employed for at least 40 hours per week; or
 - d) The employee receives no less than the following for all classroom or laboratory time, preparation, grading, office hours, and other course- or laboratory-related work for that course or laboratory:
 - i) For each classroom hour in 2020: one hundred seventeen dollars (\$117).
 - ii) For each classroom hour in 2021: one hundred twenty-six dollars (\$126).
 - iii) For each classroom hour in 2022: one hundred thirty-five dollars (\$135).
 - iv) For each classroom hour in 2023 and each year thereafter: a percentage increase to the rate that is equal to the percentage increase to the state minimum wage.
- 2) Defines “learned or artistic profession” as an employee who is primarily engaged in the performance of:
- a) Work requiring knowledge of an advanced type in a field or science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study; or
 - b) Work that is original and creative in character in a recognized field of artistic endeavor, as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training, and the result of

which depends primarily on the invention, imagination, or talent of the employee or work that is an essential part of or necessarily incident to any of the above work; and

- c) Whose work is predominantly intellectual and varied in character, as opposed to routine mental, manual, mechanical, or physical work, and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time.
- 3) States that, due to the need to ensure the continued ability for non-profit, independent institution of higher education to provide education and training in critical fields of employment, it is necessary for this act to take effect immediately.

Comments

Professional Exemptions, Private Adjunct Faculty, and AB 736: As noted above, IWC Wage Order 4-2001, which serves industry-specific regulations on wage and hour laws, creates a duties' test AND provides a wage standard of twice the minimum wage in order to qualify as an exempt professional employee. These requirements are fundamentally protective: the duties' test ensures that only employees who have responsibilities that cannot be easily encapsulated in an 8 hour day are removed from overtime protections, and only after that employee receives a salary of no less than twice the state minimum wage (\$46,080). Taken together, this both limits the number of employees who can reach the professional exemption, and also requires that employers provide appropriate compensation for an exempt professional.

In the case of private adjunct faculty, however, this calculation is more complex. This is because, while legitimate adjunct faculty will meet the professional duties test, by definition adjunct faculty are not teaching 40 hours per week. For example, adjunct faculty may have another career or teach at another school. According to the sponsors, this has left some independent colleges open to litigation, leading to requiring adjunct faculty to fill out timecards and track hours. This has left adjunct faculty feeling as if they are not be treated as true academic professionals, creating additional challenges for private institutions.

AB 736 retains both the duties test and the wage requirements. However, AB 736 creates *an additional basis for being classified as an exempt professional for private college instructors: the payment of twice the state minimum wage for hours of service.* For an adjunct faculty member who may teach one or two classes per

week, this permits the classroom hours and preparatory and grading time as the relevant work week, rather than the traditional 40 hour work week found in more traditional employment contexts.

Related/Prior Legislation

AB 1466 (Irwin, 2019) was similar to this bill and would have clarified when an adjunct instructor at an independent institution of higher learning qualifies as an exempt professional. AB 1466 was vetoed by Governor Newsom.

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

SUPPORT: (Verified 8/14/20)

Association of Independent California Colleges & Universities (co-source)
California State Council of Service Employees International Union – California
(co-source)

OPPOSITION: (Verified 8/14/20)

None received

ARGUMENTS IN SUPPORT: The Association of Independent California Colleges & Universities (AICCU), co-sponsors of this bill, argue the following:

[AB 736] provides statutory consistency for adjunct faculty wages at independent, nonprofit colleges and universities in California, and provides a baseline compensation for adjunct faculty and allows our institutions to continue treating adjunct faculty as exempt employees under the Labor Code and relevant Wage Orders.

...

While adjunct faculty are regularly treated as exempt employees, recently several of our institutions have been forced to convert adjunct faculty to hourly, non-exempt employees in response to litigation stemming from ambiguity in the Labor Code. Conversion to hourly, non-exempt classification is not the preferred action of either the institutions or the faculty. However, lacking the change proposed in this legislation, this is the only means by which institutions can comply with Labor Code and prevent additional lawsuits, which are resulting in six- or seven-figure financial losses.

We believe this narrowly crafted solution allows our institutions to continue treating adjunct faculty as exempt employees and provides them the same level of professional flexibility as their full-time counterparts.

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

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

NO VOTE RECORDED: Arambula, Grayson, Mullin, Quirk

Prepared by: Gideon L. Baum / L., P.E. & R. / (916) 651-1556
8/15/20 12:21:53

**** END ****

THIRD READING

Bill No: AB 831
Author: Grayson (D)
Amended: 7/21/20 in Senate
Vote: 27 - Urgency

SENATE HOUSING COMMITTEE: 10-0, 8/6/20
AYES: Wiener, Morrell, Caballero, Durazo, McGuire, Moorlach, Roth, Skinner,
Umberg, Wieckowski
NO VOTE RECORDED: Bates

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 73-0, 5/28/19 - See last page for vote

SUBJECT: Planning and zoning: housing: development application
modifications

SOURCE: Bay Area Council
San Francisco Bay Area Planning and Urban Research Association

DIGEST: This bill makes several changes to SB 35 (Wiener, Chapter 366, Statutes of 2017), which requires streamlining of certain housing developments in jurisdictions that have not met their housing obligations.

ANALYSIS:

Existing law, under SB 35:

- 1) Allows a development proponent to submit an application for a development that is subject to the streamlined, ministerial approval process, and not subject to a conditional use permit if the infill development contains two or more residential units and satisfies specified objective planning standards.
- 2) Requires, among other things, for sites subject to ministerial approval to be limited to zones for residential use or residential mixed-use development, with

at least two-thirds of the square footage of the development designated for residential use.

- 3) Specifies, if a local government determines that a development submitted pursuant to the bill's provisions is in conflict with any of the objective planning standards listed in 1) above, that it shall provide the development proponent written documentation of which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, as follows:
 - a) Within 60 days of submittal of the development to the local government if the development contains 150 or fewer housing units; or,
 - b) Within 90 days of submittal of the development to the local government if the development contains more than 150 housing units.

This bill:

- 1) Clarifies that a development subject to the streamlined, ministerial approval process, and the site on which it is located must be zoned for residential use or mixed-use development and at least 2/3 of the square footage of the development must be designated for residential use.
- 2) Provides that a development proponent may request a modification to a development that has been approved under the streamlined, ministerial approval if that request is submitted prior to the issuance of the final building permit required for construction. The local government shall approve a modification if it determines that the modification is consistent with the objective planning standards outlined in SB 35 and using the same assumptions and methodology that was originally used to assess consistency for the development.
- 3) Prohibits a guideline adopted or amended by the Department of Housing and Community Development (HCD) after a development was approved from being used as a basis to deny proposed modifications.
- 4) Provides that, upon receipt of an application requesting a modification, the local government shall determine if the modification is consistent with the objective planning standards and approve or deny the modification request within 60 days after submission of the request, or with 90 days if design review is required.
- 5) Provides that the local government may apply objective planning standards adopted after the development application was first submitted in any of the following instances:

- a) The development is revised such that the total number of residential units or total square footage of construction changes by 15% or more.
 - b) The development is revised such that the total number of residential units or total square footage of construction changes by 5% or more and it is necessary to subject the development to an objective standard beyond those in effect when the development application was submitted to mitigate or avoid a specific adverse impact upon the health or safety and there is no feasible alternative method to satisfactorily mitigate or avoid the adverse impact.
 - c) Objective standards contained in the California Building Standards Code, including, but not limited to building plumbing, electrical, fire, and grading codes may be applied to all modifications.
 - d) The local government's review of a modification request shall be strictly limited to determining whether the modification, including any modification to previously approved density bonus concessions or waivers, modify the developments consistency with the objective planning standards and shall not consider prior determinations that are not affected by the modification.
- 6) Provides that if a public improvement is necessary to implement a development that is subject to streamlined, ministerial approval, including but not limited to, a bicycle lane, sidewalk or walkway, public transit stop, driveway, street paving or overlay, a curb or gutter, a modified intersection, a street sign or street light, landscape or hardscape, an above-ground or underground utility connection, a water line, fire hydrant, storm or sanitary sewer connection, retaining wall, and an related work, and that public improvement is located on land owned by the local government, to the extent that the public improvement requires approval from the local government, the local government shall not exercise its discretion over any approval relating to the public improvement in a manner that would inhibit, chill, or preclude the development.
- 7) Requires the local government, if it receives an application for a public improvement, to do the following:
- a) Consider an application for a public improvement based upon any objective planning standards in any other state or local laws that were in effect when the original development application was submitted;

- b) Conduct its review and approval in the same manner as it would evaluate the public improvement if required by a project that is not eligible to receive ministerial or streamlined approval.
- 8) Prohibits a local government, if it receives an application for a public improvement, from doing the following:
- a) Adopting or imposing any requirement that applies to a project solely or partially on the basis that the project is eligible to receive ministerial or streamlined approval.
 - b) Unreasonably delay in its consideration, review, or approval of the application.

Comments

- 1) *Housing needs 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. A community's general plan lays the foundation for all future land use decisions, as these decisions must be consistent with the plan. General plans are comprised of several elements that address various land use topics. State law mandates seven elements: land use, circulation, housing, conservation, open-space, noise, and safety. 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. Communities also identify regulatory barriers to housing development and propose strategies to address those barriers. State law requires cities and counties to update their housing elements every 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 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, while projects permitted ministerially generally are not.

- 2) *SB 35*. In 2017, SB 35 (Wiener) created a streamlined approval process for infill projects with two or more residential units in localities that have failed to produce sufficient housing to meet their regional housing needs allocation. The streamlined approval process requires some level of affordable housing to be included in the housing development. To receive the streamlined process for housing developments, the developer must demonstrate that the development meets a number of requirements including that the development is not on an environmentally sensitive site or would result in the demolition of housing that has been rented out in the last ten years. Localities must provide written documentation to the developer if there is a failure to meet the specifications for streamlined approval, within specified a period of time. If the locality does not meet those deadlines, the development shall be deemed to satisfy the requirements for streamlined approval and must be approved by right.

Existing law requires HCD to determine when a locality is subject to the streamlining and ministerial approval process in SB 35 (Wiener) based on the number of units issued building permits as reported in the annual production report that local governments submit each year as part of housing elements. Streamlining can be turned on at the beginning of the term of housing element (generally eight years but in some cases five) and turned off halfway through if a local government is permitting enough units to meet a proportional share of the RNHA at all income levels (low-, moderate-, and above moderate-income). If a local government is not permitting enough units to meet its above moderate and its lower income regional housing needs assessment (RHNA), a development must dedicate 10% of the units to lower income in the development to receive streamlined, ministerial approval. If the jurisdiction is permitting its above moderate income and not the lower income RHNA, then developments must dedicate 50% of the units for lower income to have access to streamlining.

- 3) *Clarifying the 2/3 requirement*. SB 35 provides that 2/3 of a project must be residential (*i.e.* authorizes certain mixed-use projects) to qualify for streamlined approval. In its guidelines, HCD interprets the language this way. Recently in

an SB 35 lawsuit, a superior court judge interpreted SB 35 streamlining to apply only to mixed-use projects in the narrow circumstance where the site's zoning calls for at least 2/3 residential. According to the sponsors, there is likely not a zoning district in the state that would meet this requirement. This bill clarifies the author's intent that the 2/3 residential requirement apply to the proposed project itself, not the zoning.

- 4) *Modifying existing SB 35 applications.* According to the sponsors, as housing projects evolve, developers sometimes need to make modifications to projects. This is because residential projects by their nature are complex and, for example, can involve building out lobbies, corridors, back of house spaces, storage, parking, amenity facilities, and outdoor areas, in addition to the units themselves. Many of these cannot be figured out until the completion of the design for the project for the building permit and final applications. Additionally, the time between the initial application and the first building permit can take one to two years, sometimes longer, during which time market conditions, which drive project decisions can change.

For example, some potential changes may include: the cost of materials which may lead to a change in construction type or architecture; building codes; housing financing and securing of public subsidies; and the imposition of impact fees, which may impact the overall project.

Some jurisdictions use this opportunity to change the planning standards that are applied to a project as a means to invalidate a project. This bill provides that an SB 35 project may make modifications to the project prior to the issuance of the final building permit required for construction so long as the project continues to meet specified objective standards that were in place when the original application was submitted to the local jurisdiction. The local government may apply objective standards adopted after the initial application was submitted only when the modification to the project results in the total number of residential units or square footage changes by 15% or more, when the total number of residential units or square footage changes by 5% or more and is necessary to subject the development to a development standard in order to avoid a specific adverse impact to health and safety and there is no other alternative to mitigate the impact, or meeting objective standards in Building Standards Code. These exceptions are intended to impose guardrails so that a developer does not make substantial changes resulting in essentially new project and claim the rights to use existing standards.

- 5) *Approval of off-site improvements.* According to the sponsors, the SB 35 process is not clear as to how off-site public improvements necessary for a housing project are to be approved. Housing projects must connect with existing infrastructure, such as roads, sidewalks, and public utilities, which is often in the public right of way. In order to connect in the public right of way, a developer must seek approvals to do so and some jurisdictions have used the improvements approval process as a means to stall or frustrate SB 35 projects. Given that these approvals are necessary for a housing development project, this bill attempts to clarify that local governments must approve these improvements by issuing approvals without delay and in a manner that does not inhibit, chill, or preclude the project.

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

SUPPORT: (Verified 8/12/20)

Bay Area Council (co-source)
 San Francisco Bay Area Planning and Urban Research Association (co-source)
 All Home
 American Planning Association, California Chapter
 Bay Area Housing Action Coalition
 California Apartment Association
 California Association of Realtors
 California Community Builders
 California YIMBY
 Council of Infill Builders
 Sand Hill Property Company
 Silicon Valley at Home
 The Two Hundred
 Up for Growth

OPPOSITION: (Verified 8/12/20)

City of Rancho Palos Verdes

ARGUMENTS IN SUPPORT: According to the author, “California is in the midst of an historic housing crisis. We need to make sure our state laws work to enable housing to be built where it is most needed. The state has already done a lot of work to create new housing, but we still need to do more. AB 831 makes technical clarifications to SB 35 (Wiener, 2017), the law related to housing projects that may be approved under a streamlined and ministerial process. Housing projects often require modifications to the initial project design and

additional permits to connect the project to existing public infrastructure. This bill clarifies an allowable level of changes to be made to the initial design of a project before a new application is required and makes clear that off-site improvement permit requests cannot be used to block a project, though the permits could still be denied for cause. Finally, AB 831 clarifies that the 2/3 residential requirement in SB 35 applies only to a project, and not the project's site or its zoning. AB 831 will ensure that an important state law works as it was intended."

ARGUMENTS IN OPPOSITION: The City of Rancho Palos Verdes opposes this bill because they oppose legislation that pre-empts local discretionary land use authority and compromises project level environmental review and public input.

ASSEMBLY FLOOR: 73-0, 5/28/19

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

NO VOTE RECORDED: Cooley, Diep, Eggman, Eduardo Garcia, Gray, Low, Ting

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
8/14/20 12:31:15

**** END ****

CONSENT

Bill No: AB 838
Author: Eggman (D), et al.
Amended: 8/11/20 in Senate
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 9-0, 8/5/20
AYES: Monning, Jones, Allen, Borgeas, Caballero, Hertzberg, Hueso, Jackson,
Stern

ASSEMBLY FLOOR: 74-0, 1/27/20 - See last page for vote

SUBJECT: Flood management: Mossdale Tract

SOURCE: San Joaquin Area Flood Control Agency

DIGEST: This bill extends the date for the Mossdale Tract to reach an urban level of protection from 2025 to 2028.

ANALYSIS:

Existing law:

- 1) Defines the urban level of flood protection to be “the level of protection that is necessary to withstand flooding that has a 1-in-200 chance of occurring in any given year ...” This is sometimes referred to as a 200 year level of protection.
- 2) Prohibits a city or county within the Sacramento-San Joaquin Valley from entering into a development agreement for property within a flood hazard zone unless the city or county finds one of the following:
 - a) The facilities of the property are protected to the appropriate level of flood protection in urban and nonurbanized areas.
 - b) The city or county has imposed conditions on the development agreement that will protect the property to the appropriate level of flood protection in urban and nonurbanized areas.

- c) The local flood management agency has made “adequate progress” on the construction of a flood protection system that will result in the appropriate level of flood protection in urban and nonurbanized areas. For urban and urbanizing areas protected by project levees, the urban level of flood protection shall be achieved by 2025.
- 3) Defines “adequate progress” to mean all of the following:
- a) The total project scope, schedule, and cost of the completed flood protection system have been developed to meet the appropriate standard of protection.
 - b) Revenues that are sufficient to fund each year of the project schedule have been identified and, in any given year and consistent with that schedule, at least 90 percent of the revenues scheduled to be received by that year have been appropriated and are currently being expended. (There is an exception where state funding was not appropriated consistent with a funding agreement between a state agency and a local flood management agency.)
 - c) Critical features of the flood protection system are under construction, and each critical feature is progressing as indicated by the actual expenditure of the construction budget funds.
 - d) The city or county has not been responsible for a significant delay in the completion of the system.
 - e) The local flood management agency provides the Department of Water Resources (DWR) and the Central Valley Flood Protection Board with the required information specified in this subdivision sufficient to determine substantial completion of the required flood protection.

This bill:

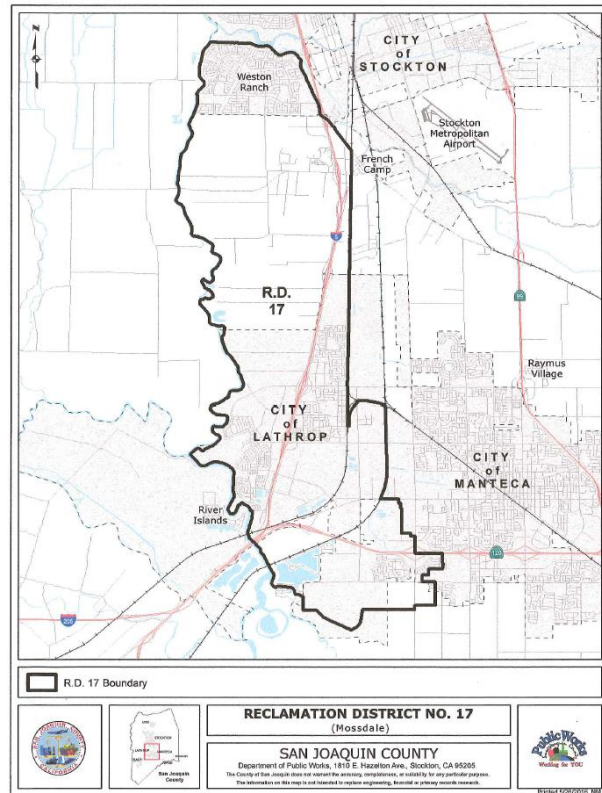
- 1) Defines the “Mossdale Track” as the lands within Reclamation District No. 17, along with contiguous urban and urbanizing areas to the east of the tract as would be subject to flooding from the San Joaquin River at an urban level of flood protection.
- 2) Changes, for the Mossdale Track, the year by which the area is to achieve the urban level of flood protection from 2025 to 2028.
- 3) Authorizes the DWR to require the San Joaquin Area Flood Control Agency to contribute its fair and reasonable share of any property damage caused by a flood to the extent the state’s exposure to liability for property damage has been

increased by cities or counties unreasonably approving any new development in the Mossdale Tract between the years 2025 and 2028.

Comments

Reclamation District 17. Reclamation District 17 (RD 17) is organized under Division 15 of the Water Code (§§ 50000 *et seq.*), and is located in San Joaquin County, along the east side of the Delta, just south of the City of Stockton.

The RD 17 levee system consists of about 16.2 miles of project levees; including the RD 17 levees along the left bank of French Camp Slough, the levees along the right bank of the San Joaquin River, and the levees along the right bank of Walthall Slough. The RD 17 levee system also includes about 2.8 miles of dryland levees mostly located at the southern end of the district.



Why is This Bill Urgent? The General Council of the San Joaquin Area Flood Control Agency provides more explanation:

On January 1, 2018, the San Joaquin Area Flood Control Agency (SJAFC) remade itself to include the Cities of Lathrop, Manteca, and Stockton and the County of San Joaquin. The newly expanded organization was formed to aggressively plan and implement needed flood protection for the 50,000 residents living in the Mossdale Tract. Unfortunately, the COVID-19 Pandemic has significantly affected those efforts and without prompt legislative relief the effects of COVID-19 are likely to stall the needed improvements for decades because of the impacts of Senate Bill No. 5 – 2007 (SB 5). SB 5 was designed to motivate local agencies to achieve higher levels of flood protection as quickly as possible, and to stop development for those not achieving those goals. Unfortunately, a hydrology study completed in 2017 by the California Department of Water Resources (DWR) concluded that climate change would triple the flows on the San Joaquin River by 2065 in a 200-year event, practically requiring SJAFC to start over in planning the needed project. On top of this significant obstacle, the economic impacts of COVID-19 have made

it virtually certain that SJAFCA can no longer raise the money it needs in the next nine-month period as required under the current flood control plan, a fact which will almost certainly preclude SJAFCA from issuing an adequate progress finding on June 30, 2021.

If SJAFCA cannot issue an adequate progress finding in June of 2021, the project will stop and SJAFCA sees no realistic scenarios for starting it back up again. That means that to achieve increased flood protection for the existing 50,000 residents, SJAFCA either needs legislative relief now or in early 2021. Waiting for early 2021 would require an urgency bill, a more significant hurdle than seeking passage now, and that also assumes a normally functioning Legislature in early 2021, ignoring the reality that COVID-19 will almost certainly continue to disrupt the legislative process. Relying on an urgency bill in 2021 rather than proceeding now also has other very real financial impacts on SJAFCA, including:

- SJAFCA will be forced to expend nearly \$750,000 pursuing a benefit assessment district in 2020 as required under our plan to achieve protection by 2025, a huge expenditure for a likely unsuccessful property owner vote during the COVID-19 recession, when that money could instead go to environmental review and design to advance the project. SJAFCA would prefer to expend that money in two years at which time a successful vote would be much more likely.
- The existing uncertainty is expected to slow development impact fees to a trickle, as merchant homebuilders won't buy empty home lots without knowledge that they can build homes for an 18-24 month period. The current SB 5 situation for Mossdale Tract creates uncertainty for those homebuilders. The corresponding reduction in collected development impact fees would further slow funding for environmental review and design.
- Finally, failure to move the SB 5 deadline would cause SJAFCA to continue to follow the existing plan for 2025 which requires SJAFCA to press the County and the Cities in 2020 to commit to an EIFD funding allocation, a strategy that could cause the cities and County to refuse to commit to an EIFD, in light of the uncertainty each is facing in its budget in the short term. SJAFCA would prefer to delay this conversation for several years, allowing local agency budgets time to normalize.

Premature? On June 30, 2020, SJAFCA found that the Mossdale Tract Program was meeting all the requirements for making a finding of adequate progress, yet a few days earlier, this bill was gut-and-amended into its current form.

The sponsors are concerned that home building will slow down affecting revenues from developer fees, and that voters will reject the formation of a benefit assessment district, the combined effect being a significant chance that revenues would drop below the 90 percent of scheduled funds required to make a finding of adequate progress.

Anecdotally, there are numerous reports in the news about how hot the housing market is. And, it seems speculative at this point to forecast how an election to form a benefit assessment district designed to protect property owners from damaging floods may turn out.

The current COVID-19 pandemic and the resulting economic downturn do make economic forecasts challenging at best. However, it might make sense to continue with the current requirements until the outcome of the benefit assessment district election is known and the local development trends become more clear.

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

SUPPORT: (Verified 8/11/20)

San Joaquin Area Flood Control Agency (source)
Business Council San Joaquin County
California Building Industry Association
City of Lathrop
City of Manteca
City of Stockton
County of San Joaquin
San Joaquin County Board of Supervisors
San Joaquin Partnership

OPPOSITION: (Verified 8/11/20)

None received

ARGUMENTS IN SUPPORT: According to the author, “AB 838 would allow the San Joaquin Area Flood Control Association the ability to complete their 200-year flood event flood control system project by extending the deadline from 2025 to 2030. This one-time extension is required because the devastating impacts the San Joaquin River faces as a result of climate change, and the economic crisis created by the COVID-19 pandemic have made it highly unlikely that the flood control project will meet the 2025 deadline; thereby endangering the life and property within the Mossdale Tract. Without the extension, and the opportunity to

raise funds created by the extension, the project is not likely to be completed for decades.”

ASSEMBLY FLOOR: 74-0, 1/27/20

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

NO VOTE RECORDED: Cervantes, Choi, Megan Dahle, Gallagher, Kiley, Rendon

Prepared by: Dennis O'Connor / N.R. & W. / (916) 651-4116
8/12/20 14:14:54

**** END ****

THIRD READING

Bill No: AB 896
Author: Low (D), et al.
Amended: 8/6/20 in Senate
Vote: 27 - Urgency

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-0, 6/10/19
AYES: Glazer, Chang, Archuleta, Dodd, Galgiani, Hill, Leyva, Pan, Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-0, 8/8/20 (Pursuant to
Senate Rule 29.10)
AYES: Glazer, Chang, Archuleta, Dodd, Galgiani, Hill, Leyva, Pan, Wilk

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/13/20
AYES: Portantino, Bates, Bradford, Hill, Jones, Leyva, Wieckowski

ASSEMBLY FLOOR: 76-0, 4/25/19 (Consent) - See last page for vote

SUBJECT: Registered Dispensing Opticians: Dispensing Opticians Fund:
Optometry Fund: mobile optometric offices

SOURCE: Author

DIGEST: This bill authorizes the operation of a mobile optometric office (MOO) owned by a charitable organization, as specified, and merges the Dispensing Optician Fund with the Optometry Fund into one, single Optometry Fund.

ANALYSIS:

Existing law:

- 1) Establishes the California State Board of Optometry (Board) within the Department of Consumer Affairs to regulate the practice of optometry through the Optometry Practice Act. (Business and Professions Code (BPC) § 3010.5)

- 2) Requires any licensee using mobile services to do all of the following:
 - a) Have written policies established by the governing body of the licensee, to govern the services that the mobile unit provides, as specified;
 - b) Have written policies regarding patient selection criteria;
 - c) Develop and implement the written policies and procedures for the mobile unit in consultation with other appropriate health care professionals;
 - d) Ensure that the written policies and procedures are approved by the governing body, administration, and medical staff of the licensee; where appropriate;
 - e) Ensure the written policies and procedures include the following:
 - i) Scope of services;
 - ii) Procedures for the performance of the services provided;
 - iii) Quality assurance;
 - iv) Infection control;
 - v) Medical record documentation of services provided, as appropriate;
 - vi) Transport of patients, including, but not limited to, method, special equipment necessary personnel, and protection from inclement weather; and, protection from inclement weather. (Health and Safety Code (HSC) § 1765.160)
- 3) Allows mobile optometric facilities to only function as a part of school teaching program approved by the Board. (16 CCR § 1507(e))
- 4) Establishes the Optometry Fund and the Dispensing Opticians Fund as special funds within the Professions and Vocations Fund. (BPC § 205)

This bill:

- 1) Abolishes the Dispensing Opticians Fund on July 1, 2022 and requires all moneys in the Dispensing Opticians Fund be transferred to the Optometry Fund by July 1, 2022.
- 2) Defines a MOO as any premises in which the practice of optometry, as specified, is performed.
- 3) Limits the ownership and operation of a MOO to a non-profit or charitable organization that is exempt from taxation pursuant to Section 501(C)(3), Section 501(C)(4), of the United States Internal Revenue Code that provides optometric services to patients regardless of the patient's ability to pay.
- 4) Provides specified exemptions to the provisions of this bill for specified organizations.
- 5) Requires the owner and operator of a MOO to register with the Board and prohibits the owner and operator of a MOO and the optometrist providing services from accepting payments for services other than those provided to Medi-Cal beneficiaries.
- 6) Requires the medical operations of the MOO to be directed and under the exclusive control of the licensed optometrist, including the selection and supervision of optometric staff, scheduling of patients, amount of time the optometrists spends with the patients, fees charged for optometric products and services, examination procedures, the treatment provided to patients, and the follow-up care, as specified.
- 7) Requires the owner and operator of a MOO to provide the Board with specified information, including the description of services to be rendered within the MOO, names and license numbers of the optometrists providing patient care, dates of operation and cities or counties served, a description of how follow up care will be provided, and, a catalog of complaints, if any.
- 8) Requires the owner and operator of a MOO to file a quarterly report containing information about all visits made by the MOO, a summary of all complaints received, a current list of licensed optometrists who have provided care since the last reporting period, and a current list of licensed optometrists who are

available for follow up care, as specified.

- 9) Requires the owner and operator of a MOO to provide each patient a consumer notice approved by the Board, and requires an optometrist to maintain a copy in the patient's medical record.
- 10) Requires a copy of a patient's prescription to be available upon request to a patient's caregiver.
- 11) Requires any person who is employed by the owner and operator of the MOO to drive or transport the vehicle to be in possession of a valid driver's license.
- 12) Requires the Board to adopt regulations by January 1, 2022 establishing a registry for the owner and operators of MOOs, as specified.
- 13) Prohibits the Board from bringing an enforcement action against a MOO based solely on its affiliation status with an approved optometry school in California for remotely providing optometric services before January 1, 2022.
- 14) Requires any optometrist who provides patient care in conjunction with a MOO to obtain a statement of licensure with the MOO address that is registered with the Board, and if the licensee is not practicing optometry at a location other than the MOO to list the address of record of the owner and operator of the MOO as their address.
- 15) States that the provisions of this bill do not apply to optometry services provided in specified health care facilities.
- 16) Sunsets the provisions of this bill on July 1, 2024.
- 17) Revises the definition of "office" as specified.
- 18) Adds an urgency, and makes other technical and clarifying amendments.

Background

Mobile Facilities. As specified in HSC § 1765.160, a mobile unit is authorized to operate as long as it has written policies established by the governing body of the licensee to govern the services that the mobile unit provides. Those policies must include, at a minimum, policies related to patient care, personnel training and

orientation, personnel supervision, and evaluation of services provided by the mobile unit. Through regulations, the Board established the requirements for EOCFs to operate and provide optometric services. As specified in the Board's regulations, EOCFs include any clinical facility employed by an approved optometry school for instruction in optometry which exists outside or beyond the walls, boundaries, or precincts of the primary campus of the approved optometry school, and in which optometric services are rendered. The regulations further specify that mobile optometric facilities may only function as a part of a school teaching program as approved by the Board. In order to remedy any issues with the current regulations which may prove prohibitive to some providers of free mobile optometric services, this bill seeks to establish a more formalized pathway for mobile facilities to operate MOOs and provide optometric services to individuals who may not otherwise be able to obtain those services.

As currently drafted, this bill explicitly prohibits a MOO from accepting payment for services other than those provided to Medi-Cal beneficiaries. In addition, this bill would require a MOO to file a quarterly report with the Board and to provide a consumer notice prescribed by the Board to patients. This bill will establish the parameters for the types of providers that can operate mobile facilities and require them to register with the Board. This bill establishes certain reporting requirements for MOOs to report to the Board and help to establish follow up care guidelines for practitioners and recipients of services.

AB 684 (Alejo, Chapter 405, Statutes of 2015) transferred the regulation of RDOs from the Medical Board of California to the Board, but did not provide for the combination of funds. This resulted in the Board operating two separate funds: the Optometry Fund and the Registered Dispensing Optician Fund. The Board reports that it attempts to capture and separate the appropriate expenditures and revenues based on the fund; however, there may be times when the administration may overlap in auditing, licensing, and enforcement. Since the Board administers two separate funds, there may be duplicate administrative work, such as reviewing two separate fund expenditure and revenue reports, and separating each application, audit report, or fine to make sure it was charged to the appropriate fund.

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

SUPPORT: (Verified 8/14/20)

California State Board of Optometry
Los Angeles County Board of Supervisors
Vision Service Plan

Vision to Learn

OPPOSITION: (Verified 8/14/20)

None received

ARGUMENTS IN SUPPORT: According to the California State Board of Optometry, AB 896 “will assist Board staff and Budgets in fiscal tracking and planning for the [RDO] program, and assists the stabilization of the Board’s fund condition.”

Vision to Learn writes in support, “AB 896’s new standard will enable VTL to register our program with Board of Optometry and continue to serve patients. As always, our program will help kids regardless of their ability to pay, under AB 896, VTL will not accept payment for service other than those provided by Medi-Cal.”

Los Angeles County Board of Supervisors notes this bill eliminates a hurdle to Medi-Cal reimbursement for mobile optometric care.

Vision Service Plan (VSP) writes, “...AB 896 ensures that VSP’s over 15-year old mobile eyes charitable care program will continue...”

ASSEMBLY FLOOR: 76-0, 4/25/19

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

NO VOTE RECORDED: Arambula, Chen, Eduardo Garcia, Gray

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
8/15/20 13:18:13

**** END ****

THIRD READING

Bill No: AB 901
Author: Gipson (D), et al.
Amended: 8/13/20 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-1, 7/2/19
AYES: Skinner, Bradford, Jackson, Mitchell, Wiener
NOES: Morrell
NO VOTE RECORDED: Moorlach

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

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

SENATE EDUCATION COMMITTEE: 5-0, 9/11/19
AYES: Leyva, Wilk, Chang, Durazo, Pan
NO VOTE RECORDED: Glazer, McGuire

SENATE EDUCATION COMMITTEE: 4-0, 7/29/20 (Pursuant to Senate Rule 29.10)
AYES: Leyva, Durazo, Glazer, Pan
NO VOTE RECORDED: Wilk, Chang, McGuire

ASSEMBLY FLOOR: 42-27, 5/29/19 - See last page for vote

SUBJECT: Juveniles

SOURCE: ACLU of California
Public Counsel
Youth Justice Coalition

DIGEST: This bill limits the authority of a probation department to supervise and provide services to minors who are within the jurisdiction of the juvenile courts and eliminates the provision of law that makes a minor who persistently or habitually refuses to obey the reasonable and proper orders or directions of school authorities within the jurisdiction of the juvenile court.

Senate Floor Amendments of 8/13/20 (1) restore provisions of existing law that (A) make a truant within the jurisdiction of the juvenile court, (B) authorize a peace officer to issue an order to appear to a minor who is within the jurisdiction of the juvenile court, and (C) relate to county office of education (COE) funding and enrollment for truant; (2) require a peace officer, before issuing a notice to appear, to refer a minor to a community-based resource, the probation department, a health agency, a local educational agency, or other governmental entity that may provide services instead of referring the minor to a community-based diversion or requiring the probation department to offer services if a community-based diversion is unavailable; (3) removes implementation dates of July 1, 2020; and (4) make other technical and conforming changes.

ANALYSIS:

Existing law:

- 1) Provides that if a minor between 12 years of age and 17 years of age, inclusive, has four or more trancies within one school year, as defined, or a school attendance review board or probation officer determines that the available public and private services are insufficient or inappropriate to correct the habitual truancy of the minor, or to correct the minor's persistent or habitual refusal to obey the reasonable and proper orders or directions of school authorities, or if the minor fails to respond to directives of a school attendance review board or probation officer or to services provided, the minor is then within the jurisdiction of the juvenile court which may adjudge the minor to be a ward of the court. (Welf. & Inst. Code, § 601, subd. (b).)
- 2) Provides that any peace officer or school administrator may issue a notice to appear to a minor who is within the jurisdiction of the juvenile court. (Welf. & Inst. Code, § 601, subd. (d).)
- 3) Provides that upon completion of the meeting, the probation officer or the district attorney, after consultation with the probation officer, may file a petition pursuant to Section 601 if the district attorney or the probation officer determines that available community resources cannot resolve the truancy

problem, or if the pupil or the parents or guardians of the pupil, or both, have failed to respond to services provided or to the directives of the school, the school attendance review board, the probation officer, or the district attorney. Provides that the truancy mediation program may be established by the district attorney or by the probation officer. Requires the district attorney and the probation officer to coordinate their efforts and cooperate in determining which office is best able to operate a truancy mediation program in their county. (Welf. & Inst. Code, § 601.3, subds. (e) & (f).)

- 4) Provides that probation departments may engage in activities designed to prevent juvenile delinquency. Provides that these activities include rendering direct and indirect services to persons in the community. Provides that probation departments may provide services to any juveniles in the community. (Welf. & Inst. Code, § 236.)
- 5) Provides that whenever any person applies to the probation officer to commence proceedings in the juvenile court, the application is required to be in the form of an affidavit alleging that there was or is within the county, or residing therein, a minor alleged to have committed a crime, or that a minor committed an criminal offense within the county, and setting forth supporting facts. Requires the probation officer to immediately make any investigation he or she deems necessary to determine whether proceedings in the juvenile court shall be commenced. Requires the probation officer to make a referral if the probation officer determines that it is appropriate to offer services to the family to prevent or eliminate the need for removal of the minor from his or her home. (Welf. & Inst. Code, § 653.5, subd. (a).)
- 6) Delineates the types of cases in which the probation officer is required to cause the affidavit to be taken within 48 hours to the prosecuting attorney, including cases in which it appears to the probation officer that the minor has previously been placed in a program of informal probation pursuant to Section 654. (Welf. & Inst. Code, § 653.5, subd. (c).)
- 7) Provides that if a probation officer concludes that a minor is within the jurisdiction of the juvenile court or will probably soon be within that jurisdiction, the probation officer may, in lieu of filing a petition to declare a minor a dependent child of the court or a minor or a ward of the court or requesting that a petition be filed by the prosecuting attorney to declare a minor a ward of the court and with consent of the minor and the minor's parent or guardian, delineate specific programs of supervision for the minor, for not to

exceed six months, and attempt thereby to adjust the situation that brings the minor within the jurisdiction of the court or creates the probability that the minor will soon be within that jurisdiction. Does not prevent the probation officer from filing a petition or requesting the prosecuting attorney to file a petition at any time within the six-month period or a 90-day period thereafter. Requires the probation officer to immediately file a petition or request that a petition be filed by the prosecuting attorney if the probation officer determines that the minor has not involved himself or herself in the specific programs within 60 days. (Welf. & Inst. Code, § 654.)

- 8) Mandates that the program of supervision require the parents or guardians of the minor to participate with the minor in counseling or education programs. (Welf. & Inst. Code, § 654.)
- 9) Authorizes the probation officer with consent of the minor and the minor's parent or guardian to provide the following services in lieu of filing a petition: placement in a sheltered-care facility or crisis resolution home, and vocational skill training via counseling and educational centers. (Welf. & Inst. Code, § 654, subds. (a)-(c).)
- 10) Provides that if a minor pupil in a school district of a county is a habitual truant, or is a chronic absentee, or is habitually insubordinate or disorderly during attendance at school that the pupil may be referred to a school attendance review board, or to the probation department for services if the probation department has elected to receive these referrals. (Ed. Code, § 48263, subd. (a).)
- 11) Provides that if the school attendance review board or probation officer determines that available community services cannot resolve the problem of the truant or insubordinate pupil or if the pupil or the parents or guardians of the pupil, or both, have failed to respond to directives of the school attendance review board or probation officer or to services provided, the school attendance review board may notify the district attorney or the probation officer, or both, of the county in which the school district is located, or the probation officer may notify the district attorney, if the district attorney or the probation officer has elected to participate in the truancy mediation program described in that section. Authorizes the school attendance review board or probation officer to direct the county superintendent of schools to request a petition on behalf of the pupil in the juvenile court of the county if the district attorney or the probation officer has not elected to participate in the truancy mediation program. (Ed. Code, § 48263, subd. (b)(2).)

- 12) Requires any pupil who has once been adjudged an habitual truant or habitually insubordinate or disorderly during attendance at school by the juvenile court of the county, who is reported as a truant from school one or more days or tardy on one or more days without valid excuse, in the same school year or in a succeeding year, or habitually insubordinate, or disorderly during attendance at school, to be brought to the attention of the juvenile court and the pupil's probation or parole officer within 10 days of the reported violation. (Ed. Code, § 48267.)
- 13) Authorizes a court, in addition to any judgment it may make regarding the pupil, to render judgment that the parent, guardian, or person having the control or charge of the pupil shall deliver the pupil beginning of each schoolday, for the remainder of the school term, at the school from which the pupil is a truant, or in which he has been insubordinate or disorderly during attendance, or truant or to a school designated by school authorities. (Ed. Code, § 48268.)

This bill limits the authority of a probation department to supervise and provide services to minors who are within the jurisdiction of the juvenile courts and eliminates the provision of law that makes a minor who persistently or habitually refuses to obey the reasonable and proper orders or directions of school authorities within the jurisdiction of the juvenile court. Specifically, this bill:

- 1) Repeals the provision of law that provides that a minor who persistently or habitually refuses to obey the reasonable and proper orders or directions of school authorities within the jurisdiction of the juvenile court.
- 2) Repeals the authority of any school administrator to issue a notice to appear to a minor who is within the jurisdiction of the juvenile court and requires a peace officer to refer a minor to a community-based resource, the probation department, a health agency, a local educational agency, or other governmental entities that may provide services before issuing a notice to appear.
- 3) Requires the district attorney and the probation officer to coordinate their efforts and to cooperate in determining whether another public agency, a community-based organization, the probation department, or the district attorney is best able to operate a truancy mediation program in their county.
- 4) Specifies that services or programs offered to minors or minor's parents or guardians who are not on probation are voluntary and prohibits those services

and programs from including probation conditions or consequences as a result of not engaging in or completing them.

- 5) Specifies, for minors not on probation, that the provision of services or programs shall not be construed to allow probation departments to maintain a formal or informal caseload, establish formal or informal contracts with minors or minor's parents or guardians, or create mandated-probation conditions.
- 6) Requires a probation officer, if the probation officer determines that it is appropriate to recommend services to the family to prevent or eliminate the need for removal of the minor from the minor's home, to refer the youth to services provided by a health agency, community-based organization, local educational agency, an appropriate non-law enforcement agency, or the probation department.
- 7) Defines "community-based organization" to mean a public or private nonprofit organization of demonstrated effectiveness that is representative of a community or significant segments of a community and provides educational, physical, or mental health, recreational, arts, and other youth development or related services to individuals in the community.
- 8) Repeals the authority for a probation officer to take actions when the probation officer concludes that a minor will probably soon be within that jurisdiction. Provides instead, that if a probation officer concludes that a minor is within the jurisdiction of the juvenile court, or would come within the jurisdiction of the court if a petition were filed, then the probation officer may, in lieu of filing a petition to declare a minor a ward of the court under Section 601 or requesting that a petition be filed by the prosecuting attorney to declare a minor a ward of the court under Section 602 and with consent of the minor and the minor's parent or guardian, refer the minor to services provided by a health agency, community-based organization, local educational agency, an appropriate non-law enforcement agency, or the probation department.
- 9) Authorizes the probation officer to delineate specific programs of supervision for the minor if the services are provided by the probation department.
- 10) Eliminates the mandate that the probation officer file a petition or request that a petition be filed by the prosecuting attorney if the probation officer determines that the minor has not participated in the specific programs within 60 days, and instead gives the probation officer the discretion to do those things.

- 11) Encourages, instead of requires, parents or guardians of a minor subject to a program of supervision to participate with the minor in counseling or education programs, including, but not limited to, parent education and parenting programs operated by community colleges, school districts, or other appropriate agencies designated by the court.
- 12) Repeals provisions of law authorizing reimbursement by a minor's parent or guardian for services rendered, and revises existing provisions of law to authorize probation to contract with community-based organizations or public agencies to provide services, including counseling and mental health resources, educational supports, and arts, recreation, and other youth development services, and other youth development services.
- 13) Includes various legislative findings and declarations.
- 14) Makes other conforming changes.

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

According to the Senate Appropriations Committee:

- Unknown, potentially-significant costs in the hundreds of thousands of dollars annually in the aggregate to probation departments to, in part, provide diversion services to specified youth if no such services are offered from a community-based organization and to make specified referrals. Actual costs would depend on how many community-based organizations currently offer diversion services, the capacity of those programs, and where those services are located (e.g., if they are offered in every county). Local costs to comply with this measure likely would be subject to reimbursement from the General Fund as a state-mandated local program, the extent of which would be determined by the Commission on State Mandates. (General Fund, local funds)
- Additional unknown, likely-reimbursable costs to local law enforcement agencies to provide referrals to community-based diversion programs rather than issuing notices to appear in juvenile court.

SUPPORT: (Verified 8/17/20)

ACLU of California (co-source)

Public Counsel (co-source)

Youth Justice Coalition (co-source)

ALECTRONICS Research Center International, Inc.
Alliance for Boys and Men of Color
Anti-Recidivism Coalition
California Attorneys for Criminal Justice
California Pan-Ethnic Health Network
California Public Defenders Association
Center on Juvenile and Criminal Justice
Children's Defense Fund- California
Children's Initiative
Children's Law Center of California
Communities United for Restorative Youth Justice
Community Now
Courage Campaign
Disability Rights California
Dolores Huerta Foundation
Drug Policy Alliance
Ella Baker Center for Human Rights
Fair Chance Project
Fathers & Families of San Joaquin
Felony Murder Elimination Project
GLIDE
Homeboy Industries
League of Women Voters of California
MILPA
National Center for Youth Law
National Institute for Criminal Justice Reform
National Juvenile Justice Network
Owens Small Family Home
Pacific Juvenile Defense Center
Resilience Orange County
Riverside County Black Chamber of Commerce
RYSE Center
San Francisco Public Defender's Office
Santa Cruz County Chief Probation Officer
Social Justice Learning Institute
Vermont Village Community Development, Inc.
W. Haywood Burns Institute
Western Center on Law and Poverty
Women's Foundation of California
Youth Law Center

1 individual

OPPOSITION: (Verified 8/17/20)

Alameda County District Attorney
California County Superintendents Educational Services Association
California District Attorneys Association
California State Sheriffs' Association
Del Norte County Probation Department
Fraternal Order of Police
Los Angeles County Probation Officers Union, AFSCME Local 685
Monterey County Board of Supervisors
Sacramento County Board of Supervisors
Solano County Board of Supervisors

ASSEMBLY FLOOR: 42-27, 5/29/19

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Bonta, Burke, Carrillo, Chau, Chiu, Chu, Friedman, Gabriel, Cristina Garcia, Gipson, Gloria, Gonzalez, Holden, Jones-Sawyer, Kalra, Kamlager-Dove, Levine, Limón, Low, McCarty, Medina, Mullin, Nazarian, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Smith, Mark Stone, Ting, Weber, Wicks, Wood, Rendon

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

NO VOTE RECORDED: Boerner Horvath, Calderon, Cooley, Daly, Eggman, Eduardo Garcia, Grayson, Maienschein, O'Donnell, Ramos, Rodriguez

Prepared by: Brandon Darnell / ED. /
8/17/20 12:01:24

**** END ****

CONSENT

Bill No: AB 904
Author: Chau (D)
Amended: 6/29/20 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 7-0, 7/31/20
AYES: Skinner, Moorlach, Bradford, Jackson, Mitchell, Morrell, Wiener

ASSEMBLY FLOOR: 78-0, 1/27/20 - See last page for vote

SUBJECT: Search warrants: tracking devices

SOURCE: Author

DIGEST: This bill clarifies that if a law enforcement agency utilizes software to track a person's movements, whether in conjunction with a third party or by interacting with a person's electronic device, the provisions for obtaining a tracking device search warrant apply.

ANALYSIS:

Existing law:

- 1) Provides that the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized. (U.S. Const., 4th Amend.; Cal. Const., Art. I, § 13.)
- 2) Provides that a search warrant is an order in writing, in the name of the people, signed by a magistrate, directed to a peace officer, commanding him or her to search for a person or persons, a thing or things, or personal property, and, in the case of a thing or things or personal property, bring the same before the magistrate. (Pen. Code, § 1523.)

- 3) Provides that a search warrant may be issued for specified grounds. (Pen. Code § 1524 (a)(1)-(19).)
- 4) Permits a tracking device search warrant to be issued when the information to be received from the use of a tracking device constitutes evidence that tends to show that either a felony, or a misdemeanor violation of the Fish and Game Code and the Public Resources Code, and the device will assist in locating an individual who has committed or is committing a felony, or a misdemeanor violation of the Fish and Game Code or Public Resources Code. (Pen. Code § 1534.)
- 5) Provides that a tracking device search warrant may be issued as specified, and that the warrant shall identify the person or property to be tracked, and shall specify a reasonable length of time, not to exceed 30 days from the date the warrant is issued, that the device may be used. Permits the court to, for good cause, grant one or more extensions for the time that the device may be used. (Pen. Code § 1534 (b).)
- 6) Requires that the search warrant command the officer to execute the warrant by installing a tracking device or serving a warrant on a third-party possessor of the tracking data, and requires the officer to perform any installation authorized by the warrant during the daytime unless the magistrate, for good cause, expressly authorizes installation at another time. Requires execution of the warrant be completed no later than 10 days immediately after the date of issuance. (Pen. Code, § 1534 (b).)
- 7) Provides that an officer executing a tracking device search warrant shall not be required to knock and announce his or her presence before executing the warrant. (Pen. Code § 1534 (b)(2).)
- 8) Requires, no later than 10 calendar days after the use of the tracking device has ended, the officer executing the warrant to file a return to the warrant. (Pen. Code § 1534 (b) (3).)
- 9) Requires, no later than 10 calendar days after the use of the tracking device has ended, the officer who executed the tracking device warrant to notify the person who was tracked or whose property was tracked as specified, and permits delay as specified. (Pen. Code § 1534 (b)(4).)
- 10) Authorizes an officer installing a device authorized by a tracking device search warrant to install and use the device only within California. (Pen. Code § 1534 (b)(5).)

- 11) Defines “tracking device” to mean any electronic or mechanical device that permits the tracking of the movement of a person or object. (Pen. Code § 1534 (b)(6).)
- 12) Enacts the California Electronic Communications Privacy Act (CalECPA), which generally prohibits a government entity from compelling the production of or access to electronic communication information or electronic device information without a search warrant, wiretap order, order for electronic reader records, or subpoena issued pursuant to specified conditions, except for emergency situations. (Pen. Code §§ 1546-1546.4.)
- 13) Provides that a government entity may access electronic device information by means of a physical interaction or electronic communication device only: pursuant to a warrant; wiretap; with authorization of the possessor of the device; with consent of the owner of the device; in an emergency; if seized from an inmate. (Pen. Code § 1546.1(b).)
- 14) Specifies the conditions under which a government entity may access electronic device information by means of physical interaction or electronic communication with the device, such as pursuant to a search warrant, wiretap order, tracking device search warrant, or consent of the owner of the device. (Pen. Code § 1546.1 (c).)
- 15) Allows a service provider to voluntarily disclose electronic communication information or subscriber information, when the disclosure is not otherwise prohibited under state or federal law. (Pen. Code § 1546.1 (f).)
- 16) Provides that if a government entity receives electronic communication voluntarily it shall destroy that information within 90 days except under specified circumstances. (Pen. Code, § 1546.1 (g).)
- 17) Provides for notice to the target of a warrant or an emergency obtaining electronic information to be provided either contemporaneously with the service of the warrant or within three days in an emergency situation. (Pen. Code, § 1546.2 (a).)
- 18) Allows a person in a trial, hearing, or proceeding to move to suppress any electronic information obtained or retained in violation of the Fourth Amendment or the CalECPA. (Pen. Code, § 1546.4 (a).)
- 19) Makes it a public offense to knowingly access and without permission take, copy, or make use of any data from a computer, computer system, or computer network, or take or copy any supporting documentation, whether existing or

residing internal or external to a computer, computer system, or computer network. (Pen. Code § 502 (b)(2).)

This bill:

- 1) Clarifies that the definition of “tracking device” includes the software used in tracking.
- 2) Provides that it shall not be construed to authorize the use of any device or software for the purpose of tracking the movement of a person or object.

Background

Existing Law Requires a Warrant to Track a Person’s Movements

In 2012, the United States Supreme Court held in *United States v. Jones* that the use of a self-contained GPS tracking device (“slap-on”) on a motor vehicle to monitor the vehicle’s movements constituted a “search.” Thus a warrant is required to utilize such technology. That year, California passed AB 2055 (Fuentes) Chapter 818 to codify and expand the case, and require a warrant when a government entity utilizes such tracking device. Now, Pen. Code, §1534 sets forth specific procedures for obtaining a tracking device search warrant. Tracking devices may only be used to investigate felony violations, or misdemeanor violations of the Public Resources Code and the Fish and Game Code. A tracking device warrant is not authorized for other misdemeanor conduct for which a warrant for historical information is permitted, like to investigate a misdemeanor offense involving a motor vehicle.¹

After CalECPA was passed by the Legislature in 2015, there was concern that the law nullified existing provisions of law permitting the use of pen registers and tracking devices. The next year, the Legislature passed AB 1924 (Low) Chapter 511 to incorporate existing laws permitting the use of pen registers and tracking devices into CalECPA. The result of amending CalECPA to include the tracking device search warrant procedures was to establish that any time a law enforcement agent seeks to obtain a person’s real-time location data, that a warrant complying with Pen. Code, §1534 is required, whether the tracking occurs by utilizing a “slap-on” device or by compelling production of that information from a service provider through CalECPA, or by physically interacting with an electronic device, or by electronically communicating with an electronic device.

CalECPA sets forth rules when a government agency seeks to access a person’s information from a third party, like Google, or when an official seeks to seize a

¹ Pen. Code, § 1524, subd. (a)(19).

person's cellphone and search it. The plain language of CalECPA encompasses activity that may arguably constitute certain types of hacking activity of an electronic device by specifying that the law's dictates apply when government engages in "physical interaction or electronic communication with the device." Pen. Code, § 1546.1, subd. (c).

Cellphones, vehicle computer systems, and other electronic devices are susceptible to being hacked, and also to receiving malware, a virus, or software which exploit a vulnerability in a device's operating system and provide the entity exploiting the vulnerability the ability to access, among other things, a person's location data.

This bill clarifies that the procedures for employing a tracking device, including heightened and specified warrant requirements, must be complied with if a law enforcement agency uses software by means of physical interaction or electronic communication with an electronic device, to track a person's movements. The most recent amendments clarify that it is not intended to authorize the use of a device to track an individual.

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

SUPPORT: (Verified 7/31/20)

California Attorneys for Criminal Justice

OPPOSITION: (Verified 7/31/20)

None received

ASSEMBLY FLOOR: 78-0, 1/27/20

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

NO VOTE RECORDED: Cervantes, Rendon

Prepared by: Mary Kennedy / PUB. S. /
8/5/20 12:01:35

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

CONSENT

Bill No: AB 908
Author: O'Donnell (D)
Amended: 8/1/20 in Senate
Vote: 27 - Urgency

SENATE EDUCATION COMMITTEE: 7-0, 7/29/20
AYES: Leyva, Wilk, Chang, Durazo, Glazer, McGuire, Pan

ASSEMBLY FLOOR: 78-0, 1/27/20 - See last page for vote

SUBJECT: Pupils: extracurricular activities: work permits

SOURCE: Author

DIGEST: This bill, an urgency measure: (1) authorizes a school district to extend its probationary period for pupils to demonstrate satisfactory progress, for purposes of extracurricular and cocurricular activities, through the conclusion of the 2020-21 school year; (2) authorizes documentation required for purposes of pupil work permits to be submitted electronically during an extended school closure due to a natural disaster, pandemic, or other emergency; and (3) prohibits a work permit from being denied based on a pupil's grades, grade point average, or school attendance when the pupil's school has been physically closed for an extended time due to natural disaster, pandemic, or other emergency.

ANALYSIS:

Existing law:

- 1) Requires the governing board of a school district that maintains one or more schools containing any of grades 7 to 12, inclusive, as a condition for the receipt of funding, to establish a school district policy regarding participation in extracurricular and cocurricular activities by pupils in grades 7 to 12, inclusive. (Education Code § 35160.5)

- 2) Requires the criteria in the policy, which must be applied to extracurricular and cocurricular activities, to ensure that pupil participation is conditioned upon satisfactory educational progress in the previous grading period.
- 3) Defines “extracurricular activity” to mean a program that has all of the following characteristics:
 - a) The program is supervised or financed by the school district.
 - b) Pupils participating in the program represent the school district.
 - c) Pupils exercise some degree of freedom in either the selection, planning, or control of the program.
 - d) The program includes both preparation for performance and performance before an audience or spectators.
 - e) Is not part of the regular school curriculum, is not graded, does not offer credit, and does not take place during classroom time. (EC § 35160.5)
- 4) Specifies that “satisfactory educational progress” includes, is not necessarily limited to, both of the following:
 - a) Maintenance of minimum passing grades, which is defined as at least a 2.0 grade point average in all enrolled courses on a 4.0 scale.
 - b) Maintenance of minimum progress toward meeting the high school graduation requirements prescribed by the governing board. (EC § 35160.5)
- 5) Authorizes the governing board of each school district to adopt, as part of its policy, provisions that would allow a pupil who does not achieve satisfactory educational progress in the previous grading period to remain eligible to participate in extracurricular and cocurricular activities during a probationary period. (EC § 35160.5)
- 6) Prohibits the probationary period from exceeding one semester in length, but authorizes it to be for a shorter period of time, as determined by the governing board of the school district. (EC § 35160.5)
- 7) Prohibits a pupil who does not achieve satisfactory educational progress during the probationary period from being allowed to participate in extracurricular and cocurricular activities in the subsequent grading period. (EC § 35160.5)

- 8) Authorizes specified persons, including the superintendent of a pupil's school district and the chief executive officer of a pupil's charter school, and the principle (or their designee) of the pupil's school, to issue a work permit to a minor, subject to specified requirements and conditions. (EC § 49100, et seq.)
- 9) Prohibits the issuance of a work permit until the written request for the permit from the parent, guardian, foster parent, caregiver with whom the minor resides, or residential shelter services provider, has been filed with the issuing authority. (EC § 49110)
- 10) Requires a work permit to contain, among other things, the signature of the minor and the issuing authority. (EC § 49115)
- 11) Prohibits the issuance of a permit for a minor to work full time until the minor accompanied by his parent or guardian, appears before the person authorized to issue the permit and makes application therefor. (EC § 49132)

This bill, an urgency measure: (1) authorizes a school district to extend its probationary period for pupils to demonstrate satisfactory progress, for purposes of extracurricular and cocurricular activities, through the conclusion of the 2020-21 school year; (2) authorizes documentation required for purposes of pupil work permits to be submitted electronically during an extended school closure due to a natural disaster, pandemic, or other emergency; and (3) prohibits a work permit from being denied based on a pupil's grades, grade point average, or school attendance when the pupil's school has been physically closed for an extended time due to natural disaster, pandemic, or other emergency. Specifically, this bill:

- 1) Authorizes the governing board of each school district to adopt a policy that would allow a probationary period to exceed one semester in length through the completion of the 2020–21 school year due to the impact of COVID-19.
- 2) Authorizes the documentation required for purposes of work permits to be collected electronically during an extended school closure due to a natural disaster, pandemic, or other emergency.
- 3) Prohibits the denial of a work permit based on a pupil's grades, grade point average, or school attendance when the pupil's school has been physically closed for an extended time due to a natural disaster, pandemic, or other emergency.
- 4) Prohibits, specifically, the denial of a full-time work permit for pupils ages 14 and 15 on the basis of failing to appear before the person authorized to issue the work permit if all of the following apply:

- a) The minor's school is physically closed for an extended period of time because of a natural disaster, pandemic, or other emergency.
 - b) The minor's application is complete and has been successfully submitted electronically.
 - c) The minor, accompanied by the minor's parent or guardian, has attended a video conference with the person issuing the work permit.
- 5) Provides that it is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect, and that the facts constituting the necessity are that COVID-19 is a global health crisis that has caused extended school closures in the 2019–20 school year. These school closures jeopardize the ability of pupils to participate in certain extracurricular activities in the 2020–21 school year and to obtain work permits to engage in part-time employment outside of school hours. In order to timely prevent these hardships to pupils due to COVID-19, it is necessary that this bill take effect immediately.

Comments

- 1) *Need for the bill.* According to the author, “The COVID pandemic and related school closures have impacted the lives of students in numerous ways. This bill deals with two such issues, the ability of students to participate in extracurricular activities, as well as their ability to be authorized to hold a job outside of school hours. The bill clarifies that student attendance and grades during extended school closures should not be determining factors in denying students the right to participate in extracurricular activities, or to hold a job outside of school hours. The bill also authorizes schools to accept documentation related to work permits in electronic formats.”
- 2) *COVID-19.* COVID-19, also known as "coronavirus", is a respiratory illness caused by a novel virus that has spread worldwide. As of July 1, 2020, over 230,000 cases have been confirmed in California and over 6,000 individuals have died in the state. To mitigate the spread of the pandemic, virtually all schools in California closed their campuses in mid-March 2020, and those campuses remained closed through the end of the 2019-20 school year. In response, the vast majority of schools transitioned to “distance learning.” However, decisions of whether to close schools, offer meals, and how to provide distance learning were made locally by local educational agencies. Additionally, epidemiological models of COVID-19 predict recurrent

outbreaks that may necessitate prolonged or intermittent social distance measures into at least 2021, and schools will likely repeatedly face the decision of whether to close schools to protect student and employee safety throughout the 2020-21 school year.

- 3) *Fall sports delayed until the spring.* According to the California Interscholastic Federation (CIF), which governs high school sports in California, “it has determined, in collaboration with its 10 Sections, that education-based athletics for the 2020-2021 school year will begin with a modified season of sport schedule... It is anticipated that most Section start dates will commence in December 2020 or January 2021.

“We are continuously monitoring the directives and guidelines released from the Governor's Office, the California Department of Education, the California Department of Public Health, and local county health departments and agencies as these directives and guidelines are followed by our member schools/school districts with student health and safety at the forefront. As these guidelines change, CIF Sections may allow for athletic activity to potentially resume under the summer period rules of the local Section.”

- 4) *Satisfactory educational progress and probationary periods.* Existing law provides that a pupil demonstrates satisfactory educational progress by maintaining at least a 2.0 grade point average in all enrolled courses on a 4.0 scale, and minimum progress toward meeting the high school graduation requirements prescribed by the governing board. As described above, existing law also authorizes the governing board of a school district, in its adopted policy, a probationary period not to exceed one semester when a pupil does not achieve satisfactory educational progress in the previous grading period.

The impact of COVID-19 on the educational system, particularly in the spring of 2020, but also moving into the 2020-2021 school year, creates a unique situation. In the spring of 2020, students and teachers were thrust into impromptu distance learning, which varied greatly across the state. Some local educational agencies implemented a pass/fail grading system, while others reinstituted grading at various points. Some even held grades harmless.

As we move into the 2020-2021 school year, distance learning will again be utilized by many districts. As students, teachers, and parents, adjust to this new normal for the immediate future, some students may struggle to adjust. When athletics do return to our schools, it is reasonable to allow school districts the ability afford students a probationary period that extends through

the end of the 2020-2021 school year, should they so choose. This bill accomplishes that.

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

SUPPORT: (Verified 8/1/20)

California Interscholastic Federation
Los Angeles Unified School District

OPPOSITION: (Verified 8/1/20)

None received

ASSEMBLY FLOOR: 78-0, 1/27/20

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

NO VOTE RECORDED: Cervantes, Rendon

Prepared by: Brandon Darnell / ED. /
7/31/20 17:53:58

**** END ****

THIRD READING

Bill No: AB 992
Author: Mullin (D)
Amended: 7/31/20 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 6-0, 7/29/20
AYES: McGuire, Moorlach, Beall, Hertzberg, Hurtado, Wiener
NO VOTE RECORDED: Nielsen

ASSEMBLY FLOOR: 57-13, 1/30/20 - See last page for vote

SUBJECT: Open meetings: local agencies: social media

SOURCE: Author

DIGEST: This bill creates an exception to the Brown Act prohibition against serial communications when members use social media in specified ways.

ANALYSIS:

Existing law:

- 1) Guarantees in Article I, Section 3 of the California Constitution that the people have the right to instruct their representatives, petition government for redress of grievances, assemble freely to consult for the common good, which includes a right to access information concerning the meetings and writings of public officials.
- 2) Requires 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) Establishes the Ralph M. Brown Act, which provides guidelines for how local agencies must hold public meetings.

- 4) 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.
- 5) 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.
- 6) Defines a “meeting” as any congregation of a majority of the member 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.
- 7) Prohibits a majority of members from using a series of communications of any kind, or acting through an intermediary, to discuss, deliberate, or take action on any issue in its jurisdiction outside of a meeting. This does not prevent employees or members from engaging in conversations outside of meetings to answer questions or provide information, provided that the other person does not share that communication with other members of the legislative body.
- 8) Provides specified exceptions to the serial communication prohibition, including individual contacts or conversations between a member of a legislative body and any other person that does not otherwise violate the Brown Act.
- 9) Provides that the serial communication prohibition does not apply to specified types of meetings attended by a majority of members, provided that members do not discuss among themselves specific issues under their jurisdiction.

This bill:

- 1) Provides that the Brown Act’s prohibition on serial communications shall not be construed to prevent a member of a local agency’s legislative body from engaging in communications on an internet-based social media platform to answer questions, provide information to the public, or solicit information from the public regarding matters in its jurisdiction provided that members do not discuss among themselves business of a specific nature within their jurisdiction.
- 2) Prohibits members of a legislative body from responding directly to any communication on an Internet-based social media platform regarding a matter

within their subject matter jurisdiction from another member of the legislative body.

- 3) Defines “discuss among themselves” to mean communications made, posted, or shared on an Internet-based social media platform between members of a legislative body, including comments or use of digital icons made by other members.
- 4) Defines “internet-based social media platform” to mean an online service that is open and accessible to the public.
- 5) Defines “open and accessible to the public” to mean the members of the general public have the ability to access and participate on the platform without approval by the platform or any other person, including any forum and chatroom, and cannot be blocked from doing so, except when the platform determines that an individual violated its protocols or rules.
- 6) Repeals its provisions on January 1, 2026.
- 7) Includes findings and declarations that this bill imposes a limitation on the public’s right of access to public meetings. Pursuant to Section 3 of Article 1 of the California Constitution, this bill states this limitation is necessary to ensure the free flow of communication between the members of a legislative body and the public.

Background

While social media use has proliferated, the Brown Act does not have rules specific to this form of communication, and courts would treat it similarly to other types of electronic communication. Given this lack of judicial direction, the League of California Cities reports that some city attorneys have cautioned their city council members from using social media to avoid inadvertently holding a meeting under the Brown Act.

If a member of the public, including the respective district attorney, believes a local agency, or its members, 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.

Comments

- 1) *Purpose of the bill.* According to the author, “AB 992 simply clarifies that members of local elected bodies may engage on social media provided they do not interact in any way that violates the Ralph M. Brown Act. More specifically AB 992 allows members to use social media provided that a majority of the members do not discuss among themselves, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency. AB 992 does not undermine existing Brown Act prohibitions, but clarifies the gray area that many local government officials and their legal teams are struggling with when connecting with their constituents.”
- 2) *Transparency.* Since its inception, the Brown Act has sought to insure that local agencies hold open and public meetings. While the methods that constituents use to communicate with their elected officials has evolved from personal computers to e-mail, and now text messages and social media, the Brown Act continues to prohibit elected officials from meeting and making decisions outside the public eye. When some elected officials sought to circumvent requirements to make decisions out in the open, the Legislature amended the Brown Act to add the serial communications prohibition without regard to the specific form that communication takes. AB 992 creates a new exception to this prohibition on serial communication to facilitate the use of social media. If exploited, local elected officials could misuse these provisions by moving some conversations currently reserved for open and public meetings onto social media without the same public meeting requirements. Whether the bill achieves the right balance between constitutional and statutory public access requirements and the free flow of communication is unclear. To help determine whether additional legislative action is necessary to achieve this balance, the bill includes a five-year sunset.
- 3) *Digital divide.* With the rise of social media, social media platforms have provided opportunities for elected officials to post and share their general thoughts on local issues, promote legislation they are working on, and connect with their constituents. While it may seem that social media is generally open and available to the public, several communities such as low-income and rural communities may not have the same level of access to social media to attend or learn about their local elected officials social media activities. Generally, when attending a public meeting of a legislative body individuals are not required to provide identification or other personal information to attend or participate in a meeting. The Legislature may wish to consider whether exempting certain

social media participation from the Brown Act serial communications prohibition could increase barriers for communities with limited access to broadband.

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

SUPPORT: (Verified 7/30/20)

California Special Districts Association
California State Association of Counties
League of California Cities

OPPOSITION: (Verified 7/30/20)

None received

ASSEMBLY FLOOR: 57-13, 1/30/20

AYES: Arambula, Berman, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Chau, Chiu, Chu, Cooley, Cooper, Cunningham, Daly, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Levine, Limón, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Obernolte, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Waldron, Weber, Wicks

NOES: Aguiar-Curry, Bauer-Kahan, Brough, Chen, Choi, Megan Dahle, Diep, Fong, Lackey, Mathis, Melendez, Patterson, Voepel

NO VOTE RECORDED: Bigelow, Cervantes, Eggman, Flora, Frazier, Gallagher, Gray, Kamlager, Wood, Rendon

Prepared by: Jonathan Peterson / GOV. & F. / (916) 651-4119
7/31/20 17:51:57

**** END ****

THIRD READING

Bill No: AB 1080
Author: Gonzalez (D), Calderon (D), Friedman (D) and Ting (D), et al.
Amended: 8/18/20 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-0, 7/3/19
AYES: Allen, Hill, Skinner, Stern, Wieckowski
NO VOTE RECORDED: Bates, Dahle

SENATE APPROPRIATIONS COMMITTEE: 5-1, 8/30/19
AYES: Portantino, Bradford, Durazo, Hill, Wieckowski
NOES: Jones
NO VOTE RECORDED: Bates

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-0, 9/10/19
AYES: Allen, Hill, Skinner, Stern, Wieckowski
NO VOTE RECORDED: Bates, Dahle

ASSEMBLY FLOOR: 44-19, 5/30/19 - See last page for vote

SUBJECT: Solid waste: packaging and products

SOURCE: Authors

DIGEST: This bill enacts the California Circular Economy and Plastic Pollution Reduction Act (Act), which would impose a comprehensive regulatory scheme on producers, retailers, and wholesalers of single-use packaging, as defined, and priority single-use products, as defined, to be administered by the Department of Resources Recycling and Recovery (CalRecycle).

Senate Floor Amendments of 8/18/20 narrow the bill to apply to priority single-use products that are made partially or entirely of plastic and single-use packaging made partially or entirely of plastic; exempt certain small producers, wholesalers, and retailers; require CalRecycle to adopt regulations that would allow producers

to from a stewardship organization; gives producers an additional 2 years to comply with the Act; give CalRecycle an additional year to adopt regulations; and shift the responsibility of collecting the California circular economy regulatory fee from CalRecycle to the California Department of Tax and Fee Administration.

ANALYSIS:

Existing law:

- 1) Establishes, under the Integrated Waste Management Act of 1989 (IWMA), a state recycling goal of 75 percent of solid waste generated to be diverted from landfill disposal through source reduction, recycling, and composting by 2020. Requires each state agency and each large state facility to divert at least 50 percent of all solid waste through source reduction, recycling, and composting activities.
- 2) Requires, under the Alcoholic Beverage Control Act, an out-of-state vendor shipping beer into the state to hold a certificate of compliance granted by the Department of Alcoholic Beverage Control. The Department of Alcoholic Beverage Control is authorized to suspend or revoke the certificate of compliance if an out-of-state vendor fails to submit a certain monthly report or fails to comply with a certain provision of the Bottle Bill.

This bill enacts the California Circular Economy and Plastic Pollution Reduction Act (Act). Specifically, this bill:

- 1) Requires producers of single-use packaging or priority single-use products to source reduce, to the maximum extent feasible; to ensure that by 2032 all single-use packaging and priority single-use products manufactured on or after January 1, 2032, and offered for sale, sold, distributed, or imported in or into California are recyclable or compostable; and ensure that all single-use packaging or priority single-use products offered for sale, sold, distributed or imported in or into the state meet certain recycling rates.
 - a) Requires CalRecycle to develop criteria for exemptions for small producers, retailers, and wholesalers, as specified.
- 2) Requires CalRecycle to achieve and maintain, by 2032, a statewide 75 percent reduction of the waste generated from single-use packaging and priority single-use products through source reduction, recycling, or composting. Requires CalRecycle, by January 1, 2025, to adopt regulations to implement the Act,

including packaging categories and the priority single-use products that are considered plastic for purposes of the Act.

- a) Requires CalRecycle to establish a baseline for the 75% waste reduction requirement for each packaging and product category based on waste characterization studies and other information received by CalRecycle.
- 3) Defines “packaging” as any material made partially or entirely of plastic used for the containment, protection, handling, delivery, or presentation of goods by the producer for the user or consumer, ranging from raw materials to processed goods.
- 4) Defines “priority single-use products” as single-use food service ware made partially or entirely of plastic, including plates, bowls, cups, utensils, stirrers, and straws.
- 5) Excludes from the Act beverage containers subject to the California Beverage Container Recycling and Litter Reduction Act; medical products and products defined as prescription drugs and medical devices; drugs that are used for animal medicines; infant formula; medical food; and fortified oral nutritional supplements; packaging used for any of the aforementioned products; packaging used to contain toxic or hazardous products regulated by the Federal Insecticide, Fungicide, and Rodenticide Act; and plastic packaging containers that are manufactured for the shipment of hazardous materials, as specified.
- 6) Allows CalRecycle, at any point, to develop a plan to phase packaging and products identified as presenting unique challenges into regulations and to exempt a single-use packaging or priority single-use product that cannot comply with the Act due to health and safety reasons or because it is unsafe to recycle.
- 7) Requires CalRecycle, before adopting the regulations, to conduct extensive outreach to stakeholders and local agencies, as specified; to identify and evaluate specified regulator measures aimed at reducing single-use packaging and priority single-use products for potential inclusion into the regulations; and identify opportunities that would further the purposes of the Act.
- 8) Requires CalRecycle to develop a checklist of source reduction measures and provides that a producer that complies with all applicable measures on the checklist is in compliance with the requirement to source reduce to the maximum extent feasible.

- 9) Requires producers, retailers, and wholesalers to register with, and to report certain information to, CalRecycle for purposes of determining compliance with the Act; and requires CalRecycle to try to use records and information that the producer, retailer, or wholesaler already maintains to ensure that reporting and recordkeeping requirements are the least burdensome option.
- 10) Requires CalRecycle to develop criteria to determine which types of single-use packaging or priority single-use products are reusable, recyclable, or compostable.
- 11) Requires CalRecycle to establish a Circular Economy and Waste Pollution Reduction Panel, with a prescribed membership and specified duties.
 - a) Allows an affected entity to bring information to the panel for evaluation if specific actions taken pursuant to the Act are disrupting or otherwise adversely affecting the sustained operation or commercial viability of solid waste collection programs, solid waste recycling facilities, or composting facilities. If the evaluation demonstrates that the actions are disruptive or adversely affecting existing operations, requires the panel to submit the concern to CalRecycle for further analysis.
- 12) Requires single-use packaging and priority single-use products offered for sale, sold, distributed, or imported in or into the state by a producer to meet specified recycling rates and authorizes a producer to demonstrate compliance with the recycling rates by submitting to CalRecycle evidence that the packaging or product meets the applicable recycling rate threshold by referencing a recycling rate on a list maintained by CalRecycle. Authorizes CalRecycle to adjust the required recycling rate.
- 13) Requires CalRecycle to adopt regulations allowing producers to meet the requirements of the Act by forming a stewardship organization that adopts an approved stewardship plan that meets certain requirements including, that the plan describes how it will provide for a market for single-use packaging materials or priority single-use products and that the plan does not violate existing franchise agreements. Requires a memorandum of understanding with the local agency if the stewardship plan proposes to implement a supplemental local program.

- 14) Requires CalRecycle to post on its website, and update every 6 months, a list of packaging and product categories that are not in compliance with the Act for noncompliant producers.
- 15) Prohibits retailers and wholesalers from offering for sale or selling single-use packaging, a product packaged in single-use packaging, or a priority single-use product listed as noncompliant on CalRecycle's website.
- 16) Authorizes CalRecycle to issue a notice of violation and impose an administrative civil penalty of up to \$50,000 per day per violation on an entity not in compliance with the Act, except for certain producers the penalty shall not exceed \$25,000 per day per violation. Authorizes CalRecycle to allow the producer to submit a corrective action plan. Specifies that a violation for the initial 2028 mandated recycled rate results in a notification.
- 17) Requires CalRecycle to establish the California Circular Economy Regulatory Fee, to be paid by producers, to cover the reasonable regulatory costs of the Act, including a prudent reserve. Requires the fee to be established and adjusted based on specified factors. Requires that the fee imposed on a producer be proportionate to the cost of regulating that producer.
- 18) Requires the California Department of Tax and Fee Administration to collect the regulatory fee from producers for deposit in the California Circular Economy Fund, which is created by the Act. Makes money in the fund available to CalRecycle, upon appropriation, to fund the regulatory activities of the Act.
- 19) Authorizes the Department of Alcoholic Beverage Control to suspend or revoke an out-of-state vendor's certificate of compliance if the vendor fails to comply with the Act.
- 20) Prohibits, until 2032, a local agency from requiring a grocery store to use a certain type of food packaging for any food sold in the grocery store unless the majority of residential households in that jurisdiction have access to a curbside program that accepts that material.
- 21) Prohibits a local agency, until 2032, from requiring a grocery store to use a food packaging container that does not meet certain standards for compostability.

Background

See the Senate Environmental Quality Committee Analysis for detailed background on this bill.

Comments

- 1) *The effect of National Sword on California recycling.* The shift in policy of the international markets have resulted in a major disruption in recycling commodities markets, a sign that California can no longer be primarily reliant on exports to manage its recyclable materials. As a result of these policies, more material is being stockpiled at solid waste facilities and recycling centers or disposed of in landfills. Because California has historically relied on being able to export a significant percentage of these materials, the state now has to figure out a new plan to manage these materials. Recycling requires markets to create new products for this material to close the loop.
- 2) *A comprehensive plan.* In recent years, the Legislature has addressed single-use plastic products, and its resulting waste, in piecemeal fashion. AB 1080 instead chooses a more holistic approach. This bill directs CalRecycle to examine single-use plastic packaging and priority single-use plastic products across-the-board and develop an approach that would not only aid the state in meeting its 75% diversion goal but also result in the reduction of waste; a decrease in plastic pollution; and its associated environmental impacts (like greenhouse gas emissions); and the creation of domestic markets for recyclable materials that will support the development of in-state recycling infrastructure.
- 3) *Mixed results for California Extended Producer Responsibility (EPR) programs.* Under AB 1080, producers may collectively form a stewardship organization that adopts a stewardship plan as an alternative to individually complying with Act. To date, the Legislature has enacted 4 EPR programs – paint, carpet, mattresses, and pharmaceutical and sharps waste – showing varying degrees of success. While CalRecycle does not appear to have oversight issues with the paint stewardship program, CalRecycle was subject to an audit for its oversight of the mattress recycling program. The carpet recycling program has encountered the most challenges of the EPR programs. According to the CalRecycle website, the enforcement history between CalRecycle and CARE, the organization in charge of the carpet recycling program, is extensive and complicated. Only enacted in 2018, the

pharmaceutical and sharps waste program is still in development.

- 4) *Recyclability depends on a variety of factors.* Opposition to the bill has expressed concern over the provision that would subject certain items to meet specified recycling rates. Opposition has argued that there are many variables that affect the recycling rate, including end-markets and consumer behavior. Recycling rates cannot go up if there are no end-markets for the recyclable materials.

To address some of these concerns, AB 1080 allows CalRecycle to adjust the recycling rate for single-use packaging and priority single-use products as needed to achieve the 75% reduction of waste from single-use packaging and priority single-use products.

The aim of AB 1080 is to develop those end-markets, resulting in the more sustainable manufacturing of products and packaging. AB 1080 requires CalRecycle to adopt regulations that would create a closed-loop system of products made out of recycled plastic. AB 1080's comprehensive approach also factors in consumer behavior. For example, CalRecycle is required to evaluate means of avoiding the litter or improper disposal of single-use packaging, products, or other materials likely to harm the environment or public health; and to evaluate labeling requirements that would help consumers adequately sort and recycle the end of life products.

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

According to the Senate Appropriations Committee,

- CalRecycle estimates one-time costs of about \$10 million in 2020 and 2021 (California Circular Economy Fund) to develop database systems that track and store product information and recycling rates.
- CalRecycle estimates ongoing administration and program implementation costs of about \$10 million annually (California Circular Economy Fund).
- Unknown but likely significant enforcement costs after 2024, likely in the tens of millions of dollars annually (California Circular Economy Fund), to ensure compliance with this bill.
- These costs would be offset by a fee on producers that would be established by this bill.

SUPPORT: (Verified 8/19/20)

Fiona Ma, California State Treasurer
350 Bay Area Action
350 Sacramento
350 Silicon Valley
Algalita Marine Research And Education
Alvarado Street Brewery
American Sustainable Business Council
Anna Kauffman, Inc.
As You Sow
Audubon California
Azul
Ban Single Use Plastic
Bay Area Physicians for Social Responsibility
Blue Plate
Bon Appetit Management Company
Breast Cancer Prevention Partners
Bren School of Environmental Science & Management, University of California,
Santa Barbara
Brent Allen Outside
California Association of Environmental Health Administrators
California Coastal Commission
California Coastal Protection Network
California Coastkeeper Alliance
California Compost Coalition
California Grocers Association
California Interfaith Power & Light
California League of Conservation Voters
California Product Stewardship Council
California Releaf
California Resource Recovery Association
California State Association of Counties
California State Park Rangers Association
California State Parks Foundation
California Teamsters Public Affairs Council
California Urban Streams Partnership
Californians Against Waste
CALPIRG, California Public Interest Research Group
Center For Biological Diversity

Center For Climate Change And Health
Center For Environmental Health
Center for Marine Biodiversity and Conservation, Scripps Institution of
Oceanography
Center For Oceanic Awareness, Research, And Education
Chicobag Company/To-Go Ware
Cigarette Butt Pollution Project
Cities of Alameda, Arcata, Carlsbad, Chino Hills, Cloverdale, Concord, Culver
City, Dana Point, Danville, Dana Point, Del Mar, El Centro, El Cerrito, Fountain
Valley, Half Moon Bay, Hayward, Hermosa Beach, Hesperia, Imperial Beach,
Inglewood, Lakeport, Livermore, Long Beach, Los Angeles, Marina, Moorpark,
Novato, Orinda, Pasadena, Placentia, Pleasanton, San Diego, San Luis Obispo,
Santa Monica, Sebastopol, Thousand Oaks, Torrance, and West Hollywood
Civic Sundays
Clean Seas Lobbying Coalition
Clean Water Action
Coastodian
Colorado Medical Waste, Inc.
Communications Workers of America District 9, AFL-CIO
Communications4Good
Communitas Financial Planning
Communities For Sustainable Monterey County
Community Environmental Council
Conejo Valley Audubon Society
Conscious Container
Councilmember Mark West, City of Imperial Beach
Councilmember Paul Koretz, City of Los Angeles
County of Los Angeles Board of Supervisors
County of Marin
CR&R Environmental Services
Defenders of Wildlife
Democrats of Pasadena Foothills
Department of Ecology and Evolutionary Biology, University of Toronto, St.
George
Dillon Beach Resort
Distance Learning Consulting
Dr. Bronner's
Dynamics of Inclusive Prosperity Initiative, Erasmus University, Rotterdam
Earthjustice

East Bay MUD
East Yard Communities For Environmental Justice
Eco Imprints
Eco-pliant
Ecology Center, Berkeley
Environment California
Environmental Defense Center
Environmental Entrepreneurs (E2)
Environmental Justice Coalition For Water
Environmental Working Group
Environmental Health Department of Calaveras County
Erik Sklar and Samantha Murray, Fish and Game Commissioners
Feminists in Action Los Angeles
Friends Committee On Legislation Of California
Friends of The Earth U.S.
Friends of The LA River
Full Circle Environmental, Inc.
Full Cycle
GAIA
Global Eclipse
GoodLight Natural Candles
GOODONYA
GOODR
Green Mary
Green Retirement, Inc.
Green Valley Community Farm
Greenpeace USA
Guitarfish Music Festival
Harley Laguna Beach
Heal the Bay
Heirs to Our Oceans
Hillcrest Indivisible
Indivisible Alta-Pasadena
Indivisible California Green Team
Indivisible California: Statestrong
Indivisible Eagle Rock
Indivisible Media City-Burbank
Indivisible Ventura
Indivisible: South Bay LA
Inland Ocean Coalition

Institute for Integrated Research in Materials, Environments and Society,
California State University, Long Beach
International Longshore & Warehouse Union Local 13
International Longshore & Warehouse Union Local 63
International Longshore & Warehouse Union Local 94
Joshua Tree Music Festival
Kasperorganics
Kite Music Productions/Flying Kite Motion Pictures
La Cooperativa Campesina De California
LA Hauler
Latinos in Action
Leadership & Strategy for Sustainable Systems
League of California Cities
League of Women Voters Of California
League To Save Lake Tahoe
Long Beach Environmental Alliance
Long Beach Gray Panthers
Los Angeles Alliance for a New Economy
Los Angeles City Council
Los Angeles County Board of Supervisors
Los Angeles Waterkeeper
Lutheran Office of Public Policy, California
Lydia's Kind Foods, Inc.
Marine Mammal Center
Mayor Tom Butt, City of Richmond
Moneyvoice
MD Global
Microbiology and Environmental Toxicology Department, University of
California, Santa Cruz
Monterey Bay Aquarium
Monterey Regional Waste Management District
Napa Recycling and Waste Services
National Parks Conservation Association
National Stewardship Action Council
Natural Resources Defense Council
Northcoast Environmental Center
Northern California Recycling Association
Ocean Analytics
Ocean Conservancy

Ocean Conservation Society
Oceana
Outdoor Outreach
Owl Post Calligraphy
Pacific Forest Trust
Pacific Grove Chamber
Pacoima Beautiful
Penn State Behrend
Pharmacists Planning Services, Inc.
Physicians for Social Responsibility, Los Angeles
Pier 23 Cafe Restaurant & Bar
Plastic Pollution Coalition
Ponce's Mexican Restaurant
Project Coyote
Public Health Advocates
R3 Consulting Group, Inc.
Recology
Recycle Smart
Refill Madness, LLC
Republic Services - Western Region
Repurpose
ReThink Waste
Robin's Restaurants
Rooted In Resistance
Rose Foundation for Communities and the Environment
Rural County Representatives of California
San Diego 350
San Francisco Bay Area Physicians for Social Responsibility
San Francisco Bay Keeper
San Francisco Chamber of Commerce
San Francisco Department Of The Environment
San Francisco Wildlife Rescue
Save Our Shores
Save the Bay
Sea Hugger
Sealegacy
SEIU California
Seventh Generation Advisors
Shafir Environmental
Shark Lock Bags

Shizen and Taktaki Restaurants
SIC Productions, Inc.
Sierra Club California
Sierra Leadership
Sierra Nevada Alliance
Six Rivers Brewery
Smart Planet Technologies
SoCal 350
Sonoma County Farm Trails
St. Francis Center
Steelys Drinkware
StopWaste
Surfrider Foundation
Sustain LA
Sustainable Coastlines Hawaii
Sustainable Environment Management Co.
Symbiosis Gathering
TDC Environmental, LLC
Teamsters Local Union No. 396
The 5 Gyres Institute
The Last Plastic Straw
The Little Chihuahua Mexican Restaurants
The Nature Conservancy
The River Project
The Story Of Stuff Project
The Trust For Public Land
The Watershed Project
TIGER!TIGER!
Tomra Systems ASA
Tonic Nightlife Group
Tree People
Tri-CED Community Recycling
Turtle Island Restoration Network
UPSTREAM
Valley Improvement Projects
Waste Busters, Inc.
Wholly H2O
WILDCOAST
Wishtoyo Chumash Foundation
Women's Voices For The Earth

Yggdrasil Urban Wildlife Rescue of Oakland
Zero Waste Sonoma
Zero Waste USA
135 Individuals

OPPOSITION: (Verified 8/19/20)

Agricultural Council of California
Alliance of Automobile Manufacturers
Almond Alliance of California
American Bakers Association
American Cleaning Institute
American Forest & Paper Association
American Frozen Foods Institute
American Fuel & Petrochemical Manufacturers
American Institute for Packaging and Environment
Anheuser-Busch InBev
Association of California Egg Farmers
Athens Services
California Association of Wheat Growers
California Association of Winegrape Growers
California Automatic Vendor's Council
California Bean Shippers Association
California Beer and Beverage Distributors
California Business Properties Association
California Canning Peach Association
California Chamber of Commerce
California Citrus Mutual
California Farm Bureau Federation
California Food Producers
California Fresh Fruit Association
California Grain & Feed Association
California League of Food Producers
California Manufacturers & Technology Association
California Pear Growers Association
California Restaurant Association
California Retailers Association
California Seed Association
California State Floral Association
California Strawberry Commission
California Warehouse Association

California Waste Recycling Association
Californians for Recycling and the Environment
Carmel Chamber of Commerce
Center for Baby and Adult Hygiene Products
Chemical Industry Council of California
Chico Valley Chamber of Commerce
Computing Technology Industry Association
Consumer Healthcare Products Association
Council for Responsible Nutrition
Dairy Institute of California
DART Container Corporation
Distilled Spirits Council of The United States
Dow Chemical Company
EPS Industry Alliance
Family Winemakers of California
Flexible Packaging Association
Foodservice Packaging Institute
Glass Packaging Institute
Greater Coachella Valley Chamber of Commerce
Greater Ontario Business Council
Grocery Manufacturers Association
Hesperia Chamber of Commerce
Household and Commercial Products Association
Howard Jarvis Taxpayers Association
Inda, Association of the Nonwoven Fabrics Industry
Industrial Environmental Association
Inland Empire Disposal Association
Inland Empire Economic Partnership
Issa - the Worldwide Cleaning Industry Association
Kern Refuse Disposal, Inc.
Kraft Heinz
Los Angeles County Solid Waste Management Committee/Integrated Waste
Management Task Force
Los Angeles County Waste Management Association
Moreno Valley Chamber of Commerce
Murrieta/Wildomar Chamber of Commerce
National Confectioners Association
National Marine Manufacturers Association
Pacific Coast Producers

Pacific Egg & Poultry Association
Personal Care Products Council
Plastic Shipping Container Institute
Plastics Industry Association
Plumbing Manufacturers International
Product Management Alliance
Rancho Cucamonga Chamber of Commerce
Redlands Chamber of Commerce
SNAC International
Solid Waste Association of Orange County
Styrene Information and Research Center
The Toy Association
Victor Valley Chamber of Commerce
Waste Management
Western Growers Association
Western Independent Refiners Association
Western Plastics Association
Western States Petroleum Association
Wine & Spirit Wholesalers of California
Wine Institute
Workers International Council

ASSEMBLY FLOOR: 44-19, 5/30/19

AYES: Bauer-Kahan, Berman, Bloom, Boerner Horvath, Bonta, Calderon, Carrillo, Cervantes, Chau, Chiu, Chu, Eggman, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gloria, Gonzalez, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager-Dove, Levine, Limón, Low, McCarty, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Reyes, Luz Rivas, Robert Rivas, Santiago, Smith, Mark Stone, Ting, Weber, Wicks, Wood, Rendon

NOES: Bigelow, Chen, Cunningham, Dahle, Flora, Fong, Frazier, Kiley, Lackey, Mathis, Medina, Melendez, Obernolte, Patterson, Quirk-Silva, Ramos, Salas, Voepel, Waldron

NO VOTE RECORDED: Aguiar-Curry, Arambula, Brough, Burke, Choi, Cooley, Cooper, Daly, Diep, Gallagher, Gipson, Gray, Grayson, Maienschein, Mayes, Rodriguez, Blanca Rubio

Prepared by: Genevieve M. Wong / E.Q. / (916) 651-4108
8/19/20 15:56:27

**** END ****

THIRD READING

Bill No: AB 1140
Author: Mark Stone (D), et al.
Amended: 6/18/20 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 8/5/20
AYES: Hill, Morrell, Jackson, Mitchell, Pan

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: Not relevant

SUBJECT: Public Employees' Retirement System: contracting agencies:
consolidation

SOURCE: California Professional Firefighters

DIGEST: This bill allows the successor agency of a proposed consolidation of the Central Fire Protection District and the Aptos/La Selva Fire Protection District to provide the employees from the consolidating fire districts the defined benefit retirement plan those employees have with their current respective employers after consolidation.

ANALYSIS:

Existing law:

- 1) Allows a public agency to participate in the California Public Employees' Retirement System (CalPERS) by contract to provide retirement benefits to its employees as specified (Government Code § 20460).
- 2) Permits a successor agency that assumes the functions of the public agency to assume the contract of the public agency, as specified. The former agency's contract merges into the successor agency's contract and the former agency's contract ceases to exist. The successor agency takes on the obligations and

receives credit for the contributions to CalPERS from the former agency's contract as specified (Government Code § 20508).

- 3) Prohibits public employers from offering "classic" public pension formulas to new employees after December 31, 2012, and instead provides pension formulas as defined in the Public Employees' Pension Reform Act (PEPRA). However, existing members of CalPERS who move to a new CalPERS employer as specified remain eligible for the "classic" pension formula that was offered by the new employer on December 31, 2012 (Government Code § 7522 et seq.).
- 4) Prohibits a public agency from providing CalPERS retirement benefits for some but not all members of specified member classifications (e.g., local firefighters) or providing a different benefit for subgroups (e.g., bargaining units) within the member classification (Government Code § 20479).

This bill:

- 1) Authorizes a successor agency for the Central Fire Protection District and the Aptos/La Selva Fire Protection District to provide employees on and after June 30, 2020, the defined benefit plan or formula that those employees received from their respective employer prior to the consolidation. The successor agency shall designate the surviving contract within 180 days of the consolidation.
- 2) Makes legislative findings and declarations that a special statute is necessary and that the Legislature cannot make a general statute applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique need to consolidate fire protection districts in the County of Santa Cruz to remove redundancies while continuing fire and emergency response services.

Comments

Need for this bill?

The proponents need this bill to complete their fire district consolidation by authorizing the successor agency to offer its consolidated employees different classic formulas so existing employees in both fire protection districts can keep their respective formulas. After 180 days, the successor agency will choose a classic formula that would continue to be available for future employees who are not "new PEPRA" employees because of their prior CalPERS membership as

specified. (This bill does not change PEPPRA's 180-day break in service rule. So, future employees of the successor agency who have a break in service of more than 180 days will not be eligible for the successor agency's classic formula). New employees would receive the successor agency's PEPPRA formula.

Related/Prior Legislation

SB 24 (Hill, Chapter 531, Statutes of 2016) authorized a joint powers authority (JPA) formed by the Belmont Fire Protection District, the Estero Municipal Improvement District, and the City of San Mateo on or after January 1, 2013, to provide employees who are not new members under PEPPRA with the defined benefit plan or formula that was received by those employees from their respective employers on December 31, 2012, if they are employed by the JPA within 180 days of the agency providing for the exercise of a common power, to which the employee was associated, by the JPA.

SB 1203 (Hertzberg, Chapter 729, Statutes of 2016) authorized a JPA formed on or after January 1, 2013, as specified, to provide employees who transfer to the JPA the same defined benefit plan or formula that they received from their respective employer prior to the JPA's formation rather than the benefit required under PEPPRA.

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

SUPPORT: (Verified 8/13/20)

California Professional Firefighters (source)
California Public Employees' Retirement System
California Teachers Association

OPPOSITION: (Verified 8/13/20)

None received

ARGUMENTS IN SUPPORT: According to the California Professional Firefighters:

This measure will ensure that the employees of the agency created by the consolidation of the Central Fire Protection District and the Aptos/La Selva Fire Protection District will be able to retain the benefits that have been bargained and paid for, while still creating a merged and more efficient fire protection district.

According to the California Public Employees' Retirement System:

In 2018, the districts began moving towards a consolidation. Currently, the two agencies have been working under Shared Services Agreements for mid-management, administrative services, training, community risk reduction, and logistics. In 2018, the districts, in collaboration with the Santa Cruz County LAFCO (sic, Local Area Formation Commission), commissioned a feasibility report by Emergency Services Consulting International on this proposed consolidation. The report identified potential benefits for the districts with efficiencies and savings created by combining executive and administrative functions and cost reductions from economies of scale.

However, the report identified pension benefits differences between the districts as a key obstacle to consolidation. The exception provided by AB 1140, as amended June 18, 2020, would provide a remedy for this obstacle by allowing all current employees of these districts to retain their current pension formulas.

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
8/14/20 12:31:14

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

THIRD READING

Bill No: AB 1145
Author: Cristina Garcia (D)
Introduced: 2/21/19
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-1, 7/31/20
AYES: Skinner, Bradford, Jackson, Mitchell, Wiener
NOES: Morrell
NO VOTE RECORDED: Moorlach

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 47-19, 1/27/20 - See last page for vote

SUBJECT: Child abuse: reportable conduct

SOURCE: Equality California

DIGEST: This bill specifies that “sexual assault” for purposes of reporting incidents of abuse under the Child Abuse and Neglect Reporting Act (CANRA) does not include voluntary sodomy, oral copulation, or sexual penetration, if there are no indicators of abuse, unless the conduct is between a person who is 21 years of age or older and a minor who is under 16 years of age.

ANALYSIS:

Existing law:

- 1) Establishes CANRA for the purpose of protecting children from abuse and neglect. (Pen. Code, § 11164.)
- 2) Defines "child" under CANRA to mean a person under the age of 18 years. (Pen. Code, § 11165.)
- 3) Enumerates 46 different categories of persons, including but not limited to teachers, coaches, youth camp counselors, doctors, peace officers, and firefighters, that are deemed mandated reporters of child abuse. (Pen. Code, § 11165.7.)

- 4) Requires that any specified mandated reporter who has knowledge of or observes a child, in his or her professional capacity or within the scope of his or her employment whom the reporter knows, or reasonably suspects, has been the victim of child abuse, to report it immediately to a specified child protection agency. (Pen. Code, § 11166, subd. (a).)
- 5) Defines "reasonable suspicion" to mean that it is objectively reasonable for a person to entertain a suspicion, based upon the facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect. (Pen. Code, § 11166, subd. (a)(1).)
- 6) Requires mandated reporters to make reports of suspected child abuse or neglect to any police department or sheriff's department, not including a school district police or security department, county probation department, if designated by the county to receive mandated reports, or the county welfare department." (Pen. Code, § 11165.9.)
- 7) Provides that any mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section 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 that imprisonment and fine. 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 under this section, the failure to report is a continuing offense until a specified agency discovers the offense. (Pen. Code, § 11166, subd. (c).)
- 8) 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. (Pen. Code, § 11165.6.)
- 9) States that "sexual abuse" means sexual assault or sexual exploitation. (Pen. Code, § 11165.1.)
- 10) Defines "sexual assault" as conduct in violation of one or more of the following crimes: rape, statutory rape involving a person who is 21 years of age or older with a minor who is under 16 years of age, rape in concert, incest, sodomy with a person who is under 18 years of age, lewd or lascivious acts upon a child who is under 14, or who is 14 or 15 years of age by a person who is at least 10 years older than the child, oral copulation, sexual penetration, or child molestation, as specified. (Pen. Code, § 11165.1, subd. (a).)

This bill specifies that “sexual assault” for purposes of CANRA, does not include voluntary acts of sodomy, oral copulation or sexual penetration, if there are no indicators of abuse, unless the conduct is between a person 21 years of age or older and a minor who is under 16 years of age.

Comments

According to the author of this bill:

Adults who interact with minors as part of their job are considered mandated reporters. As a mandated reporter, they are required by law to report cases of abuse. While the law has a good and necessary intent, the current law includes a reliance on a legal distinction based on the type of sexual activity that is outdated and discriminatory.

Under current law, a mandated reporter does not have to report two people having vaginal intercourse unless the conduct is between someone over 21 years of age with someone under 16 years of age. The same law requires that a mandated reporter does have to report incidents of oral sex, anal sex, and sexual penetration in any instance where one person is under the age of 18 years. As a result, a therapist, healthcare worker, or teacher would have to report two teens engaging in activities that generally lead up to vaginal intercourse, but not vaginal intercourse itself. Crucially, it means that LGBT teens will always be reported. Even if the two minors were both 17 years of age, one teenager would have to be reported as a sex offender and one as a victim.

This puts teens at risk. Therapists and healthcare workers disclose the limits of confidentiality. This means teenagers who are engaging in oral or anal sex are less likely to get advice addressing their mental and health care concerns than two teens engaging in vaginal intercourse. It also puts the mandated reporters at risk of losing their licenses and their jobs if they help these teenagers as trusted adults.

AB 1145 does not change the criminality of the acts in any of the sections referenced for mandated reporters. It does not change the fact that a mandated report is required to report any case where abuse is suspected or there is coercive behavior.

A Department of Consumer Affairs legal opinion in 2013 only further confused the issue, appearing to offer some reporters leeway to use clinical judgment when determining what consensual acts to report. However, because this opinion lacks the power of law, reporters are advised that the safest course of action is to follow the existing statute.

AB 1145 simply makes sure that when it comes to reporting voluntary acts of sexual conduct that all types of sexual conduct get the same treatment. Clearing up the contradictions and inconsistencies will allow mandated reporters to better protect teens and better identify cases where there is non-voluntary behavior.

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

SUPPORT: (Verified 8/12/20)

Equality California (source)

American Civil Liberties Union of California

Board of Behavioral Sciences

California Association of Marriage and Family Therapists

California Psychological Association

California Public Defenders Association

Los Angeles County District Attorney's Office

National Association of Social Workers, California Chapter

OPPOSITION: (Verified 8/12/20)

None received

ASSEMBLY FLOOR: 47-19, 1/27/20

AYES: Aguiar-Curry, Arambula, Berman, Bloom, Bonta, Burke, Calderon, Carrillo, Chiu, Chu, Daly, Eggman, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Levine, Limón, Low, Mayes, McCarty, Medina, Mullin, Muratsuchi, O'Donnell, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Mark Stone, Ting, Weber, Wicks, Wood

NOES: Bigelow, Brough, Chen, Choi, Cooley, Megan Dahle, Diep, Flora, Fong, Gallagher, Lackey, Maienschein, Mathis, Melendez, Obernolte, Patterson, Salas, Voepel, Waldron

NO VOTE RECORDED: Bauer-Kahan, Boerner Horvath, Cervantes, Chau, Cooper, Cunningham, Frazier, Gray, Kiley, Nazarian, Petrie-Norris, Quirk-Silva, Smith, Rendon

Prepared by: Stella Choe / PUB. S. /
8/14/20 12:31:13

**** END ****

THIRD READING

Bill No: AB 1185
Author: McCarty (D), et al.
Amended: 7/28/20 in Senate
Vote: 21

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

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

SUBJECT: County board of supervisors: sheriff oversight

SOURCE: Author

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

Senate Floor Amendments of 7/28/20 (1) delete findings and declarations and (2) clarify the duties of the sheriff oversight boards and inspectors general that can be established under the provisions of this bill.

ANALYSIS:

Existing law:

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

jurisdictions as to the Attorney General may seem advisable. (Cal. Const. Art. V, § 13.)

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

also require a witness to bring any books, documents, electronically stored information, or other things under the witness's control which the witness is bound by law to produce in evidence. (Code Civ. Proc., § 1985, subd. (a).)

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

This bill:

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

- 5) Provides that the court shall thereupon issue an order directing the person to appear before the court and show cause why they should not be ordered to comply with the subpoena. The order and a copy of the certified statement shall be served on the person and the court shall have jurisdiction of the matter.
- 6) Specifies the same proceedings shall be had, the same penalties imposed, and the person charged may purge themselves of the contempt in the same way as in a case of a person who has committed a contempt in the trial of a civil action before a superior court.
- 7) States that a county, through action of the board of supervisors or vote by county residents, may establish an office of the inspector general, appointed by the board of supervisors, to assist the board of supervisors with its supervisory duties over the sheriff, as specified.
- 8) Specifies the inspector general shall have the independent authority to issue subpoenas.
- 9) Provides that the exercise of powers under this section or other investigative functions performed by a board of supervisors, sheriff oversight board, or inspector general vested with oversight responsibility for the sheriff shall not be considered to obstruct the investigative functions of the sheriff.

Background

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

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

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

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

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

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

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

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

It is a fundamental principle of good government in the United States of America that checks and balances are important in order to provide effectiveness and transparency. This bill seeks to add additional checks and balances to counties in California. This bill permits the legislative body of a county, a board of supervisors, to investigate the activities of an executive body of the county, the county sheriff. Additionally, the board of supervisors could appoint an inspector general for that purpose.

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

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

SUPPORT: (Verified 7/28/20)

American Civil Liberties Union of California
Asian Americans Advancing Justice – California
California Attorneys for Criminal Justice
California Civil Liberties Advocacy
California Immigrant Policy Center
California League of Women Voters
California Public Defenders Association
Democratic Party of the San Fernando Valley
League of Women Voters of California
Mid-City Community Advocacy Network
National Association of Social Workers-California
Oakland Privacy

Together We Will-Contra Costa

OPPOSITION: (Verified 7/28/20)

California State Sheriffs' Association
Riverside County Sheriff's Department

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

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

Meaningful independent oversight and monitoring of sheriffs' departments increases government accountability and transparency, enhances public safety, and builds community trust in law enforcement. Such oversight must have the authority and independence necessary to conduct credible and thorough investigations.

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

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

ARGUMENT IN OPPOSITION: According to the California State Sheriffs' Association:

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

Further, county counsels and grand juries already hold subpoena powers. Compelling the production of information, testimony, or documents from a wide array of sources can already occur through existing avenues.

Specifying this authority in statute will create undue pressure within county governments to create an adversarial relationship with another county office. AB 1185 also potentially codifies language that creates constitutional separation of powers issues.

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

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

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

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

Prepared by: Gabe Caswell / PUB. S. /
7/29/20 11:59:44

**** END ****

THIRD READING

Bill No: AB 1205
Author: Limón (D)
Amended: 7/7/20 in Senate
Vote: 21

SENATE AGRICULTURE COMMITTEE: 5-0, 8/10/20
AYES: Galgiani, Wilk, Caballero, Dahle, Glazer

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 1/30/20 (Consent) - See last page for vote

SUBJECT: California Cut Flower Commission: membership: reconvening
commission

SOURCE: Author

DIGEST: This bill reduces the number of board members for the California Cut Flower Commission (commission) and repeals term limits for the commission board members. This bill also allows the secretary of the California Department of Food and Agriculture (CDFA) to conduct a vote to reconvene the commission.

ANALYSIS:

Existing law:

- 1) Establishes the California Cut Flower Commission (Food and Agricultural Code (FAC) Section 77901).
- 2) Establishes that the commission shall be composed of 13 members (FAC Section 77925).
- 3) Establishes that the makeup of the board shall consist of 12 producers (three from Districts 1-4) and one public member or producer member (FAC Section 77925 (a) through (c)).

This bill:

- 1) Reduces the number of board members from 13 to nine.
- 2) Reduces the number of producers from 12 to eight.
- 3) Removes term limits.
- 4) Authorizes the secretary of CDFA, on and after one year of the commission being suspended or terminated, to conduct a vote to reconvene the commission, pursuant to FAC Section 77970.
- 5) Makes conforming changes and removes obsolete provisions.

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

SUPPORT: (Verified 8/18/20)

California Cut Flower Commission
California State Floral Association

OPPOSITION: (Verified 8/18/20)

None received

ARGUMENTS IN SUPPORT: According to the California Cut Flower Commission, AB 1205 is needed “by the evolution of the California cut flower industry.” They state there are fewer cut flower farmers in California today; and, as a result, the current requirement in statute for the commission to periodically elect a board of 13 members has become challenging. To address this challenge, this bill reduces the number of commission members from 13 to nine and eliminates term limits.

ASSEMBLY FLOOR: 76-0, 1/30/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Diep, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Limón, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Melendez, Mullin, Muratsuchi, Nazarian, Obernolte, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz

Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark
Stone, Ting, Voepel, Waldron, Weber, Wicks, Wood
NO VOTE RECORDED: Cervantes, Gallagher, Gray, Rendon

Prepared by: Reichel Everhart / AGRI. / (916) 651-1508
8/19/20 10:49:44

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

THIRD READING

Bill No: AB 1276
Author: Bonta (D)
Amended: 7/29/20
Vote: 21

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

ASSEMBLY FLOOR: 56-0, 1/23/20 - See last page for vote

SUBJECT: Local redistricting

SOURCE: Asian Americans Advancing Justice – California
California Common Cause
League of Women Voters of California
Mi Familia Vota

DIGEST: This bill makes various changes to the process counties and cities use when adjusting the boundaries of their governing bodies' electoral districts. It also makes specified changes to the signatures in-lieu of filing fee process for local candidates.

ANALYSIS:

Existing law:

- 1) Requires, following each federal decennial census, counties and cities to adjust the boundaries of their respective districts so that they are substantially equal in population as required by the United States Constitution.
- 2) Requires the boundaries of supervisorial districts and city council districts be adopted by the jurisdictions' governing bodies no earlier than August 1, 2021, and August 1 in each year ending in the number one thereafter, but no later than 151 days before the governing body's next regular election occurring after March 1, 2022, and after March 1 in each year ending in the number two

thereafter, as specified. Provides that these provisions do not apply to a charter city if the charter city adopted a different redistricting deadline by ordinance or in its city charter before October 1, 2021, and October 1 of each year ending in the number one thereafter.

- 3) Requires that, at the first election for county supervisors in each county or for councilmembers in each city following adoption of the new boundaries, a supervisor or councilmember be elected for each district under the new district plan that has the same district number as a district whose incumbent's term is due to expire.
- 4) Requires counties and cities to take steps in a good faith effort to encourage residents to participate in the redistricting public review process, as specified.
- 5) Requires a county or city that is adjusting district boundaries following the federal decennial census to hold public hearings and requires various public notice requirements, as specified.
- 6) Requires counties and cities to publish a draft map on the Internet for at least seven days before being adopted as a final map by the governing body, unless certain conditions are met, as specified. Requires that each draft map be prepared by a member or an employee of the county or city and be accompanied with specified data to the extent the county or city has that data.
- 7) Authorizes a county, general law city, school district, community college district, or a special district to establish an independent redistricting commission, an advisory redistricting commission, or a hybrid redistricting commission by resolution, ordinance, or charter amendment, as specified.
- 8) Gives charter cities plenary authority, subject to limited restrictions, to provide in the city charter for the manner in which, the method by which, the times at which, and the terms for which municipal officers are elected.
- 9) Establishes, pursuant to state law, the County of Los Angeles Citizens Redirecting Commission and the County of San Diego Independent Redistricting Commission. Provides for a process for public participation for each county when drafting and adopting a redistricting plan, as specified. Requires both commissions to adopt a redistricting plan adjusting the boundaries of the supervisorial districts and to file the plan, as specified for each county, before August 15 of the year following the year in which each decennial federal census is taken. Provides that each redistricting plan becomes effective 30 days after it is filed, as specified.

- 10) Requires the Secretary of State (SOS) to publish on the Internet a template explaining the county redistricting process that meets specified requirements.
- 11) Requires the SOS or an elections official to furnish forms to each candidate for securing signatures on a signatures in-lieu of filing fee petition, as specified. Requires all forms to be made available commencing 60 days before the first day for circulating nomination papers, as specified.
- 12) Requires signatures in-lieu of filing fee petitions be filed at least 30 days before the close of the nomination period. Requires the elections official to notify the candidate of any deficiency within 10 days after receipt of a petition. Requires the candidate to pay a pro rata portion of the filing fee to cover the deficiency at the time of obtaining nomination forms.

This bill:

- 1) Changes the redistricting deadlines for when supervisorial districts and city council districts need to be adopted by the county's board of supervisors or the city's council. Specifically,
 - a) For redistricting occurring before 2031 and where a county or a city has a regular election occurring after January 1, 2022, and before July 1, 2022, the boundaries of the districts shall be adopted by the governing body not later than 174 days before that election.
 - b) For redistricting occurring on or after before 2031 and where a county or a city does not have a regular election occurring after January 1, 2022 and before July 1, 2022, the boundaries of the districts shall be adopted by the local jurisdiction not later than 205 days before the governing body's next regular election occurring on or after July 1, 2022.
 - c) For redistricting occurring in 2031 and thereafter, the boundaries of the districts shall be adopted by the county or the city not later than 205 days before the governing body's next regular election occurring after January 1 in each year ending in the two.
 - d) Specifies that these provisions do not apply when transitioning from at-large to district-based elections or to a charter city that has adopted a different redistricting deadline by ordinance or in its city charter regardless of the date of that action.
- 2) Requires, for redistricting occurring before 2031 and where a county or a charter city has a regular election occurring after January 1, 2022, and before

July 1, 2022, and notwithstanding a specified provision of current law, the forms for a signatures in-lieu of filing fee petition required pursuant to specified provisions of law not be made available until at least 28 days after the adoption of a final map. Requires the elections official to reduce the required number of signatures for the signatures in-lieu of filing fee petition, as specified, by the same proportion as the reduction in time for the candidate to collect signatures. Provides that these provisions do not apply to charter cities if the charter city has adopted a different redistricting deadline by ordinance or in its city charter regardless of the date of that action.

- 3) Clarifies that the first election for county supervisors in each county or for councilmembers in each city following adoption of the boundaries of supervisorial districts does not include a special election to fill a vacancy or a recall election, as specified. Provides that this provision does not apply when a county or a city transitions from at-large to district-based elections. Clarifies, for counties and charter cities employing both a primary and a general election, that both are prohibited from changing the boundaries of a county's supervisorial district or the boundaries of a charter city's council district between the direct primary election and the general election.
- 4) Requires that, among the steps for outreach and a good faith effort throughout the redistricting process, counties and cities provide information through good government, civil rights, civic engagement, and community groups or organizations, as specified.
- 5) Prohibits the board of supervisors and city councils as well as their respective employees or contractors from releasing draft maps of the governing body's districts earlier than three weeks after the release of the block-level redistricting database, as specified.
- 6) Permits counties and cities to publish the agenda for a redistricting public hearing or workshop on the Internet for at least three days before the hearing or workshop if there are fewer than 28 days until the deadline to adopt boundaries.
- 7) Requires a draft map be published on the Internet for at least seven days before being adopted as a final map by a county or city provided that, if there are fewer than 28 days until the deadline to adopt boundaries, the draft map may instead be published on the Internet for at least three days. Permits contractors to prepare draft maps for a county or a city, as specified.

- 8) Requires the SOS to publish on the Internet a template explaining the county redistricting process that meets the specified requirements before January in each year ending in the number one.
- 9) Changes the deadlines for the County of Los Angeles Citizens Redirecting Commission and the County of San Diego Independent Redistricting Commission to file their redistricting plans to the deadlines for adopting district boundaries for counties and cities. Prohibits these two commissions or their contractors from releasing draft maps within specified time periods. Permits both commissions to modify the location of public hearings in the event of any state or local health order prohibiting large gatherings, as specified.
- 10) Permits a city council to adopt new council district boundaries between the preceding and ensuing federal decennial census if the boundaries of the city change due to the subtraction of territory.
- 11) Provides that a charter city is not required to develop city council districts that comply with specified criteria if the city has adopted comprehensive or exclusive redistricting criteria in its city charter, as specified.
- 12) Permits the city council of a charter city to designate any advisory body to hold public redistricting hearings, as specified. Provides clarifying language regarding charter cities and the formation of redistricting commissions.
- 13) Makes clarifying and technical changes.

Background

In 2019, the Legislature passed and Governor Newsom signed AB 849 (Bonta, Chapter 557, Statutes of 2019). AB 849 revised and standardized the criteria and process to be used by counties and cities when adjusting the boundaries of their electoral districts for electing members of the jurisdictions' governing bodies.

This bill makes various changes to the provisions of AB 849 to address what the author describes as a clean-up bill. AB 1276 seeks to provide clarification on the interpretation of certain provisions of AB 849 and of existing law governing the local redistricting process. This bill also affirms the constitutional autonomy of charter cities over certain parts of the redistricting process.

Census Delays and Redistricting Timelines. On April 13, 2020, the Census Bureau sought statutory relief from Congress of 120 additional calendar days to deliver the final apportionment counts due to the ongoing effects of the COVID-19 virus.

Under the Census Bureau's plan, the deadline for the delivery of redistricting data to the states would be moved from no later than March 31, 2021 to no later than July 31, 2021. Additionally, pursuant to state statute, the Legislature is required to take 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.

Under current law, the boundaries of the supervisorial districts and city council districts are required to be adopted by the respective governing body no earlier than August 1, 2021, and August 1 in each year ending in the number one thereafter. This assumes that the deadline for the delivery of redistricting data to the states is no later than March 31, 2021. Assuming the data was released on March 31st, the next four months (April through July) were aimed at preparing the database used for redistricting and provide enough time for public outreach and input from interested parties before adopting a *final* map. This bill changes the timing parameters and instead, would require a jurisdiction to wait three weeks after the statewide redistricting data is available before it can release a *draft* map.

For adopting a final map, if the redistricting data is delivered to California on July 31, 2021, it would provide redistricting bodies and local jurisdictions with a nearly impossible timeframe to adjust local district lines. For counties and municipalities, the current deadline to approve district lines must be completed 151 days before the next regular election occurring after March 1, 2022. As a result, if an election is held on March 8, 2022, district maps would need to be finalized for counties and municipalities by October 8, 2021. If the deadline is extended for delivering census data to the states without a change to the 2022 direct primary election date, jurisdictions throughout California would face a virtually impossible challenge when adjusting their district lines in a timely manner.

The Los Angeles County and San Diego County Redistricting Commissions.

Current state law establishes the County of Los Angeles Citizens Redirecting Commission and the County of San Diego Independent Redistricting Commission. For the next redistricting cycle, the supervisorial district maps for each county's commission must be adopted before a statutory deadline of August 15, 2021. With the delays in census data dissemination, it will be virtually impossible to satisfy the requirements for public outreach, develop draft maps, seek input, and ultimately adopt a map before August 15, 2021. This bill makes various changes to both commissions by aligning the deadlines for both counties to the deadlines proposed for counties and changes to existing meeting requirements in response to state and local health orders prohibiting large gatherings.

Signatures in-Lieu of Filing Fees. Existing law permits candidates to file petitions containing the signatures of a specified number of registered voters in lieu of paying a filing fee and requires the petitions to be made available 60 days, instead of 45 days, before the first day for circulating nomination papers.

AB 849 (Bonta) created a predicament where the map adoption deadline (151 days before the election) was after the start of the signatures in-lieu of filing fee period (173 days before the election). This bill adjusts the map adoption deadline to avoid the overlap between map adoption and the beginning of the signatures in-lieu of filing fee process. Combining this issue with the delays in census data distribution, this bill would require the elections official to reduce the required number of signatures for the signatures in-lieu of filing fee petition by the same proportion as the reduction in time for the candidate to collect signatures for offices following the 2021 redistricting and up for election between January 1, 2022 and July 1, 2022. This proposed change would not apply to charter cities if the charter city has adopted a different redistricting deadline by ordinance or in its city charter.

Comments

- 1) According to the author, AB 1276 is a clean-up bill to a local redistricting reform bill, AB 849, that I authored last year and was signed by the Governor. AB 849, also known as the Fair and Inclusive Redistricting for Municipalities And Political Subdivisions – or FAIR MAPS Act – codified a number of critically important reforms to California’s local redistricting process, including: New requirements for transparency, new requirements for public outreach and education, and new criteria that will bring fairness to the drawing of district lines and eliminate gerrymandering. AB 1276 adds back language that was negotiated during the drafting of AB 849 from diverse stakeholders but was inadvertently left out of the bill. It also clarifies existing law governing the redistricting process and affirms constitutional autonomy of charter cities over certain aspects of the redistricting process. Additionally, due to input from county elections officials and due to the delay in the release of census data in 2021 due to COVID-19, AB 1276 fixes timeline issues for redistricting caused by the elections calendar and the delayed data dissemination.

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

SUPPORT: (Verified 8/4/20)

Asian Americans Advancing Justice – California (co-source)
California Common Cause (co-source)

League of Women Voters of California (co-source)
Mi Familia Vota (co-source)
Advancement Project California
American Civil Liberties Union of California
California League of Conservation Voters
Courage Campaign
Dolores Huerta Foundation
Indivisible CA: Statestrong
National Association of Latino Elected and Appointed Officials Education Fund
Partnership for the Advancement of New Americans
Voices for Progress

OPPOSITION: (Verified 8/4/20)

None received

ASSEMBLY FLOOR: 56-0, 1/23/20

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

NO VOTE RECORDED: Bigelow, Brough, Calderon, Cervantes, Chen, Choi,
Cunningham, Megan Dahle, Diep, Flora, Fong, Gallagher, Gloria, Kamlager,
Kiley, Lackey, Mathis, Mayes, McCarty, Melendez, Obernolte, Patterson,
Voepel, Waldron

Prepared by: Scott Matsumoto / E. & C.A. / (916) 651-4106
8/5/20 12:01:37

**** END ****

CONSENT

Bill No: AB 1350
Author: Gonzalez (D)
Amended: 8/1/20 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 7/29/20
AYES: Leyva, Wilk, Chang, Durazo, Glazer, McGuire, Pan

ASSEMBLY FLOOR: Not relevant

SUBJECT: Retroactive grant of high school diplomas: COVID-19 crisis

SOURCE: Author

DIGEST: This bill authorizes a high school district, unified school district, county office of education, or the governing body of a charter school, to retroactively grant a high school diploma to a person whom was in their senior year of high school during the 2019–20 school year; in good academic standing and on track to graduate at the end of the 2019–20 school year, as of March 1, 2020; and unable to complete the statewide graduation requirements as a result of the COVID-19 crisis.

ANALYSIS:

Existing law:

- 1) Establishes statewide high school graduation requirements, which include, among other requirements, three courses in English and three courses in social studies, and authorizes school districts to establish additional requirements for graduation. (Education Code § 51225.3)
- 2) Authorizes the governing board of a school district or a county board of education, on a districtwide or countywide basis or on behalf of one or more of its schools or programs, after a public hearing on the matter, to request the State Board of Education (SBE) to waive all or part of any section of this code or any

regulation adopted by the SBE that implements a provision of this code that may be waived, including graduation requirements. (EC § 33050)

- 3) Authorizes a high school district, unified school district, county office of education, or the governing body of a charter school to retroactively grant a high school diploma to a person who has not received a high school diploma if the person meets any of the following conditions:
 - a) The person was interned by order of the federal government during World War II and was enrolled in a high school operated by the school district or under the jurisdiction of the county office of education immediately preceding their internment and did not receive a high school diploma because their education was interrupted due to their internment during World War II.
 - b) The person is a veteran of World War II, the Korean War, or the Vietnam War; was honorably discharged from their military service; was enrolled in a high school operated by the school district or under the jurisdiction of the county office of education immediately preceding their military service in those wars; and did not receive a high school diploma because their education was interrupted due to their military service in those wars.
 - c) The person has departed California against their will, and, at the time of their departure, was enrolled in grade 12 of a high school operated by the school district, by or under the jurisdiction of the county office of education, or by the charter school; did not receive a high school diploma because their education was interrupted due to their departure; and was in good academic standing at the time of their departure.

This bill:

- 1) Authorizes a high school district, unified school district, county office of education, or the governing body of a charter school, to retroactively grant a high school diploma to a person who was in their senior year of high school during the 2019–20 school year; in good academic standing and on track to graduate at the end of the 2019–20 school year, as of March 1, 2020; and unable to complete the statewide graduation requirements as a result of the COVID-19 crisis.

- 2) Makes legislative findings and declarations relating to COVID-19 and the digital divide, and that it is therefore “imperative that the state make an effort to hold harmless those pupils who were otherwise on track to graduate, but are no longer able to due to circumstances that are out of their control as a result of the COVID-19 crisis.”
- 3) Makes other technical changes.

Comments

- 1) *Need for the bill.* According to the author, “As a result of the Stay at Home Order, many school districts have transitioned to distance learning models that are often reliant on online methods that require the use of electronic devices and internet access. However, according to the Public Policy Institute of California, 16-percent of school-aged children in California do not have any internet access at home, and 27-percent do not have a high-speed connection, and rely on slower connections like dial-up or satellite. In addition, nearly 10-percent access the internet with a cellular data plan, which typically results in slower speeds and suggests they are relying solely on a smartphone or tablet.

“Inadequate or complete lack of internet connectivity contributes to negative impacts on educational outcomes for students. According to the Pew Research Center, the lack of appropriate electronic devices and reliable internet service increases the probability that students will not be able to complete their schoolwork and increases the probability that students will become disengaged. In fact, there is evidence that finds students without access to a computer at home are less likely to graduate from high school compared to those who do.

“Additionally, given the unprecedented economic, social and health impacts of COVID-19, many older students may face added family responsibilities that detract from completing their education. This includes, but is not limited to, taking care of an ill family member, working to supplement the household income, and taking on childcare responsibilities.”

- 2) *COVID-19 and schools.* COVID-19, also known as "coronavirus", is a respiratory illness caused by a novel virus that has spread worldwide. As of July 1, 2020, over 230,000 cases have been confirmed in California and over 6,000 individuals have died in the state. To mitigate the spread of the pandemic, virtually all schools in California closed their campuses in mid-March 2020, and those campuses remained closed through the end of the 2019-20 school

year. In response, the vast majority of schools transitioned “distance learning.” However, decisions of whether to close schools, offer meals, and how to provide distance learning were made locally by local educational agencies (LEAs). Additionally, epidemiological models of COVID-19 predict recurrent outbreaks that may necessitate prolonged or intermittent social distance measures into at least 2021, and schools will likely repeatedly face the decision of whether to close schools to protect student and employee safety throughout the 2020-21 school year.

- 3) *Distance learning and the digital divide.* In response to school closures, LEAs have transitioned to providing “distance learning,” and while each LEA can choose how to best provide distance learning, the vast majority provide distance learning primarily online. This transition exacerbates the issue known as “the digital divide.” According to the Public Policy Institute of California, almost 16% of California’s school-aged children lacked internet connection at home in 2017 and 27% did not have broadband connections. Additionally, those figures do not account for shared devices among a family, an issue further exacerbated by COVID-19, as many parents and guardians now must work from home. Today, according to the California Department of Education (CDE), which has established a Closing the Digital Divide Task Force, it estimates more than 700,000 computing devices and more than 300,000 hotspots are still necessary to meet students’ needs moving forward.
- 4) *Statewide graduation requirements.* Since the 1986-87 school year, the Education Code has required students receiving a diploma from a California high school to have completed all of the following one-year (unless otherwise specified) courses while in high school:
- Three courses in English.
 - Two courses in mathematics, including one year of Algebra I.
 - Two courses in science, including biological and physical sciences.
 - Three courses in social studies, including United States history and geography; world history, culture, and geography; a one-semester course in American government and civics, and a one-semester course in economics.
 - One course in visual or performing arts, foreign language, or commencing with the 2012-13 school year, career technical education.

- Two courses in physical education.

According to the CDE, “it is expected that LEAs will enable students to complete state graduation requirements with needed flexibilities associated with the nature of assignments and mode of grading during any period of school closure.” Additionally, an LEA may submit a request for a waiver of the state graduation requirements to the SBE for specific students. This bill would allow LEAs to retroactively grant a high school diploma to students in good academic standing who were unable to complete the state graduation requirements due to COVID-19, without requiring the LEA to use the SBE’s formal wavier process.

- 5) *Local graduation requirements.* Existing law authorizes local educational agencies to imposed additional graduation requirements beyond the state graduation requirements. This bill’s provisions apply only to the statewide graduation requirement. According to the CDE, “the local governing board has the authority to revise that policy and modify those additional requirements.”

Related/Prior Legislation

AB 3022 (Gonzalez, Chapter 772, Statutes of 2018) authorized schools to retroactively grant a high school diploma to a person who has departed California against his or her will, and was enrolled in grade 12 but did not receive a high school diploma because his or her education was interrupted due to the departure.

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

SUPPORT: (Verified 8/1/20)

State Superintendent of Public Instruction, Tony Thurmond
California Charter Schools Association
Los Angeles Unified School District
San Diego Unified School District

OPPOSITION: (Verified 8/1/20)

None received

Prepared by: Brandon Darnell / ED. /
7/31/20 17:59:54

**** END ****

THIRD READING

Bill No: AB 1426
Author: Boerner Horvath (D), et al.
Amended: 6/17/20 in Senate
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 7-1, 8/5/20
AYES: Monning, Allen, Caballero, Hertzberg, Hueso, Jackson, Stern
NOES: Jones
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 58-16, 1/27/20 - See last page for vote

SUBJECT: Public resources: San Onofre State Beach: Richard H. and Donna O'Neill Conservancy: road construction

SOURCE: California State Parks Foundation

DIGEST: This bill places restrictions on street, road, and highway construction in a specified avoidance area in and around San Onofre State Beach and the Richard H. and Donna O'Neill Conservancy.

ANALYSIS:

Existing law:

- 1) Establishes the California Department of Parks and Recreation (State Parks) to administer and manage the state park system for the use and enjoyment of the public. States that state parks and other nature, recreation, and historic areas deserve to be preserved and managed for the benefit and inspiration of all state residents and visitors to the state parks. *Public Resources Code (PRC) §5001 et seq.*

- 2) Establishes the State Park and Recreation Commission (Park Commission) and vests it with the authority to classify or reclassify a state park unit and to approve general plans for these units. *PRC §§530 and 5002.2.*
- 3) Establishes comprehensive coastal management, public access, and recreation policies under the California Coastal Act. *PRC §§30210, 30211, 30212, 30213, 30214, 30220, and 30240.*
- 4) Establishes the state highway system throughout California and provides the California Department of Transportation (CalTrans) with full possession and control of the state highway system and associated property, as specified. *Streets and Highways Code (SHC) §90.*
- 5) Designates State Route 241 (SR 241) from Interstate 5 (I-5) south of the City of San Clemente to State Route 91 (SR 91) in the City of Anaheim. *SHC §541.*

This bill:

- 1) Places restrictions on street, road, and highway construction in a specified avoidance area in and around San Onofre State Beach and the Richard H. and Donna O'Neill Conservancy (Conservancy). Specifically, this bill:
 - a) Prohibits certain joint powers agencies from constructing, funding, or operating a major thoroughfare within a specified avoidance area.
 - b) Restricts, in accordance with a specified protective agreement, CalTrans' authority to approve, permit, take possession of, or otherwise authorize the construction of a major thoroughfare in the specified avoidance area.
 - c) Prohibits a state agency, city, county, joint powers authority, regional transportation agency, or other local government entity, or any other person or entity from constructing, funding, approving, or otherwise authorizing the building of a street, road, or highway in, on, or that encroaches on the San Onofre State Beach or the Conservancy, with specified exceptions, including widening of I-5.
- 2) Provides that this bill does not limit the authority of the federal government to construct roads within Camp Pendleton.

Background

Proposed Toll Road Project. In 2007, the Foothill/Eastern Transportation Corridor Agency (TCA) submitted to the California Coastal Commission (CCC) for

approval a proposed toll road project that would extend approximately 16 miles from the terminus of SR 241 to I-5 on the U.S. Marine Corps Base Camp Pendleton to relieve congestion in the area. This toll road would have impacted the Conservancy, which protects habitat areas as mitigation for development projects in Orange County, and San Onofre State Beach, which hosts nearly 2.5 million visitors per year, 10 federally threatened or endangered species, an ancient sacred Acjachemen village, and an undeveloped watershed.

Several state agencies, including CCC, San Diego Regional Water Quality Control Board, Park Commission, and Native American Heritage Commission, reviewed the proposal and rejected it for various reasons. Also, the California Attorney General, Park Commission, Native American Heritage Commission, and Save San Onofre Coalition filed lawsuits to challenge TCA's project. In February 2008, CCC found that the toll road proposal and the resulting coastal impacts were inconsistent with the state's Coastal Act and the federal Coastal Zone Management Act. The federal Department of Commerce upheld CCC's decision on appeal in December 2008. Further, in 2013, the San Diego Regional Water Quality Control Board rejected a proposal for a partial road project.

Settlement and Protective Agreements. In 2016, the California Attorney General, Park Commission, Native American Heritage Commission, TCA, and conservation organizations entered into a legal settlement agreement (Settlement Agreement) to protect a specified avoidance area from the proposed project. Among other things, TCA agreed to not construct or provide funding for the construction of any road alignment located within, or that would have direct impacts to, the avoidance area. TCA also agreed to establish a \$28 million Habitat Conservation Fund to help mitigate its road project. In turn, the groups agreed to not oppose a road project outside of the avoidance area, and the plaintiffs agreed to withdraw their lawsuits. In January 2017, the San Diego Superior Court entered a judgment to confirm and implement the Settlement Agreement, officially ending the litigation.

In March 2017, the TCA, CalTrans, California Natural Resources Agency, and conservation organizations entered into a protective agreement (Protective Agreement) in which CalTrans agreed to not approve, permit, take possession of, or otherwise authorize the construction of a major thoroughfare in the avoidance area. The Protective Agreement does not apply to any proposed widening of I-5. In return, the conservation groups agreed to not challenge TCA's construction of a bridge to directly connect SR 241 to the new Los Patrones Parkway.

Lawsuits and Recent Action. Congestion in the area remains an issue. TCA, at one point in time, was in the process of evaluating and seeking comment on over 20

alternatives to address traffic relief, several of which would have required construction through the City of San Clemente or construction on I-5. Residents of San Clemente voiced concerns over alternatives that would impact San Clemente. In mid-2017, the City of San Clemente and the Reserve Maintenance Corporation, a private gated community in San Clemente, filed lawsuits to invalidate the agreements over concerns that TCA would extend SR 241 through the City of San Clemente. These lawsuits, which the court consolidated, are still pending.

In March 2020, the TCA Board of Directors officially dropped the controversial extension of SR 241 to I-5 through San Clemente and instead approved evaluation of a broadly supported alternative. This alternative, known as “Alternative 22 untolled,” recommends extending Los Patrones Parkway directly east of the City of Mission Viejo from Cow Camp Road to Avenida La Pata as a major thoroughfare. The Los Patrones Parkway extension would be constructed in an unincorporated portion of Orange County, not within the City of San Clemente.

Comments

This bill protects important natural, cultural, and recreational beach resources south of San Clemente from road construction. This bill codifies the substance of the Settlement Agreement and the Protective Agreement to prevent TCA and CalTrans from authorizing, funding, or constructing roads in the avoidance area, with limited exceptions. Note that it does not codify other portions of these agreements. This bill also goes a step further than the agreements by prohibiting any state agency, city, county, joint powers authority, regional transportation agency, or other local government entity, or any other person or entity from constructing, funding, approving, or otherwise authorizing the building of a street, road, or highway within the avoidance area.

Essentially, this provides an extra layer of protection, on top of the Protective and Settlement Agreements, to protect the avoidance area from road construction, although nothing prevents the Legislature in the future from adopting legislation to modify or remove these protections. Importantly, this bill codifies the substance of the Protective and Settlement Agreements, not the agreements themselves. If the plaintiffs’ pending lawsuits successfully invalidated the agreements, then the new law proposed by this bill would still prevail to protect the avoidance area from road construction.

What is included in the avoidance area? The Settlement Agreement specifies the avoidance area, which the Protective Agreement adopts. This includes:

- Undeveloped lands in the San Juan Creek and San Mateo Creek watersheds, which support high-quality coastal sage scrub habitat.
- Land located within the Orange County Southern Subregion Habitat Conservation Plan area.
- Portions of the Reserve at Rancho Mission Viejo, including the Conservancy.
- San Onofre State Beach, one of California's most popular state parks which hosts diverse recreational, cultural, and natural resources.

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

SUPPORT: (Verified 8/13/20)

California State Parks Foundation (source)

Audubon California

Brown Girl Surf

California Coastal Protection Network

Center for Nature & Health

Defenders of Wildlife

Endangered Habitats League

Fresno Interdenominational Refugees Ministries

Green the Church

Laguna Greenbelt Inc.

Latino Outdoors

Los Angeles Neighborhood Land Trust

Natural Resources Defense Council

Orange County Business Council

Orange County Coastkeeper

Outdoor Outreach

Resources Legacy Fund

San Diego & Imperial Counties Labor Council

San Diego County Building & Construction Trades Council

Sea and Sage Audubon

Sierra Club California

State Building & Construction Trades Council of California

Surfrider Foundation

Wildcoast-costasalvaje

OPPOSITION: (Verified 8/13/20)

None received

ARGUMENTS IN SUPPORT: According to the author, “San Onofre State Beach is one of California’s most-treasured state parks. In addition to being an economic driver to the area – studies have estimated that more than \$8 million is generated annually for the City of San Clemente from park visitors – the park is a haven for local families and residents looking for connection with nature among our highly-urbanized area. It has Trestles, the ‘Yosemite of surfing,’ along with upland hiking trails. It has affordable overnight accommodations along with long stretches of sandy coast for families to spend a day at the beach. The efforts to reach a productive, positive settlement between many parties after decades of policy conflict and litigation reflect a unique and rare case of resolving what had been an intractable situation. Those hard-fought protections were critical to reach and must be upheld. AB 1426 ensures that the Department of Parks and Recreation and lawmakers remain focused on continuing the preservation and public access to San Onofre.”

ASSEMBLY FLOOR: 58-16, 1/27/20

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

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

NO VOTE RECORDED: Cervantes, Flora, Mayes, Nazarian, Waldron, Rendon

Prepared by: Catherine Baxter / N.R. & W. / (916) 651-4116
8/14/20 12:31:12

**** END ****

THIRD READING

Bill No: AB 1470
Author: Quirk (D)
Amended: 4/12/19 in Assembly
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-0, 8/8/20
AYES: Glazer, Chang, Archuleta, Dodd, Galgiani, Hill, Leyva, Pan, Wilk

ASSEMBLY FLOOR: 76-0, 1/23/20 - See last page for vote

SUBJECT: Cannabis testing

SOURCE: California Cannabis Manufacturers Association

DIGEST: This bill specifies that “final form” means unpackaged cannabis product as it will be consumed.

ANALYSIS:

Existing law:

- 1) Establishes the Bureau of Cannabis Control under the Department of Consumer Affairs to administer and enforce the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) and the Control, Regulate and Tax Adult Use of Marijuana Act of 2016, which establishes a comprehensive system to control and regulate the distribution, transport, storage, and sale of cannabis products. (Business and Professions Code (BPC) § 26000 et seq.)
- 2) Requires licensed sellers of cannabis or cannabis products to have a representative sample tested by a licensed testing laboratory. (BPC § 26100(a))
- 3) Prohibits cannabis or cannabis products from being sold pursuant to a state cannabis license, unless a representative sample has been tested by a licensed testing laboratory. Requires a presale inspection, testing transfer, or

transportation of cannabis products for the purpose of laboratory testing to conform to a specified chain of custody protocol. (BPC § 26100)

- 4) Prohibits, except as provided elsewhere in BPC Division 10, a testing laboratory from acquiring or receiving cannabis or cannabis products except from a licensee or from distributing, selling or dispensing cannabis or cannabis products from the licensed premises from which the cannabis or cannabis products were acquired or received. Requires all transfer or transportation to be performed pursuant to a specified chain of custody protocol. (BPC § 26104(c))
- 5) Authorizes a testing laboratory to receive and test samples of cannabis or cannabis products from a qualified patient or primary caregiver, only if the qualified patient or caregiver presents the qualified patient's valid physician's recommendation for cannabis for medicinal purposes. Prohibits a testing laboratory from certifying samples from a qualified patient or primary caregiver for resale or transfer to another party or licensee. Requires all tests performed by a testing laboratory for a qualified patient or primary caregiver to be recorded with the name of the qualified patient or primary caregiver and the amount of cannabis or cannabis product received. (BPC § 26104(d))
- 6) Defines "certificate of analysis" as the report prepared by the laboratory about the analytical testing performed and results obtained by the laboratory. (California Code of Regulations (CCR), Title 16, § 5700(q))
- 7) Requires a distributor after receipt of a certificate of analysis from a testing laboratory, or upon transfer from another distributor, before transporting the cannabis goods, to ensure, among other things, that the certificate is the proper certificate for the batch, is timely, is consistent with the label on the goods. (CCR, Title 16, § 5307)
- 8) Defines a "packaged unit" as the final form of the product as it would be sold to the consumer. This includes identical packaging branding of the manufactured cannabis goods in their final form. (CCR, Title 16, § 5708)

This bill:

- 1) Specifies that "final form" means the unpackaged product as it will be consumed.
- 2) Specifies that the cannabis or cannabis product does not have to be delivered to the licensed testing laboratory in the final retail packaging or, if applicable, within its vaporizer device to be considered in its final form.

- 3) Allows for batch testing of manufactured cannabis, as opposed to testing of selected, retail packaged representative samples.

Background

State Regulation of Cannabis. In 1996, California first legalized cannabis for medical consumption via Proposition 215, also known as the Compassionate Use Act (the Act). Proposition 215 protected qualified patients and primary caregivers from prosecution related to the possession and cultivation of cannabis for medicinal purposes. In 2003, the Legislature authorized the formation of medical marijuana cooperatives—nonprofit organizations that cultivate and distribute marijuana for medical uses to their members through dispensaries.

In 2015, the Legislature passed the Medical Cannabis Regulation and Safety Act (MCRSA). For the first time, MCRSA established a comprehensive, statewide licensing and regulatory framework for the cultivation, manufacture, transportation, testing, distribution, and sale of medicinal cannabis to be administered by the Bureau within the Department of Consumer Affairs, Department of Public Health, and California Department of Food and Agriculture.

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 can legally grow, possess, and use cannabis for nonmedical purposes, with certain restrictions.

Final Form and Testing. MAUCRSA requires cannabis in its final form to be laboratory tested prior to sale. Currently, the California Bureau of Cannabis Control has promulgated regulations that determine final form by how a consumer purchases the product from a retail location. Practically, this means that manufactured cannabis products are delivered to labs for testing in sealed, labeled retail packaging. The regulations also define a "packaged unit" as the final form of the product as it would be sold to the consumer. This includes identical packaging branding of the manufactured cannabis goods in their final form. (CCR, Title 16, § 5708)

This bill provides clarity to the above regulations by statutorily defining final form as the unpackaged product as it will be consumed. Further, this bill states that the cannabis or cannabis product does not have to be to the laboratory in the final retail packaging or, if applicable, within its vaporizer device, to be considered in its final form. This will prevent cannabis manufacturers from unnecessarily spending resources and creating waste to full package a product when the laboratory must extract the product from its packaging for testing. Finally, this bill will allow for batch testing of manufactured cannabis, as opposed to testing of selected, retail packaged representative samples.

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

SUPPORT: (Verified 8/12/20)

California Cannabis Manufacturers Association (source)
California Cannabis Industry Association
Natura
Southern California Coalition

OPPOSITION: (Verified 8/12/20)

None received

ARGUMENTS IN SUPPORT: Supporters say that sending products for testing with full child-resistant packaging to a laboratory that is immediately removed not only adds unnecessary cost burden to the industry, but is an unneeded source of waste. Packaging in this way may also introduce uncertainty into the testing environment.

ASSEMBLY FLOOR: 76-0, 1/23/20

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

NO VOTE RECORDED: Calderon, Cervantes, Gloria, Kamlager

Prepared by: Dana Shaker / B., P. & E.D. /
8/12/20 14:14:57

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

THIRD READING

Bill No: AB 1512
Author: Carrillo (D), et al.
Amended: 8/17/20 in Senate
Vote: 27 - Urgency

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 8/5/20
AYES: Hill, Morrell, Jackson, Mitchell, Pan

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 1/30/20 (Consent) - See last page for vote

SUBJECT: Security officers: rest periods

SOURCE: California Association of Licensed Security Agencies, Guards and Associates

DIGEST: This bill exempts security guards from the “on duty” rest period requirements of a recent court case if the personnel are covered by a valid collective bargaining agreement, as specified, until January 1, 2027.

Senate Floor Amendments of 8/17/20 add an urgency clause and a coauthor.

ANALYSIS:

Existing law:

- 1) Requires, with certain exemptions, that all employees be provided a meal break of 30 minutes before the start of the 5th hour of work, unless the work period is no more than six hours and both the employer and the employee choose to waive the meal period by mutual consent. (Labor Code §512)
- 2) Provides that, if an employer fails to provide a rest or meal period as required by an Industrial Welfare Commission (IWC) wage order, the employer must give the employee one hour of premium wages at the employee’s regular rate of

compensation for each workday that a rest or meal period was not provided. (Labor Code §226.7)

- 3) Provides that every employee must be authorized to take a 10 minute break for every four hours worked, or significant fraction thereof. (IWC Wage Order 4)
- 4) Provides that an employer and employee may agree to an “on duty” rest period if both the employer and employee have signed a written agreement, as specified, and that exceptions to the rest period requirements may be granted by the Division of Labor Standards Enforcement. (IWC Wage Order 4)

This bill:

- 1) Provides that a security officer on a private patrol may remain on premises and on call during their rest break, including carrying and monitoring communication devices while on their rest break.
- 2) Provides that, if the security officer’s rest period is interrupted due to a need for an active security response, the security officer must then be permitted to resume their rest period as soon as it practicable.
- 3) Provides that, if the security officer is not able to take a rest period, the security office must receive an additional hour of pay at the security officer’s regular pay rate.
- 4) Provides that the rest period provisions described above apply in the following cases:
 - a) The employee is covered by a valid collective bargaining agreement.
 - b) The valid collective bargaining agreement covering the employee expressly provides for the wages, hours of work, and working conditions of employees, and expressly provides for rest periods for those employees, final and binding arbitration of disputes concerning application of its rest period provisions, premium wage rates for all overtime hours worked, and a regular hourly rate of pay of not less than 1 dollar more than the state minimum wage rate.
- 5) Provides that the provisions described above to not apply to existing cases filed before the effective date of this bill.
- 6) Provides that the provisions above abrogate, for the security industry only, the Court’s decision in *Augustus v. ABM Security Services* (2016).

- 7) Provides that the provisions above sunset on January 1, 2027 and declares that this bill is an urgency clause that needs to take effect immediately.

Comments

Brinker, Augustus and AB 1512

The legislative history of meal and rest periods is a deep and significant chapter in the history of California labor law. While a brief legislative analysis does not permit for a full discussion of these points, two court cases are illustrative of the state of existing law and how AB 1512 may fit in that larger structure.

Brinker and Meal Periods

In *Brinker Restaurant Corp. v. Superior Court* (53 Cal. 4th 1004 (2012)), the California Supreme Court found that the language in Labor Code Section 512, which says that an employer must “provide” a meal period to an employee, requires that an employer *must make a meal period available* to his or her employee, but *does not require an employer to ensure that a meal period is taken*. That is entirely up to the employee. This court case brought to a close many years of litigation on meal periods, as some worker advocates had argued that an employer had an affirmative obligation to make an employee take a meal period, similar to how an employer must provide an employee the minimum wage, even if the employee was willing to be paid less.

Augustus and Rest Periods

In *Augustus v. ABM Security Services* (2016), relying in part on the *Brinker* decision, the California Supreme Court found that an “on duty” rest period was NOT allowed. ABM Security Services had argued that an employee does not need to be relieved of all duty, and therefore their security officers could carry radios and be “on call” or “on duty” during their rest periods. The Supreme Court had argued that this was not the case, meaning that the employer had an affirmative responsibility to relieve their worker of any and all responsibilities during their 10 minute rest break.

As this is new case law, it is not entirely clear what the full import of this decision is, how many industries it directly impacts, or to what degree an employer is responsible to relieve the employee from all work. However, it is likely that it will apply to positions similar to security guards, like emergency personnel.

This bill will exempt specified security guards from the impact of *Augustus* if they are covered by a valid collective bargaining agreement, as specified.

Related/Prior Legislation

AB 2605 (Gipson, Chapter 584, Statutes of 2018) exempted safety sensitive personnel at petroleum refineries from the “on duty” rest period requirements of a recent court case, provided that the personnel are covered by a valid collective bargaining agreement, as specified, until January 1, 2021.

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

SUPPORT: (Verified 8/14/20)

California Association of Licensed Security Agencies, Guards and Associates
(source)

California Chamber of Commerce
SEIU California

OPPOSITION: (Verified 8/14/20)

None received

ARGUMENTS IN SUPPORT: Proponents argue the following:

AB 1512, until January 1, 2027, would require a security officer covered by a collective bargaining agreement to remain on premises and on call during rest periods, and if that period is interrupted, the security officer would be permitted to restart the rest period as soon as practicable. Given the nature of the job duties and the possibility of emergencies, security officers must be able to respond quickly and call for assistance from police, fire, or ambulance services when necessary. Often, security officers are the first to respond to emergency situations, and AB 1512 recognizes that it is in the public’s best interest that security officers remain on premises and are able to respond quickly to emergency situations.

AB 1512 is necessary to protect worker and public safety, to respond to the recent California Supreme Court decision in *Augustus v. ABM Security Services, Inc.* (2016) 2. Cal. 5th 257, and to ensure that personnel in security officer positions are available at all times while on site for the workday. In addition, AB 1512 states that if on any workday a security officer is not permitted to take an uninterrupted rest period of at least 10 minutes for every 4 hours worked, then the security officer shall be paid one additional hour of pay at the employee’s regular hourly rate.

ASSEMBLY FLOOR: 76-0, 1/30/20

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

NO VOTE RECORDED: Cervantes, Gallagher, Gray, Rendon

Prepared by: Gideon L. Baum / L., P.E. & R. / (916) 651-1556
8/19/20 14:00:38

**** END ****

THIRD READING

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

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

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

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

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

SUBJECT: Planning and zoning: housing element

SOURCE: California Building Industry Association

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

ANALYSIS:

Existing law:

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

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

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

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

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

Background

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

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

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

Comments

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

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

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

SUPPORT: (Verified 6/25/20)

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

OPPOSITION: (Verified 6/25/20)

None received

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

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

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

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

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

**** END ****

THIRD READING

Bill No: AB 1851
Author: Wicks (D), et al.
Amended: 8/6/20 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 6-0, 7/29/20
AYES: McGuire, Moorlach, Beall, Hertzberg, Hurtado, Wiener
NO VOTE RECORDED: Nielsen

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 70-4, 6/10/20 - See last page for vote

SUBJECT: Religious institution affiliated housing development projects:
parking requirements

SOURCE: California YIMBY
New Way Homes

DIGEST: This bill allows a housing development project on religious institution-owned land to eliminate parking spaces without replacement, and allows religious-use parking spaces to count towards local parking requirements for housing.

ANALYSIS:

Existing law:

- 1) Allows a city or county to “make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws,” also known as the police power.
- 2) Requires each city or county to adopt a general plan for the physical development of the city or county and authorizes the adoption and administration of zoning laws, ordinances, rules, and regulations by cities and counties.

- 3) Grants certain benefits to developers who build affordable units in order to encourage greater affordable housing production, provided they meet specified conditions, also known as density bonus law.
- 4) Requires, if a project meets these specified conditions, to allow an increase in density on a sliding scale from 20% to 35% over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan, depending on the percentage of units affordable to low-income, very low-income, or senior households.
- 5) Grants certain reductions in minimum parking requirements and grants “incentives or concessions” that can be used to waive development policies that add costs or reduce the number of units that a developer can build on a site.
- 6) Allows a corporation to be formed primarily or exclusively for any religious purposes.
- 7) Requires the state to reimburse local agencies for their costs when the state imposes new programs or additional duties on them, unless they meet specified exceptions.

This bill:

- 1) Prohibits a local agency from requiring the replacement of religious-use parking spaces that a developer of a religious institution affiliated housing development project proposes to eliminate as part of that housing development.
- 2) Defines “religious institution affiliated housing development project” (RIAHD) as a housing development project that meets all of the following requirements:
 - a) Is located on parcels that are owned by a bona fide religious institution that lawfully operates as a nonprofit religious corporation under state law.
 - b) Qualifies as being near colocated religious-use parking by being on or adjacent to a parcel with religious-use parking, or located within one-tenth of a mile of a parcel that contains religious-use parking.
 - c) Qualifies for a density bonus.

- 3) Allows a project developer to eliminate up to 50 percent of the total religious-use parking spaces available at the time the request is made.
- 4) Prevents a local agency from requiring a developer to cure a pre-existing deficit of the number of religious-use parking spaces as a condition of approval of a RIAHD.
- 5) States that a request to eliminate parking spaces as provided in the bill does not constitute a concession for the purposes of density bonus law.
- 6) Prohibits a local agency from denying a RIAHD solely on the basis that the project will reduce the total number of parking spaces available at the place of worship as long as the reduction does not exceed 50 percent.
- 7) Requires a local agency to allow the number of remaining religious-use parking spaces to count toward the number of spaces that the local agency would otherwise require for the RIAHD.
- 8) Provides that a local agency is not required to allow the remaining religious-use parking spaces to count toward the number of parking spaces otherwise required for approval of the RIAHD to the extent that it would prohibit a local agency from requiring up to one parking space per unit unless the RIAHD is within one-half mile of public transit or there is a car share vehicle within one block of the parcel.
- 9) Prohibits the reduction in parking spaces from reducing the minimum parking standards that a local agency may require of a RIAHD below one space per unit unless the RIAHD is within one-half mile of public transit or there is a car share vehicle within one block of the parcel.
- 10) Provides that its statutory provisions apply to charter cities. To support this assertion, the bill includes a legislative finding that provision of adequate housing in California is a matter of statewide concern.
- 11) Disclaims this bill is a reimbursable state mandate by saying that no reimbursement is required by this act because local agencies can levy fees to pay for the program.
- 12) Defines several additional terms and includes findings and declarations to support its purposes.

Background

It is from 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. Local governments use their police power to enact zoning ordinances that shape development, such as setting maximum heights and densities for housing units, minimum numbers of required parking spaces, setbacks to preserve privacy, lot coverage ratios to increase open space, and others. These ordinances can also include conditions on development to address aesthetics, community impacts, or other particular site-specific considerations. Cities and counties establish parking standards for various commercial, residential, and religious uses. The number of parking spaces required for churches and large venues is commonly established by the total square footage of the venue, the number of individual seats, or square inches of bench or pew space.

Comments

- 1) *Purpose of the bill.* According to the author, “California’s communities of faith have taken interest in redeveloping portions of their properties, like parking lots, into housing. With faith-based parking spaces not used more than a few times a week, they remain vacant the majority of the year. However, plans to build new housing on church sites have often-struck roadblocks. One of the most common is the inability to count available church properties toward residential parking requirements due to restrictive local ordinances. AB 1851 will facilitate this type of housing construction by reducing parking requirements on church properties for qualifying housing projects.”
- 2) *Local control.* Few local issues engender greater concern amongst community members than the parking needs associated with new development. Local officials must estimate the demand for parking from new development to craft a locally-adopted parking ordinance that ensures the right amount of parking for that particular community. Proponents of AB 1851 argue that religious institutions take their role in the community seriously, are less profit-driven than other developers, and have their own interest in ensuring that adequate parking is available for worshippers. However, the bill takes parking decisions out of the hands of duly-elected local officials who are chosen by the community at large to represent their varied interests and places it with the leaders of religious institutions that represent a particular group of people.
- 3) *One size fits all.* Places of worship such as churches present a particular challenge when assigning parking ratios because the demand for parking often has sharply-defined peaks and valleys throughout the week. AB 1851 attempts

to ease housing construction by allowing religious institutions to eliminate parking spaces and count the remaining spaces twice: once for the housing project and once again on those days when services are conducted, which allows for a significant reduction in the parking that would otherwise be required for the place of worship and the housing development combined. Local agencies can limit this reduction if it would result in fewer than one space per unit. For projects near transit, local agencies cannot impose this limitation. The bill takes a blunt one-size fits all approach by cutting local religious parking ratios in half, regardless of what the actual use is.

Related/Prior Legislation

SB 899 (Wiener, 2020), which is part of the Senate's housing package, allows by-right development of dense housing on property owned by religious institutions or non-profit colleges and universities. Among other provisions, SB 899 grants moderate parking benefits to 100 percent affordable developments on eligible sites by limiting parking ratios to one space per unit and eliminating minimum parking requirements for projects near transit and car share vehicles.

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

SUPPORT: (Verified 8/14/20)

California YIMBY (co-source)
New Way Homes (co-source)
Alameda County Board of Supervisors
Alameda County Supervisor Keith Carson- District 5
All Home
Astron Development Corp
Bay Area Council
California Affordable Housing Development Association
California Apartment Association
California Community Builders
Chan Zuckerberg Initiative
City of Berkeley
City of Oakland
City of San Diego
Clairemont Lutheran Church
County of Alameda
East Bay Housing Organizations
Greater Cooper Ame Zion Church, Oakland

Gunkel Architecture
 Habitat for Humanity California
 Leadingage California
 Non-profit Housing Association of Northern California
 Peace United Church of Christ, Santa Cruz
 San Francisco Foundation
 Silicon Valley At Home
 Silicon Valley Community Foundation
 Techequity Collaborative
 Turner Center for Housing Innovation At the University of California, Berkeley
 TMG Partners

OPPOSITION: (Verified 8/14/20)

American Atheists
 City of El Segundo
 City of Rancho Palos Verdes
 City of Thousand Oaks
 City of Torrance
 South Bay Cities Council of Governments

ASSEMBLY FLOOR: 70-4, 6/10/20

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

NOES: Choi, Patterson, Voepel, Waldron

NO VOTE RECORDED: Chen, Megan Dahle, Holden, Mathis, Quirk

Prepared by: Jonathan Peterson / GOV. & F. / (916) 651-4119
 8/14/20 12:18:35

**** END ****

CONSENT

Bill No: AB 1859
Author: Santiago (D)
Amended: 8/1/20 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 7/29/20
AYES: Leyva, Wilk, Chang, Durazo, Glazer, McGuire, Pan

ASSEMBLY FLOOR: 75-0, 5/26/20 (Consent) - See last page for vote

SUBJECT: School district employees: merit system: appointments

SOURCE: Los Angeles Unified School District

DIGEST: This bill extends the authority for the Los Angeles Unified School District (LAUSD) to fill a classified vacancy with an applicant who is not among the first three ranks of an eligibility list, as specified, until January 1, 2027.

ANALYSIS:

Existing law:

- 1) Authorizes an appointment to be made from other than the first three ranks of eligible applicants on an eligibility list if one or more of the following are required for successful job performance of a position to be filled:
 - a) The ability to speak, read, or write a language in addition to English;
 - b) A valid driver's license;
 - c) Specialized licenses, certifications, knowledge, or ability, as determined by the school district personnel commission, that cannot reasonably be acquired during the probationary period;
 - d) A specific gender, if it is a bona fide occupational qualification.

- 2) Requires that the recruitment bulletin announcing the examination indicate the special requirements that may be necessary for filling one or more of the positions in the classification.
- 3) Requires that, if a position is to be filled using this authority, the appointment be made from among the highest three ranks of eligible candidates on the appropriate eligibility list who meet the special requirements of the position and who are ready and willing to accept the position.
- 4) Requires that, if there are insufficient applicants who meet the special requirements, an employee who meets the special requirements may receive provisional appointments that may accumulate to a total of 90 working days. This provision applies only to the following classifications:
 - a) Principal financial analyst.
 - b) Principal administrative analyst.
 - c) Senior administrative analyst.
 - d) Senior administrative assistant.
 - e) Senior financial analyst.
 - f) Information technology electronic communications technician.
 - g) Senior human resource specialist.
 - h) Any classifications that have been designated as management or confidential.
- 5) Requires that a school district that makes an appointment pursuant to this authority study the effectiveness of the selection method, the vacancy rates for each class, and the length of time to hire for each class, and submit a report on its findings to any affected labor union.
- 6) Sunsets these provisions on December 31, 2020.

This bill extends the authority for LAUSD to fill a classified vacancy with an applicant who is not among the first three ranks of an eligibility list if the position requires a person of a specific gender or requires specialized licenses, certifications, knowledge, or ability which cannot reasonably be acquired during the probationary period, from December 31, 2020, to January 1, 2027.

Comments

- 1) *Need for the bill.* According to the author, “In a school district that serves over 600,000 students, it is important that the Los Angeles Unified School District (LAUSD) has flexibility in the hiring process to quickly fill vacant positions with qualified candidates. Our students deserve to have the most experienced administrators serving them.”
- 2) *Merit systems.* Current law establishes a system of classified personnel management, known as the merit system, which has been adopted by nearly 100 school districts in California, including the LAUSD which adopted the merit system in 1936.

In a merit system district, a personnel commission establishes guidelines that the district governing board must follow in the hiring, retention, and promotion of classified employees. The commission is comprised of one commissioner selected by the exclusive representative of the classified employees, one commissioner selected by the school district, and a third commissioner selected by the other two.

Vacancies in the classified service are filled from applicants on eligibility lists, except for vacancies filled by transfer, demotion, reinstatement, and reemployment in accordance with rules of the commission. An applicant's place on an eligibility list is determined by their performance on a competitive examination. All eligible applicants with the same score are considered as having the same rank, and positions generally are filled by applicants from the first three ranks on an eligibility list.

- 3) *History of the exemption.* Current law, until December 31, 2020, authorizes LAUSD to fill vacancies in specified job classifications from ranks other than the top three ranks of an employment list if the position requires a person of a specific gender or requires specialized licenses, certifications, knowledge, or ability which cannot reasonably be acquired during the probationary period.

The unique selection process established for LAUSD was originally authorized by AB 424 (Richman, Chapter 881, Statutes of 2003). The original exemption expired on January 1, 2006, and was extended to January 1, 2007, by AB 1772 (Assembly Public Employees Retirement and Social Security Committee, Chapter 547, Statutes of 2005). AB 580 (Smyth, Chapter 528, Statutes of 2007) extended the expiration date again to January 1, 2012, and limited its application to 16 specified positions. AB 415 (Karnette, Chapter 186, Statutes of 2008) added “any classifications that have been designated as management”

to the listed classifications. AB 1293 (Hall, Chapter 145, Statutes of 2009) added nine additional positions to which the exemption applied. AB 2125 (Hall, Chapter 56, Statutes of 2012) extended the exemption from the requirement to appoint from the first three ranks to December 31, 2015 and applied it to nine positions. Finally, AB 1339 (Santiago, Chapter 243, Statutes of 2015) extended the exemption from the requirement to appoint from the first three ranks, until December 31, 2020, and struck “information technology solution technician” from the list of positions subject to this exemption.

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

SUPPORT: (Verified 7/31/20)

Los Angeles Unified School District (source)

OPPOSITION: (Verified 7/31/20)

None received

ARGUMENTS IN SUPPORT: The LAUSD writes, “The Los Angeles Unified School District has approximately 1,200 job classifications. Through the current statute that is set to sunset on December 31, 2020, the biggest advantage we have noted is the flexibility that we have in meeting specific hiring needs at any given time, without the need to conduct separate recruitment campaigns for each unique need. The ability to hire based on specific certified skills allows us to recruit once for a specific job classification, yet target candidates with unique knowledge or skill set specific to the different positions within that job class. In turn, our hiring departments are able to hire candidates who best match their needs, without additional recruitment efforts. From the time that Education Code 45277 was extended to allow that ‘an appointment may be made from other than the first three ranks if a candidate possesses special licenses, certifications, knowledge, or abilities,’ Los Angeles Unified’s Personnel Commission has seen a decrease in the time it takes to fill a position by over 60 percent. We attribute a significant part of this decrease to the fact that hiring managers may fill positions off of an initial eligibility list, rather than request that additional recruitment efforts be undertaken. For these reasons, the Los Angeles Unified School District is pleased to support Assembly Bill 1859.”

ASSEMBLY FLOOR: 75-0, 5/26/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Megan Dahle, Daly,

Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Limón, Low, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Obernolte, O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Voepel, Waldron, Weber, Wood, Rendon

NO VOTE RECORDED: Diep, Maienschein, Quirk, Wicks

Prepared by: Ian Johnson / ED. /
8/1/20 8:59:12

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

CONSENT

Bill No: AB 1927
Author: Boerner Horvath (D), et al.
Amended: 7/2/20 in Senate
Vote: 27

SENATE PUBLIC SAFETY COMMITTEE: 7-0, 7/31/20

AYES: Skinner, Moorlach, Bradford, Jackson, Mitchell, Morrell, Wiener

ASSEMBLY FLOOR: 77-0, 6/10/20 - See last page for vote

SUBJECT: Witness testimony in sexual assault cases: inadmissability in a separate prosecution

SOURCE: Alameda County District Attorney's Office
California District Attorneys Association
San Diego County District Attorney's Office

DIGEST: This bill makes the testimony of a victim or witness in a felony prosecution for specified sex crimes that the victim or witness, at or around the time of crime, unlawfully possessed or used a controlled substance or alcohol inadmissible in a separate prosecution of that victim or witness to prove illegal possession or use of that controlled substance or alcohol.

ANALYSIS:

Existing law:

- 1) Prohibits the admission of evidence that a person was in possession of condoms in a prosecution for a prostitution-related offense. (Evid. Code § 782.1.)
- 2) Prohibits the admission of evidence that a victim of, or a witness to, a serious felony, as defined, assault, domestic violence, extortion, sexual battery, or stalking, each as specified, has engaged in an act of prostitution at or around the time they were the victim of or witness to the crime is inadmissible in a separate

prosecution of that victim or witness to prove criminal liability for the act of prostitution. (Evid. Code, § 1162.)

- 3) Prohibits the arrest of a person for a misdemeanor controlled substances offense or a prostitution offense if the person reports being a victim of, or a witness to, a serious felony, as defined, assault, domestic violence, extortion, sexual battery, or stalking, each as specified, if the person was engaged in such behavior at or around the time they were the victim of, or witness the offense they are reporting. (Evid. Code § 647.3.)
- 4) Establishes a procedure in which a person may be compelled to testify or produce evidence in a felony case if a person refuses to answer a question or produce evidence of any other kind on the ground that he or she may be incriminated and allows the district attorney or any other prosecuting agency to request an order granting use immunity or transactional immunity to the person compelled to give testimony or produce evidence. (Pen. Code § 1324.)
- 5) Establishes a procedure in which a person who refuses to answer a question or produce evidence of any other kind in a misdemeanor case on the ground that he may be incriminated, may agree to testify voluntarily in exchange for immunity from prosecution. (Pen. Code § 1324.1.)

This bill:

- 1) States that the testimony of a victim or witness in a felony prosecution for assault or burglary with the intent to commit specified sex crimes, sexual battery, rape, statutory rape, sodomy, oral copulation, lewd or lascivious acts, sexual penetration, that the victim or witness, at or around the time of the sex crime unlawfully possessed or used a control substance or alcohol is inadmissible in a separate prosecution of that victim or witness to prove illegal possession or use of that controlled substance or alcohol.
- 2) Specifies that evidence that the testifying witness unlawfully possessed or used a controlled substance or alcohol is not excluded from use in the felony prosecution for a violation or attempted violation of specified sex crimes.
- 3) Specifies that evidence that a witness received use immunity for testimony is not excluded in the felony prosecution of a violation or attempted violation of specified sex crimes.

Comments

According to the author:

A report by the White House Task Force to Protect Students from Sexual Assault confirm that liability for illegal consumption of alcohol and drugs can keep victims from reporting sexual assault. Higher education institutions nationwide, including the University of California system, utilize amnesty clauses to encourage college students to report sexual misconduct. These amnesty clauses provide limited immunity to individuals coming forward with a complaint. California should expand this concept to apply to all victims of sexual assault. Every victim deserves to come forward without fear of being found liable for minor violations of underage drinking or drug use. Providing victims with amnesty will help law enforcement prosecute perpetrators of sexual assault and increase overall public safety. AB 1927 will ensure that sexual assault survivors receive the justice they deserve.

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

SUPPORT: (Verified 7/31/20)

Alameda County District Attorney's Office (co-source)
California District Attorneys Association (co-source)
San Diego County District Attorney's Office (co-source)
California Coalition Against Sexual Assault
California Legislative Women's Caucus
Center for Community Solutions
Change for Justice
County of San Diego
Crime Victims United of California
End Violence Against Women International
Southern California Public Health Association

OPPOSITION: (Verified 7/31/20)

None received

ASSEMBLY FLOOR: 77-0, 6/10/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau,

Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Diep, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Levine, Limón, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Obernolte, O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Kamlager, Quirk

Prepared by: Stella Choe / PUB. S. /
8/5/20 15:23:57

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

CONSENT

Bill No: AB 1929
Author: Blanca Rubio (D), et al.
Amended: 8/11/20 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 7-0, 8/10/20
AYES: Hurtado, Jones, Beall, Jackson, Melendez, Pan, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Child abuse and neglect reporting

SOURCE: County Welfare Directors Association of California
Los Angeles County Board of Supervisors

DIGEST: This bill authorizes any county welfare agency to develop and implement a system for internet-based reporting of child abuse and neglect. The internet-based reporting system may receive reports from any mandated reporter of suspected child abuse or neglect, but may not be used if there is an indication that the child is at an immediate risk or in imminent danger of severe harm or death.

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 or 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) Defines a “mandated reporter” as an individual required to report suspected or known instances of child abuse and neglect, and includes, teachers, social workers, probation officers, firefighters, and physicians, among others. (*PEN 11165.7(a)*)
- 4) Requires reports of suspected child abuse or neglect to be made by mandated reporters to certain entities including any police department or sheriff’s department, county probation department, or the county welfare department, as specified. (*PEN 11165.9*)
- 5) Requires a mandated reporter to make a report to any agency whenever the mandated reporter has knowledge or observes a child who has been the victim of child abuse or neglect, as specified. Further, requires the mandated reporter to make an initial report by telephone to an agency immediately or as soon as is practicably possible, and requires the reporter to prepare and send, fax, or electronically transmit a written follow-up report within 36 hours of receiving the information concerning the incident. (*PEN 11166(a)*)
- 6) Allows a county welfare agency to develop a pilot program for internet-based reporting of child abuse and neglect, as provided. (*PEN 11166.02(a)*)
- 7) Allows a mandated reporter in a county where the pilot program is active to use the internet-based reporting tool in lieu of the required initial telephone report, and, further, requires the mandated reporter to, as soon as practically possible, cooperate with the agency on any requests for additional information if needed to investigate the report, subject to applicable confidentiality requirements. (*PEN 11166.02(b)*)
- 8) Establishes that the pilot program is in effect only until January 1, 2021, and is repealed as of that date, unless a later enacted statute that is enacted before January 1, 2021, deletes or extends that date. (*PEN 116602(c)*)
- 9) Requires the California Department of Social Services (CDSS) to consult with the County Welfare Directors Association (CWDA) of California and any interested county welfare agencies to determine which counties may be involved with the pilot program established pursuant to the pilot project for

internet-based reporting of child abuse and neglect, and, further, allows up to 10 counties to participate in the pilot program. (*WIC 10612.5(a)*)

- 10) Requires a county that chooses to participate in the pilot program to hire an evaluator to monitor the implementation of the program in accordance with directives issued by CDSS. (*WIC 10612.5(c)*)
- 11) Requires a county that chooses to participant in the pilot program to, in collaboration with CWDA and CDSS, develop outcome measures to determine the effectiveness of the pilot program, as provided. (*WIC 10612.5(d)(1)*)
- 12) Requires a county that participates in the pilot program to, on or before January 1, 2020, provide information to the Assembly and Senate Committees on Human Services pertaining to the effectiveness of the pilot program based on specified outcome measures. (*WIC 10612.5(d)(2)*)
- 13) Allows CDSS to conclude the pilot program on a county-by-county basis prior to January 1, 2021, if the evaluation and monitoring indicate the pilot program is compromising the safety of children. (*WIC 10612.5(e)*)

This bill:

- 1) Permits a county welfare agency to establish and develop a system for internet-based reporting of child abuse and neglect.
- 2) Provides for the internet-based reporting system to receive reports made by any mandated reporter, as defined, and requires the system do all of the following: restrict the reports of suspected child abuse or neglect to reports indicating that the child is not subject to an immediate risk of abuse, neglect, or exploitation and that the child is not in imminent danger of severe harm or death; include standardized safety assessment qualifying questions in order to obtain necessary information required to assess the need for child welfare services and a response, and, if appropriate, redirect the mandated reporter to perform a telephone report; require a mandated reporter to complete all required fields, including the identity and contact information of the mandated reporter, in order to submit the report; and have appropriate security protocols to preserve the confidentiality of the reports and any documents or photographs submitted through the system.

- 3) Provides that the use of internet-based reporting system does not change current statutory or regulatory requirements regarding timely review, assessment, and response to reports of possible abuse or neglect.
- 4) Provides that in a county where the internet-based system is active, a mandated reporter may use that system instead of the initial telephone report required by existing law, provided the mandated reporter who submits the internet-based report cooperate, as soon as practically possible, with the agency on any request for additional information if needed to investigate the report, as determined by the county welfare agency. Further provides that the mandated reporter does not have to submit the written follow up report required under existing law.
- 5) Requires CDSS to oversee the program for internet-based reporting of child abuse and neglect through the issuance of written directives that shall have the same force and effect as regulations, and further exempts these written directives from the rulemaking provisions of the Administrative Procedure Act.
- 6) Requires a county that implements an internet-based system for reporting child abuse and neglect to hire an evaluator to monitor the implementation of the program and submit evaluations to CDSS during the first two years of implementation that include, at a minimum, the provided outcome measures. Further provides that CDSS may authorize additional evaluation time if needed, as determined by CDSS after consultation with the county.
- 7) Requires a county that operates an internet-based system for reporting child abuse and neglect to, in collaboration with CWDA and CDSS, develop outcome measures to determine the effectiveness of the system. Further provides that these outcome measures may include, but not be limited to, the following: the number of reports provided by telephone and any increase or decrease; the number of reports provided through the internet-based reporting system and any increase or decrease; any increase or decrease in the number of emergency or nonemergency telephone reports; and/or any increase or decrease in the overall number of emergency or nonemergency reports.
- 8) Requires counties to decommission their system for internet-based reporting of child abuse and neglect when CDSS notifies counties that an internet-based reporting system is available and functional within the statewide comprehensive child welfare information system.

- 9) Provides for CDSS to conclude the internet-based reporting system on a county-by-county basis if the evaluation and monitoring of the system indicate it is compromising the safety of children.
- 10) Requires a county that participates in the program to, within 2 years of the county's implementation, provide information to the legislature, as provided, pertaining to the effectiveness of the program based on specified outcome measures.

Background

According to the author, “allowing mandated reports to make non-urgent child abuse and neglect reports through an online portal, rather than expend their valuable time holding on the phone to make a verbal report, leads to improved efficiencies for both mandated reporters and child welfare agencies, thereby freeing up phone lines for emergent child abuse and neglect reports and facilitating timely safety assessments and intervention.”

Child Abuse and Neglect Investigations. An investigation into allegations of child abuse or neglect typically begins with a report of suspected abuse or neglect. 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. Reports of child abuse do not need to be made by a mandated reporter, as any individual who believes a child may be suffering abuse or neglect can make a report to either law enforcement or the county child welfare agency. Often, these reports are made through the Child Protective Services (CPS) Hotline, which is a 24-hour hotline staffed by trained social workers who receive and evaluate reports of suspected abuse or neglect.

When the CPS Hotline receives a report of suspected abuse or neglect, the call is screened by a social worker who attempts to determine whether the report alleges abuse, neglect, or exploitation. The CPS social worker must then determine whether the report warrants an in-person visit from a county CPS social worker to investigate the allegations. If an in-person visit is warranted and 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 and placed into foster care.

Between January 2019 and December 2019, there were 476,638 reports of possible child abuse or neglect recorded in California. Out of these reports, 45,686 were allegations of sexual abuse, 88,622 were allegations of physical abuse, 225,293 were allegations of severe or general neglect, 52,423 were allegations of emotional abuse, 521 were allegations of exploitation, and 4,720 were allegations of caretaker absence or incapacity. Additionally, of the 476,638 reports of abuse or neglect, 69,418 reports contained allegations that were substantiated and 28,603 of the substantiated reports resulted in children being removed from their homes and placed into foster care.

Internet-based Reporting of Child Abuse in Neglect. In 2015, Governor Jerry Brown signed SB 478 (Huff, Chapter 490, Statutes of 2015) establishing a five-year pilot program that allowed up to 10 counties' county welfare agencies to develop a pilot program for internet-based reporting of child abuse or neglect. The pilot program did not allow for the replacement of a county's 24-hour hotline, as it only allowed for non-emergency reports to be made through the internet-based reporting system. If there was any indication that a child was subject to an immediate risk of abuse, neglect, or exploitation, or that the child was in imminent danger of severe harm or death the internet-based reporting system could not be used, rather the immediate threat had to be reported through a county's 24-hour hotline.

The pilot program also required a county-developed internet-based reporting system to meet all of the following conditions:

- The county welfare agency provides an internet form that includes standardized safety assessment qualifying questions in order to obtain information necessary to assess the need for child welfare services and a response;
- The mandated reporter is required to complete all required fields, including identity and contact information of the mandated reporter, in order to submit the report; and,
- The agency provides an internet-based reporting system that has appropriate security protocols to preserve the confidentiality of the reports and any documents or photographs submitted through the system.

The pilot program also limited who could utilize the internet-based reporting system. It only provided for certain mandated reporters to utilize internet-based reporting, including: peace officers, probation officers, social workers, school

teachers, school counselors, school administrators, physicians, surgeons, psychologists, licensed nurses, clinical social workers, and coroners. SB 478 also required CDSS to oversee and administer the pilot program through the issuance of written directives, and required any participating county to collaborate with CWDA and CDSS to develop outcome measures to determine the effectiveness of the county's program for internet-based reporting of child abuse and neglect. Additionally, participating counties were required to hire an evaluator to monitor the implementation of the program in accordance with the directives issued by CDSS. The pilot program is scheduled to sunset as of January 1, 2021, and as of that date, is repealed.

Child Abuse Reporting Electronic System (CARES). The County of Los Angeles was the only county to establish and implement an internet-based system for reporting child abuse and neglect as allowed through the SB 478 pilot program. In 2017, the County of Los Angeles established CARES with the goals of increasing the county's responsiveness to child safety concerns, providing a convenient and use-friendly platform for mandated reporters, and increased efficiency for the Child Protection Hotline.

The University of California, Los Angeles has completed yearly evaluations of CARES. In 2016 they found that Los Angeles County's Hotline for reporting suspected child abuse or neglect experienced a 22.3 percent increase in calls from 2006 to 2016, or 218,918 calls in 2016 compared to 179,044 calls in 2006. The evaluation attributed this increase to a number of factors, including: increased education on mandated report obligations and increased media coverage of child abuse, child fatalities, and family violence, among other factors. The Year 2 evaluation was able to make a number of findings as to the impact of CARES, including that the volume of reports through CARES increased from 2018 to 2019, user satisfaction based on user survey responses, indications that the screening process was functioning reliably, and a 87 percent overall completion rate suggesting that the process was successfully facilitating completed reports of child abuse and neglect.

This bill allows all counties to establish and implement an internet-based system for reporting child abuse and neglect, as provided. Essentially, this bill expands the pilot project created by SB 478 statewide, removing the sunset date and the pilot project's limitations on which mandated reporters could utilize the internet-based reporting system, instead allowing any mandated reporter to use it. This bill also continues restricting internet-based reporting to non-emergency reports and creates

a two-year evaluation period during which time outcome measures must be reported to CDSS and the Legislature, as provided.

Related/Prior Legislation

SB 478 (Huff, Chapter 490, Statutes of 2015) established a five-year pilot program for internet-based reporting of child abuse and neglect in up to 10 counties until January 1, 2021.

AB 776 (Chu, Chapter 713, Statutes of 2005) authorized the filing of a one-time alternate faxed or electronic mandated reporting form on suspected child abuse in lieu of the initial telephone report, as specified, and required CDSS to submit a report to the Legislature at the end of the three-year operative period or January 1, 2009, to provide data about the use of the alternative method of reporting.

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

SUPPORT: (Verified 8/19/20)

County Welfare Directors Association of California (co-source)
Los Angeles County Board of Supervisors (co-source)
San Diego County
San Diego Unified School District

OPPOSITION: (Verified 8/19/20)

None received

ASSEMBLY FLOOR: 76-0, 6/8/20

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

NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Marisa Shea / HUMAN S. /
8/19/20 15:16:46

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

THIRD READING

Bill No: AB 1950
Author: Kamlager (D), et al.
Amended: 6/10/20 in Assembly
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-2, 7/31/20
AYES: Skinner, Bradford, Jackson, Mitchell, Wiener
NOES: Moorlach, Morrell

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 48-22, 6/15/20 - See last page for vote

SUBJECT: Probation: length of terms

SOURCE: Author

DIGEST: This bill limits the term of probation to no longer than two years for a felony conviction and one year for a misdemeanor conviction, except as specified.

ANALYSIS:

Existing law:

- 1) Provides that no person shall be confined to county jail on conviction of a misdemeanor, or as a condition of probation upon conviction of either a felony or a misdemeanor, or for any reason except upon conviction of a crime that specifies a felony punishment pursuant to realignment or a conviction of more than one offense when consecutive sentences have been imposed, for a period in excess of one year. (Pen. Code, § 19.2.)
- 2) Defines “probation” as “the suspension of the imposition or execution of a sentence and the order of conditional and revocable release in the community under the supervision of a probation officer.” (Pen. Code, § 1203, subd. (a).)

- 3) Defines “conditional sentence” as “the suspension of the imposition or execution of a sentence and the order of revocable release in the community subject to conditions established by the court without the supervision of a probation officer.” (Pen. Code, § 1203, subd. (a).)
- 4) Authorizes a court to have the power to refer cases to the probation department, demand probation reports and to do and require all things necessary to carry out the purposes of the law authorizing the imposition of probation in misdemeanor cases. (Pen. Code, § 1203a.)
- 5) Authorizes a court, in misdemeanor cases, to suspend the imposition or the execution of the sentence, and to make and enforce the terms of probation for a period not to exceed three years; provided, that when the maximum sentence provided by law exceeds three years imprisonment, the period during which sentence may be suspended and terms of probation enforced may be for a longer period than three years, but in such instance, not to exceed the maximum time for which sentence of imprisonment might be pronounced. (Pen. Code, § 1203a.)
- 6) Provides that the court may grant probation for a period of time not exceeding the maximum possible term of the sentence, except as specified, and upon those terms and conditions as it shall determine. (Pen. Code, § 1203.1, subd. (a).)
- 7) Provides that the court, in the order granting probation and as a condition thereof, may imprison the defendant in a county jail for a period not exceeding the maximum time fixed by law in the case. (Pen. Code, § 1203.1, subd. (a).)
- 8) Provides that where the maximum possible term of the sentence is five years or less, then the period of probation may not exceed five years. (Pen. Code, § 1203.1, subd. (a).)
- 9) Provides that the court may in connection with imposing probation, do the following acts:
 - a) The court may fine the defendant in a sum not to exceed the maximum fine provided by law in the case;
 - b) The court may, in connection with granting probation, impose either imprisonment in a county jail or a fine, both, or neither;

- c) The court shall provide for restitution in proper cases. Provides that the restitution order is fully enforceable as a civil judgment forthwith and as otherwise specified; and,
 - d) The court may require bonds for the faithful observance and performance of any or all of the conditions of probation. (Pen. Code, § 1203.1, subd. (a)(1)-(4).)
- 10) Requires the court to consider whether the defendant as a condition of probation shall make restitution to the victim or the Restitution Fund. (Pen. Code, § 1203.1, subd. (b).)
- 11) Provides that, except as specified, if a person is convicted of a felony and is eligible for probation, before judgment is pronounced, the court shall immediately refer the matter to a probation officer to investigate and report to the court, at a specified time, upon the circumstances surrounding the crime and the prior history and record of the person, which may be considered either in aggravation or mitigation of the punishment. (Pen. Code, § 1203, subd. (b)(1).)
- 12) Provides that unless the court finds that, in the interests of justice, it is not appropriate in a particular case, the court, when imposing a sentence on a realigned felony, shall suspend execution of a concluding portion of the term for a period selected at the court's discretion. (Pen. Code, § 1170, subd. (h)(5)(A).)
- 13) Provides that the portion of a defendant's sentenced term that is suspended is known as mandatory supervision, and unless otherwise ordered by the court, mandatory supervision begins upon release from physical custody or an alternative custody program whichever is later. Requires that during the period of mandatory supervision, the defendant be supervised by the county probation officer in accordance with the terms, conditions, and procedures generally applicable to persons placed on probation, for the remaining unserved portion of the sentence imposed by the court. (Pen. Code, § 1170, subd. (h)(5)(B).)
- 14) Provides that the following are the primary considerations in granting probation: the safety of the public, which is a primary goal through the enforcement of court-ordered conditions of probation; the nature of the offense; the interests of justice, including punishment, reintegration of the offender into the community, and enforcement of conditions of probation; the loss to the victim; and the needs of the defendant. (Pen. Code, § 1202.7.)

This bill:

- 1) Limits the probation term to one year for misdemeanor offenses. Does not apply to any offense that includes a specific probation term in statute.
- 2) Limits the probation term to two years for a felony offenses.
- 3) Provides that the two-year probation limit does not apply to offenses defined by law as violent felonies, or to an offense that includes a specific probation term within its provisions. Provides that for these offenses, the court, in the order granting probation, may suspend the imposing or the execution of the sentence and may direct that the suspension may continue for a period of time not exceeding the maximum possible term of the sentence and under conditions as it shall determine.
- 4) Provides that the two-year probation limit does not apply to a felony conviction for grand theft from an employer, embezzlement, or theft by false pretenses, if the total value of property taken exceeds \$25,000. Provides that for these offenses, the court, in the order granting probation, may suspend the imposing or the execution of the sentence and may direct that the suspension may continue for a period of time not exceeding three years, and upon those terms and conditions as it shall determine.

Background

Probation Generally

Probation is the suspension of a custodial sentence and a conditional release of a defendant into the community. Probation can be “formal” or “informal.” Formal probation is under the direction and supervision of a probation officer. Under informal probation, a defendant is not supervised by a probation officer but instead reports to the court. In general, the level of probation supervision will be linked to the level of risk the probationer presents to the community.

Probation can include a sentence in county jail before the conditional release to the community. Defendants convicted of misdemeanors, and most felonies, are eligible for probation based on the discretion of the court. When considering the imposition of probation, the court must evaluate the safety of the public, the nature of the offense the interests of justice, the loss to the victim, and the needs of the defendant. (Pen. Code, § 1202.7.)

Currently, the court may impose a term of probation for up to five years, or no longer than the prison term that can be imposed if the maximum prison term

exceeds five years, when a defendant is convicted of a felony. (Pen. Code, § 1203.1.) In misdemeanor cases, the court may impose a term of probation for up to three years, or no longer than the maximum term of imprisonment if more than three years. (Pen. Code, § 1203a.)

The court has broad discretion to impose conditions that foster the defendant's rehabilitation and protect the public safety. (*People v. Carbajal* (1995) 10 Cal.4th 1114, 1120.) A valid condition must be reasonably related to the offense and aimed at deterring such misconduct in the future. (*Id.* at p. 1121.)

Probation Supervision

Probation officers provide supervision of defendants on formal probation which is intended to facilitate rehabilitation and ensure defendant accountability. Due to limited resources and a growing population under supervision, probation departments have been forced to prioritize the allocation of supervision services.

This bill generally limits the probation term to one year for misdemeanor offenses and two years for felony offenses. This bill does not apply to offenses with a specified probation term in statute. This bill additionally excludes specified violent felonies and specified theft-related offenses in which the value of the stolen property exceeds \$25,000.

Proponents of reducing the length of probation terms argue that probation supervision is most beneficial in the early part of a probation term. In addition, advocates argue that increased levels of supervision can lead to increased involvement with the criminal justice system due to the likelihood that minor violations will be detected. The proponents of probation reform further contend that reducing the length of probation terms would enable probation officers to more effectively manage their caseloads by focusing resources on those most at risk of reoffending.

Opponents of this bill assert that a case-by-case approach is needed rather than an across the board decrease in the length of probation terms. Additionally, some argue that this bill is unnecessary given that the courts currently enjoy some discretion with respect to the length of the probation period it may order as well as the authority to terminate probation early.

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

SUPPORT: (Verified 8/12/20)

ACLU of California
All of Us or None
Alliance for Boys and Men of Color
Alliance of Californians for Community Empowerment
Asian Americans Advancing Justice - California
Asian Pacific Islander Re-entry and Inclusion Through Support and Empowerment
Asian Prisoner Support Committee
Aypal
California Attorneys for Criminal Justice
California Catholic Conference
California Immigrant Policy Center
California Nurses Association
California Public Defenders Association
Californians for Safety and Justice
Center for Empowering Refugees and Immigrants
City of Los Angeles
City of Oakland
Consumer Attorneys of California
Democratic Party of the San Fernando Valley
Disability Rights California
Drug Policy Alliance
Ella Baker Center for Human Rights
Equal Justice Society
Friends Committee on Legislation of California
Fund Her
Jewish Public Affairs Committee
John Burton Advocates for Youth
Law Enforcement Action Partnership
Legal Services with Prisoners with Children
Los Angeles Regional Reentry Partnership
Momentum United
National Association of Social Workers, California Chapter
Reform Alliance
San Francisco Public Defender's Office
Santa Barbara Women's Political Committee
Sierra Club California
Smart Justice California
The Family Project
Transgender Advocacy Group
Voices for Progress

Young Women's Freedom Center

OPPOSITION: (Verified 8/12/20)

Association of Orange County Deputy Sheriffs
California District Attorneys Association
California Fraternal Order of Police
California State Sheriff's Association
Chief Probation Officers of California
Long Beach Police Officers Association
Los Angeles County Probation Officers Union, AFSCME Local 685
Riverside Sheriffs' Association
Sacramento County Deputy Sheriffs' Association
Sacramento County Probation Association
San Joaquin County Probation Officers Association
San Luis Obispo County Probation Peace Officers Association
Silicon Valley Fraternal Order of Police, Lodge 52
State Coalition of Probation Organizations
Ventura County Professional Peace Officers Association
Yolo County Probation Association

ARGUMENT IN SUPPORT: The Drug Policy Alliance writes:

The purpose of the bill is to end wasteful spending, to focus limited rehabilitative and supervisory resources on persons in their first 12 to 24 months of probation, and reduce the length of time that a person might be subject to arbitrary or technical violations that result in re-incarceration. A robust body of literature demonstrates that probation services, such as mental healthcare and substance use disorder treatment, are most effective during the first six to eighteen months of supervision. A shorter probation term, allowing for an increased emphasis on rehabilitative services, would lead to improved outcomes for people on probation and their families.

Furthermore, this bill does not take the "teeth" out of probation or the courts. If a person on probation fails to comply with treatment or other conditions set by the court during a probationary period, the court may revoke the person's probation until the person is back in compliance. The period during which the probation is revoked does not count toward release from probation, thereby extending the period of supervision. Additionally, this bill does not change the power of the court to order a period of incarceration in addition to probation supervision and conditions, nor does the bill change the probation periods for

any offense in which the length of probation is mandatory or specified in the relevant statute.

There is an urgent need to reinvest limited resources in community health and well-being. This bill is important part of the process of ending wasteful spending and reducing police interference in the lives of the people of the State of California.

ARGUMENT IN OPPOSITION: The California District Attorneys Association writes:

This bill drastically shortens the probation term for almost all misdemeanor and felony cases. A one-size-fits-all probation scheme does not work. Such a scheme treats dissimilar defendants similarly. A defendant convicted of multiple crimes, misdemeanor or felony, and who has hurt multiple victims, is treated exactly the same as a defendant who is convicted of only one crime.

This bill is in search of a problem that does not exist; If a judge feels that only two years of probation is appropriate, the judge can order that length of probation under current law. Current law also permits judges to terminate probation early. Pursuant to existing Penal Code Section 1203.3, a probationer who completes court-ordered programming and pays restitution to a crime victim can always ask the court to terminate probation early. Judges routinely grant these types of termination motions.

...

It is precisely because we believe in rehabilitation that we oppose [this] measure. Offenders working toward rehabilitation and engaging in programming, crime victims, and public safety are best served when judges have the flexibility to grant a probation period that is appropriate and proportional for each individual case.

ASSEMBLY FLOOR: 48-22, 6/15/20

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

NOES: Bigelow, Brough, Cervantes, Chen, Choi, Cooley, Cunningham, Megan
Dahle, Diep, Flora, Fong, Frazier, Gallagher, Kiley, Lackey, Mathis,
Muratsuchi, Obernolte, Patterson, Petrie-Norris, Salas, Voepel

NO VOTE RECORDED: Boerner Horvath, Cooper, Daly, Gray, Irwin, Mayes,
Ramos, Rodriguez, Smith

Prepared by: Stephanie Jordan / PUB. S. /
8/14/20 12:31:11

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

THIRD READING

Bill No: AB 1981
Author: Nazarian (D)
Amended: 5/11/20 in Assembly
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 7/29/20
AYES: Leyva, Wilk, Chang, Durazo, Glazer, McGuire, Pan

ASSEMBLY FLOOR: 66-4, 6/10/20 - See last page for vote

SUBJECT: Los Angeles Unified School District: best value procurement

SOURCE: Author

DIGEST: This bill extends the authority for the Los Angeles Unified School District (LAUSD) to use the best value procurement method by five years, from January 1, 2021, to January 1, 2026.

ANALYSIS:

Existing law:

- 1) Requires the governing board of a school district to competitively bid and award to the lowest bidder contracts involving the following:
 - a) An expenditure of \$50,000 or more for the purchase of equipment, materials, or supplies, services (except for construction services), and repairs.
 - b) An expenditure of \$15,000 or more for a public contract project defined as construction, reconstruction, erection, alteration, renovation, improvement, demolition, repair, painting or repainting of any publicly owned, leased, or operated facility. (Public Contract Code § 20111 and 22002)
- 2) Authorizes, until January 1, 2021, the LAUSD to use the best value procurement method. (PCC § 20119.1)

- 3) Requires the LAUSD to submit an interim report by July 1, 2018, and a final report by January 1, 2020, prepared by an independent third party, to the appropriate policy and fiscal committees of the Legislature with specified information on the district's use of the best value procurement method. (PCC § 20119.5)
- 4) Establishes a process, until January 1, 2025, for school district governing boards to enter into a design-build contract for both the design and construction of education facility projects over \$1 million. (Education Code § 17250.20)
- 5) Specifies the elements required to be included in a design-build request for proposal (including significant factors, subfactors, methodology, rating and weighting schemes for evaluating proposals) and establishes, among others, prequalification, bonding and labor compliance program requirements. (EC § 17250.10 – 17250.55)
- 6) Requires a school district with an average daily attendance of more than 2,500 using state school facility bond funds for a public project with an expenditure of \$1 million or more to require prospective bidders, and if utilized, all electrical, mechanical, and plumbing subcontractors, to complete and submit a standardized prequalification questionnaire and financial statement. (PCC § 20111.6)
- 7) Authorizes the University of California (UC) to utilize the best value method to award contracts for projects over \$1 million. (PCC § 10506.4)

This bill:

- 1) Extends the authority for the LAUSD to use the best value procurement method by five years, from January 1, 2021, to January 1, 2026.
- 2) Updates the date by which the district has extended or renewed a project labor agreement from January 1, 2017 to January 1, 2020, in order to be exempt from the requirement to use a skilled and trained workforce.
- 3) Requires the LAUSD to submit a report, paid for by the school district and conducted by an independent entity, to the appropriate policy and fiscal committees of the Legislature by January 1, 2025.

Comments

- 1) *Need for the bill.* According to the author, “AB 1981 simply extends the sunset on LAUSD's ability to use this [best value procurement] method by five years so the state can continue to evaluate this model for other school districts. It also modifies the reporting dates to reflect this extension.”
- 2) *What is the best value method?* The best value method is defined as a procurement process whereby a bidder may be selected on the basis of objective evaluation criteria representing the best combination of price and qualifications. This method allows the district to consider “values” in addition to cost in awarding construction contracts, such as relevant experience and safety record. The authorization only applies to projects over \$1 million. Expected benefits of best value include reduction in contract delays, change orders, and claims, resulting in contracting and administrative savings.

AB 1185 (Ridley-Thomas, Chapter 786, Statutes of 2015) established a pilot program, until January 1, 2021, authorizing LAUSD to use the best value procurement method. LAUSD's authority to use design build was modeled after authorization given to the UC. LAUSD is required to adopt procedures and guidelines for evaluating the qualifications of bidders to ensure that the process is fair and impartial, and procedures for protesting and resolving a contract award. A prequalification process based on a questionnaire and a rating scale is required. The solicitation for bids invites prequalified bidders to submit sealed bids. The district evaluates the bids based on answers to a separate best value questionnaire and assigns a qualification score. The bidder's price is then divided by its qualification score. The lowest resulting cost per quality point represents the best value bid.

- 3) *Most recent report to the Legislature.* LAUSD was required to complete an interim report by July 1, 2018, and a final report by January 1, 2020, conducted by an independent entity. The final report, completed in November, 2019, concluded that the LAUSD complied with the statutory requirements for implementation of the best value procurement method and the “completed projects generally realized expected benefits.” Some of the highlights from the report include the following:
 - a) The district awarded 16 best value contracts, two of which were later terminated. The 14 remaining contracts represents 5 percent of the total number of contracts awarded and 19 percent of the total dollar value

awarded for all construction contracts between January 1, 2016, and October 31, 2019.

- b) As of the date of the report, four of the 14 projects had been completed and four were near completion.
- c) In comparison with non-best value projects, best value projects received minimal scheduling delays. One best value project that received more significant delays was due to design errors and not the contracting process.
- d) The district received four award protests and generally resolved the protests in a timely manner. Three of the protests were deemed to be without merit. One was found to have merit and the project was subsequently re-scoped and rebid.
- e) Change orders were below general industry standard of 10 percent of total awarded costs.

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

SUPPORT: (Verified 7/30/20)

California Legislative Conference of Plumbing, Heating & Piping Industry
Los Angeles Unified School District
National Electrical Contractors Association
Northern California Allied Trades
Southern California Glass Management Association
State Building & Construction Trades Council of California

OPPOSITION: (Verified 7/30/20)

None received

ASSEMBLY FLOOR: 66-4, 6/10/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Boerner
Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Chu, Cooley,
Cooper, Cunningham, Daly, Diep, Eggman, Flora, Frazier, Friedman, Gabriel,
Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray,
Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Lackey, Levine,
Limón, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi,
Nazarian, O'Donnell, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas,

Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone,
Ting, Weber, Wicks, Wood, Rendon

NOES: Bigelow, Mathis, Obernolte, Voepel

NO VOTE RECORDED: Brough, Chen, Choi, Megan Dahle, Fong, Kiley,
Patterson, Quirk, Waldron

Prepared by: Ian Johnson / ED. /
7/31/20 17:54:47

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

CONSENT

Bill No: AB 1984
Author: Maienschein (D)
Amended: 6/26/20 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-0, 7/30/20
AYES: Jackson, Borgeas, Durazo, Lena Gonzalez, Melendez, Monning, Stern,
Umberg, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Courts

SOURCE: California Law Revision Commission

DIGEST: This bill removes obsolete terms and makes changes to reflect the modern court system by deleting outdated references to municipal courts, removing references to marshals and constables, and removing references to county boards of supervisors and replacing them with appropriate terms.

ANALYSIS:

Existing law:

- 1) Provides, on and after July 1, 1997, that the state bears sole responsibility for the funding of court operations and requires the state to be responsible for the cost of court operations incurred by the trial courts. (Gov.C. § 77200)
- 2) Specifies, beginning July 1, 1997, that no county shall be responsible for funding court operations. (Gov. Code §§ 77201 & 70311)

- 3) Requires the California Law Revision Commission (CLRC) to determine whether any provisions of law are obsolete as a result of trial court restructuring and to recommend to the Legislature any amendments to remove those obsolete provisions. (Gov. Code § 71674)
- 4) Contains various provisions relating to the responsibilities of specific county board of supervisors for court facilities and operations. (Gov. Code §§ 73301-74988)
- 5) Establishes the Task Force on Court Facilities and requires the task force to provide reports to the Legislature regarding determinations of acceptable standards for construction, renovation, and remodeling of court facilities. (Gov.C. §§ 77650 et seq.)
- 6) Establishes the Task Force on Trial Court Employees to provide specified reports to the Legislature. (Gov. Code §§ 77600-77606)
- 7) Requires the Judicial Council to establish a task force on county law libraries to identify the needs related to county law library operations and facilities and to make recommendations for funding county law library operations, facility improvements, and expansion by January 1, 2005. (Gov. Code § 70394)
- 8) Authorizes San Bernardino County to charge a surcharge filing fee in addition to specified uniform filing fees to supplement the Courthouse Construction Fund, as provided. (Gov. Code § 70624)

This bill:

- 1) Replaces references to county board of supervisors or affiliated entities with references to courts or superior courts, as appropriate, made obsolete by the shift to state funding of trial court operations and to conform the codes to existing court practices and operations.
- 1) Eliminates obsolete provisions to the Task Force on Trial Court Employees, the Task Force on Trial Court Facilities, and the task force on county law libraries.
- 2) Eliminates references to municipal courts, which no longer exist, and obsolete provisions related to constables and marshals.

- 3) Repeals an existing provision of law relating to the authority of San Bernardino County to charge a surcharge filing fee on January 1, 2026.
- 4) Provides that if a right, privilege, duty, authority, or status is based on a provision of law repealed by this bill, and if a statute, order, rule of court, memorandum of understanding, or other legally effective instrument provides that the right, duty, authority, or status continues for a period beyond the effective date of the repeal, that provision of law continues in effect for that purpose, notwithstanding its repeal by this bill.
- 5) Provides that any section of any act enacted by the Legislature during the 2020 calendar year, other than a section of the annual maintenance of the codes bill or another bill with a subordination clause, that takes effect on or January 1, 2021, that amends a section being amended by this bill is to prevail over this act.

Background

This bill is the latest in a series of amendments to statutes made obsolete by trial court restructuring. California overhauled its court system through a series of reforms over 20 years ago resulting in the existing superior court system. After the reforms were implemented, references to outdated terms and policies remained throughout the codes. The Legislature, recognizing this issue, assigned the CLRC with the task of providing recommendations to update the codes in light of the reforms made and, over the years, has enacted almost all of the CLRC's recommendations. This non-controversial bill is the latest in a series of bills to continue cleaning up the codes.

Comments

Prior to the overhaul of the trial court system, individual counties managed California's trial courts and various branches thereof with limited jurisdiction, such as municipal courts and justice courts. In 1994, justice courts were merged with municipal courts by voter approval of SCA 7 (Dills, Resolution Chapter 131, Statutes of 1994; Proposition 191, General Election (November 8, 1994)). Several years later, the California Constitution was amended again by voter approval of SCA 4 to authorize counties to unify into one superior court (Lockyer, Resolution

Chapter 36, Statutes of 1996; Proposition 220, Primary Election (June 2, 1998)). By 2001, all 58 county courts completed unification.¹

Significant statutory restructuring of the state's trial court system was enacted by the Lockyer-Isenberg Trial Court Funding Act of 1997, which required that the state assume full responsibility for funding trial court operations. Following the consolidation of trial court operations, the Trial Court Unification Act unified the justice, municipal, and superior courts, unifying all of the courts or superior courts for California's 58 counties. Further restructuring continued with the Trial Court Employment Protection and Governance Act (TCEPGA), which transferred control of trial court employment to the courts. When TCEPGA was enacted, the Legislature also directed the CLRC to study the statutes affected by the acts implementing court reform and make recommendations to the Legislature to repeal statutes made obsolete by the trial court funding reform, trial court unification, and trial court employment reform (Gov.C. § 71674). The CLRC has made several recommendations over the years and almost of all them have been adopted by the Legislature.

In continuing with its mandate, the CLRC has proposed several changes to the Legislature for adoption to continue cleaning up the codes as a result of prior reforms. This bill seeks to enact the recommendations made by the CLRC in the following reports: *Statutes Made Obsolete by Trial Court Restructuring (Part 6): Court Facilities* (May 2019), *Trial Court Restructuring Clean-Up: Task Force on Trial Court Employees* (February 2019), *Trial Court Restructuring Clean-Up: Obsolete References to Marshals* (September 2019), *Trial Court Restructuring Clean-Up: Obsolete "Constable" References* (October 2018).²

Deleting outdated references to municipal courts

A majority of the changes made by the bill delete outdated references to municipal courts, which no longer exist since they were unified with the superior courts.³ Most of these deletions are found in the repeal of various articles in Chapter 10 of Title 8 of the Government Code. Since municipal courts were governed by counties prior to unification, the codes contained separate provisions governing municipal courts for each county. These provisions include specific references to the operation and timing of court sessions; however, the CLRC found the provisions to be obsolete due to the fact the Legislature enacted Section 69470 of

¹California Trial Courts Effective Dates of Unification, Cal. Courts (Jan. 29, 2001) available at <https://www.courts.ca.gov/documents/unidate.pdf> (as of Jul. 5, 2020)

² All four reports are available at <http://clrc.ca.gov/J1405.html> (as of Jul. 5, 2020).

³ *Statutes Made Obsolete by Trial Court Restructuring (Part 6): Court Facilities*, 46 Cal. L. Revision Comm'n Reports 25 (2019).

the Government Code that authorizes superior courts to determine the operation and timing of court sessions and it expressly applies over any other provision of law.⁴

Clarifying role of county board of supervisors and removing obsolete references

This bill also updates references to county board of supervisors being responsible for court facilities since these facilities now belong to the state. For example, changes are made to statutes that specify where court facilities are to be located in certain counties and mandates on the county board of supervisors to provide jury deliberation rooms and the Flag of the United States of America and the Bear Flag of California.⁵ This bill changes references to the superior court or court where appropriate and deletes references that are obsolete. The CLRC noted changes needed to some county-specific provisions relating to the Courthouse Construction Fund and recommended the repeal of two county-specific statutes that the CLRC noted were obsolete.⁶ The CLRC recommended repealing a county-specific provision related to the authority of San Bernardino County to charge a surcharge filing fee to be deposited into the Courthouse Construction Fund on January 1, 2026, because there are ongoing discussions between the county and Judicial Council and adding the repeal clause ensures that there is time to allow for a resolution to any outstanding issues but also ensures that the section is eventually repealed.⁷

Other clarifying changes

In addition to the above described changes, this bill deletes provisions relating to the Task Force on Trial Court Facilities⁸ and the Task Force on Trial Court Employees,⁹ as both of these task forces completed their required work and submitted all reports due. The CLRC also recommends repealing the Task Force on County Law Libraries as it no longer exists and its report was due in 2005.¹⁰ This bill also removes outdated references to constables and marshals,¹¹ which provided security to justice courts and municipal courts respectively, updates

⁴ *Id.* at 40.

⁵ *Id.* at 41 & 52.

⁶ *Id.* at 55-56.

⁷ *Id.* at 56.

⁸ *Id.* at 49.

⁹ *Trial Court Restructuring Clean-Up: Task Force on Trial Court Employees*, 46 Cal. L. Revision Comm'n Reports 1 (2019).

¹⁰ Fn. 5 *supra* at 57-58.

¹¹ *Trial Court Restructuring Clean-Up: Obsolete References to Marshals*, 46 Cal. L. Revision Comm'n Reports 105 (2019); *Trial Court Restructuring Clean-Up: Obsolete "Constable" References*, 45 Cal. L. Revision Comm'n Reports 441 (2018).

various cross references, and provides language that this bill will not chapter out any other bill, as specified.

This bill seems to merely delete obsolete provisions from existing law, which is bolstered by the review of the CLRC and the conclusions in the CLRC reports. However, in the off-chance that this bill repeals a non-obsolete provision of law, this bill specifically provides that a person's rights are protected and continue into effect notwithstanding the repeal.

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

SUPPORT: (Verified 8/13/20)

California Law Revision Commission (source)

OPPOSITION: (Verified 8/13/20)

None received

ARGUMENTS IN SUPPORT: The author writes:

The purpose of AB 1984 is to revise provisions of law that have become obsolete as a result of trial court restructuring. This would improve the law by making the codes correctly reflect current conditions.

ASSEMBLY FLOOR: 76-0, 6/8/20

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

NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Amanda Mattson / JUD. / (916) 651-4113
8/14/20 12:31:10

**** END ****

THIRD READING

Bill No: AB 1989
Author: Cristina Garcia (D)
Amended: 8/3/20 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 7-0, 8/1/20
AYES: Pan, Lena Gonzalez, Hurtado, Leyva, Mitchell, Monning, Rubio
NO VOTE RECORDED: Grove, Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 67-0, 6/15/20 - See last page for vote

SUBJECT: Menstrual Products Right to Know Act of 2020

SOURCE: Author

DIGEST: This bill requires a package or box containing menstrual products manufactured on or after January 1, 2023, for sale or distribution in this state, to have printed on the label a plain and conspicuous list of all ingredients in the product. Prohibits menstrual products from being sold in the state unless the product and its manufacturer comply with this bill.

ANALYSIS:

Existing law:

- 1) Requires the Department of Public Health (DPH), under the Sherman Food, Drug, and Cosmetic Law (Sherman Law), to regulate the manufacturing, distribution, and labeling of various drugs, devices, and cosmetics, including menstrual products. [HSC §109875, et seq.]
- 2) Requires cosmetic manufacturers, under the Safe Cosmetics Act, to submit to DPH a list of its cosmetic products sold in California that contain any ingredient

that is a chemical identified as causing cancer or reproductive toxicity. [HSC §111792]

- 3) Requires cleaning product manufacturers, under the Cleaning Products Right to Know Act, to disclose specified chemical ingredients on a product label and on the manufacturer's website. [HSC §108950]

This bill:

- 1) Requires a package or box containing menstrual products manufactured on or after January 1, 2023, for sale or distribution in this state, to have printed on the label a plain and conspicuous list of all ingredients in the product. Prohibits menstrual products from being sold in the state unless the product and its manufacturer comply with this bill.
- 2) Requires ingredients to be listed in order of predominance by weight in the menstrual product, except that ingredients present at a weight below 1% may be listed in any order following the other ingredients.
- 3) Requires ingredients to be identified using a standardized nomenclature, including, but not limited to, the International Nomenclature of Cosmetic Ingredients (INCI), the Household Commercial Products Association's Consumer Product Ingredient Dictionary (HCPA Dictionary), or common chemical name. Requires a name established by the Center for Baby and Adult Hygiene Products (BAHP) to be used if a standardized nomenclature does not otherwise exist for an ingredient. Permits a manufacturer to identify any ingredient that is confidential business information by its common name to protect its confidential identity.
- 4) Requires manufacturers, beginning January 1, 2023, to post on a website, in an electronically readable format, the ingredient information that is required to be disclosed on a package or box containing menstrual products. Specifies that this bill does not prohibit a manufacturer from using technologies, including, but not limited to, digital link, to communicate this information.
- 5) Requires a manufacturer, when it is required to make a revision to information disclosed online due to a change in a "designated list," as defined, or a change in an ingredient, to make the revision no later than six months after the change to the ingredient or after the adoption of the revised list by its authoritative body, unless a later effective date for changes is imposed pursuant to the Safe

Drinking Water and Toxic Enforcement Act of 1986 (known as Proposition 65). Defines "designated list" as one of any of 22 authoritative lists identified in this bill, including any subsequent revisions to those lists when adopted by the authoritative body.

- 6) Requires a manufacturer, when it is required to change the label on a menstrual product because of a change in a designated list, or a change to an ingredient, to make the change within 18 months of the change to the ingredient or the designated list or regulation being adopted by the relevant authoritative body, unless a later effective date is imposed, as specified.
- 7) Requires a manufacturer that protects an intentionally added ingredient, including a fragrance ingredient, or combination of intentionally added ingredients pursuant to the Uniform Trade Secrets Act to maintain justification for protecting confidential business information consistent with the requirements of the act and provide that justification on request for audit by the Attorney General.
- 8) Specifies that the requirements of this bill apply in addition to other labeling requirements established in law.

Comments

- 1) *Author's statement.* According to the author, this bill will protect people's health by requiring the disclosure of all ingredients in menstrual products including tampons, pads, cups, disks, sponges, and menstrual underwear. It is imperative that consumers have a right to know what is in the products they will be using for over 40 years of their life, in order to protect their health. My goal with this legislation is to increase the awareness of the toxic chemicals currently in our menstrual products. It was troubling at best to learn that products people rely on contain Phthalates, Bisphenols, Parabens, and Per- and polyfluoroalkyl substances (PFAS) which all have been found to be harmful to human health. Periods are not a luxury and people should have the knowledge to make safer choices.
- 2) *Regulation of menstrual products.* The federal Food and Drug Administration (FDA) has broad authority to regulate medical devices for safety and effectiveness. Menstrual products are considered medical devices because they are intended to affect the function of the body. Menstrual products are not FDA approved; rather, they are registered and given clearance for marketing. Federal registration subjects these products to FDA oversight and consumer compliance

tracking. DPH's Food and Drug Branch (FDB) licenses and inspects menstrual products as medical devices in California. Under the Sherman Law, FDB has broad authority for licensing, inspection, enforcement, and embargoing of products. In addition, the Sherman Act provides DPH broad authority to ensure that consumer goods such as menstrual products are properly manufactured, packaged, labelled and that the products are not adulterated, misbranded, or falsely advertised. DPH adopts federal Good Manufacturing Practices and federal new drug and new device regulations. According to DPH, no violations or enforcement actions have been taken by FDB on menstrual products.

- 3) *Authoritative lists.* The Cleaning Products Right to Know Act [SB 258 (Lara, Chapter 830, Statutes of 2017)] required a manufacturer of a cleaning product to disclose on the product label and on the product's website information related to chemicals contained in the product. The law required a chemical to be disclosed if it is included on any of the 22 authoritative lists of chemicals that exhibit hazardous traits and/or an environmental or toxicological endpoint, as identified by the United States Environmental Protection Agency, the state of California, the European Union, Canada, the International Agency on Cancer Research, the federal Agency for Toxic Substances and Disease Registry, among others. These 22 lists of chemicals are the same authoritative lists included in this bill.
- 4) *New York law.* In October 2019, New York Governor Mario Cuomo signed legislation (S.2387B/A.164B) to require menstrual product packages to contain a plain and conspicuous printed list of all ingredients. Each package of menstrual products will be required to be compliant within 18 months of the law taking effect. Many supporters of the New York legislation opposed this bill in the Assembly due to potential conflicts with the New York law, and the threshold for reporting fragrance ingredients. Over the course of the last few months, this bill has been amended to address some of those concerns, and many of these organizations are now neutral on this bill. However, some remain opposed. This bill is more prescriptive in what menstrual product manufacturers must include on packaging compared to the New York law. Under the New York law, packaging will include a list of all "ingredients," which is defined broadly as "an intentionally added substance present in the menstrual product." According to the author, if this bill passes, the menstrual product industry will make one label that will comply with both laws for products across the country.

Related/Prior Legislation

SB 574 (Leyva of 2019) would have required manufacturers of cosmetic products to report flavor and fragrance ingredients in their products that are deemed toxic according to the SB 258 authoritative lists, with some exceptions for trade secrets, and would have required DPH to publish the data. *SB 574 was held on suspense in the Assembly Appropriations Committee.*

AB 1575 (Kalra of 2017) and AB 2775 (Kalra, Chapter 393, Statutes of 2018) required a professional cosmetic manufactured on or after July 1, 2020, for sale in this state to have a label affixed on the container that satisfies all of the labeling requirements for any other cosmetic pursuant to specific federal laws. *AB 1575 was held on the Senate Appropriations Committee suspense file.*

SB 258 (Lara, Chapter 830, Statutes of 2017) required a manufacturer of a cleaning product to disclose on the product label and on the product's internet website information related to chemicals contained in the product.

SB 484 (Migden, Chapter 729, Statutes of 2005) established the Safe Cosmetics Act and required cosmetic manufacturers to provide DPH with a complete and accurate list of its cosmetic products that are sold in the state and that contain any ingredient that is a chemical identified as causing cancer or reproductive toxicity.

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

SUPPORT: (Verified 8/14/20)

A Voice for Choice Advocacy
California Health Coalition Advocacy
City of West Hollywood
Educate. Advocate.
Empower Family California
The Procter and Gamble Company

OPPOSITION: (Verified 8/14/20)

ACT for Women and Girls
Center for Environmental Health
Informed Green Solutions
Just Green Partnership
Just Transition Alliance

National Center for Health Research
National Women's Health Network
Turning Green
WE ACT for Environmental Justice

ARGUMENTS IN SUPPORT: California Health Coalition Advocacy states that products intended for use on or in an incredibly absorbent part of a woman's body are marketed and sold with little to no data assuring the ingredients they contain are safe. Ingredients are determined "safe," operating under the premise that they are used on ordinary skin just like other cosmetic products. That means chemicals of concern such as carcinogens, reproductive toxins, endocrine disruptors, and allergens are being used on, or even in, the extremely permeable mucus membranes of the vaginal area. A Voice for Choice Advocacy writes that every woman deserves to know what they are putting on or in their body and to make an informed choice on which menstrual products are safe or harmful to them and their families. Menstrual product manufacturers currently label their products to varying degrees, but none are all inclusive. A Voice for Choice Advocacy states that recent amendments will make this disclosure even more robust when it comes to fragrance ingredients. For those few ingredients which will not be disclosed due to "Confidential Business Information" (CBI), once consumers become aware of ingredients their demands will drive disclosure. The Procter and Gamble Company shares the author's goal to drive meaningful and accurate ingredient disclosure for users of menstrual products, and supports providing consumers with important ingredient communication while also maintaining the flexibility to continue providing unique and innovative products in California. The City of West Hollywood writes that requiring that ingredient information be clearly listed on the packaging of menstrual products and on a website will inform female consumers about possible, allergens, toxic chemicals, and synthetic materials that are contained in hygiene products. This information will help consumers choose products that are consistent with their personal health.

ARGUMENTS IN OPPOSITION: A number of groups, including the Center for Environmental Health, WE ACT for Environmental Justice, Just Transition Alliance, and Just Green Partnership, state that while this legislation requires disclosure of some ingredients in menstrual products, it allows manufacturers to hide certain ingredients as CBI. These groups contend that the CBI language in this bill closely mirrors what was included in SB 258, and while that language represented a compromise between the cleaning products industry and advocates, it was very specific to the formulated product category of cleaning products. Menstrual products are a completely different category of consumer products and the CBI protections applied in SB 258 should not be assumed to work for all

categories of products. These organizations further state that this bill would undermine the New York law, which does not include CBI exemptions, and would result in less, not more, information available to consumers, preventing them from complete access to information they need to protect their health and that of their families. This information is important to all menstruators, but especially to Black, Indigenous, and People of Color communities that are already bearing a disproportionate burden of environmental toxics in the air they breathe, the food they eat, and the water they drink. These organizations request amendments to require full disclosure of all intentionally added ingredients.

ASSEMBLY FLOOR: 67-0, 6/15/20

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

NO VOTE RECORDED: Bigelow, Brough, Chen, Choi, Flora, Fong, Frazier, Gallagher, Kiley, Mathis, Obernolte, Patterson

Prepared by: Melanie Moreno / HEALTH / (916) 651-4111
8/15/20 12:02:32

**** END ****

CONSENT

Bill No: AB 2017
Author: Mullin (D)
Amended: 3/12/20 in Assembly
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 8/5/20
AYES: Hill, Morrell, Jackson, Mitchell, Pan

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Employee: sick leave: kin care

SOURCE: Author

DIGEST: This bill specifies that for purposes of an employee's use of their accrued sick leave, it is at the employee's discretion to designate this time for the purpose of diagnosis, care, or treatment of their or their family member's health condition or for obtaining relief if the employee is a victim of domestic violence, sexual assault, or stalking.

ANALYSIS:

Existing law:

- 1) Requires an employer who provides sick leave for its workers to permit an employee to use any of their accrued and available sick leave entitlement for the following reasons (commonly referred to as "Kin Care" law):
 - 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. (Labor Code §233 & §246.5)

- 2) Provides that sick leave available for these purposes shall not be less than the sick leave that would be accrued during six months at the employee's rate of entitlement at that time. (Labor Code §233)
- 3) Defines "employer" as any person employing another under any appointment or contract of hire and includes the state, political subdivisions of the state, and municipalities. (Labor Code §233)
- 4) Defines "family member" as a child, as defined, parent or guardian, as defined, spouse or registered domestic partner, grandchild, grandparent, and sibling. (Labor Code §233 & §245.5)
- 5) Prohibits an employer from denying an employee the right to use sick leave or taking specific discriminatory action against an employee for using, or attempting to exercise the right to use sick leave for these purposes. [Labor Code §233(c)]
- 6) Specifies that any employee aggrieved by a violation of these provisions is entitled to reinstatement and actual damages or one day's pay, whichever is greater, and to appropriate equitable relief. [Labor Code §233(d)]

This bill specifies that it is at the employee's discretion to designate sick leave for the purpose of diagnosis, care, or treatment of their or their family member's health condition or for obtaining relief if the employee is a victim of domestic violence, sexual assault, or stalking.

Comments

Need for this bill? According to the author, "Current law explicitly requires employers to allow a minimum of 50% of an employee's accrued sick leave to be used for purposes of kin care –job-protected time off to care for a family member. Thus, employees now have the ability to use accrued sick days for themselves or for taking care of a family member. Currently there are cases where employers are designating which type of leave an employee is using when they call in sick without the employee's consent. Employees have been denied the choice of crediting against their own sick leave, in order to bank time to take care of their family members. If employees have used all of their available kin care days without their knowledge - they don't have paid sick days to take off for their sick children or parents, and get marked with an absence and some cases no-pay, and disciplined.

"AB 2017 clarifies that an employee may designate what type of leave they are using when they use an accrued sick day – personal or kin care. This designation is

up to the employee not the employer, which is the spirit of the existing law but needs clarification. AB 2017 will not require employers to provide any additional paid time off, it simply clarifies who designates which type of sick leave is used when an employee uses a sick day.”

Related/Prior Legislation

SB 579 (Jackson, Chapter 802, Statutes of 2015) prohibited an employer from denying an employee the right to use sick leave or taking specific discriminatory action against an employee for using, or attempting to exercise the right to use, sick leave for kin care purposes.

AB 1522 (Gonzalez, Chapter 317, Statutes of 2014) established the Healthy Workplaces, Healthy Families Act that provided, among other things, that an employee could use sick leave for the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee’s family member.

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

SUPPORT: (Verified 8/13/20)

California Catholic Conference

California Conference Board of the Amalgamated Transit Union

California Conference of Machinists

California School Employees Association, AFL-CIO

California Teamsters Public Affairs Council

Communications Workers of America, District 9

Engineers and Scientists of California, IFPTE Local 20, AFL-CIO

Inlandboatmen’s Union of the Pacific

International Association of Machinists & Aerospace Workers, Air Transport Employees

Professional and Technical Engineers, IFPTE Local 21, AFL-CIO

United Public Employees

UNITE-HERE, AFL-CIO

Utility Workers of America

OPPOSITION: (Verified 8/13/20)

None received

ARGUMENTS IN SUPPORT: The California Teamsters Public Affairs Council is in support and writes, “Currently, employers are required to allow employees to take half of their accrued sick leave to care for a sick family member. This is

commonly referred to as ‘kin’ care. The purpose of this provision in law is an acknowledgement that workers are often responsible for the care of other family members, including their children, and when those family members are sick a worker needs time off to do what it takes to provide that necessary care. This policy is obviously the right thing to do for working families, but also makes good business sense. Study after study shows that when workers are provided with adequate paid sick leave and paid leave to care for sick family members, they are more productive at work and have better health outcomes for themselves and their family members.

“Unfortunately, some employers have taken it upon themselves to thwart the law and its intent. We have seen employers designate personal sick leave as kin care even though the employee clearly took it because they themselves were sick. The result is when a family member is sick, there is either not enough or zero kin care days left when needed. This bill will put an end to this practice by ensuring that the employee has the right to designate what kind of sick leave they are taking.”

ASSEMBLY FLOOR: 76-0, 6/8/20

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

NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
8/14/20 12:31:09

**** END ****

THIRD READING

Bill No: AB 2037
Author: Wicks (D), et al.
Amended: 5/20/20 in Assembly
Vote: 21

SENATE HEALTH COMMITTEE: 6-1, 8/1/20
AYES: Pan, Lena Gonzalez, Leyva, Mitchell, Monning, Rubio
NOES: Grove
NO VOTE RECORDED: Hurtado, Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 50-15, 6/8/20 - See last page for vote

SUBJECT: Health facilities: notices

SOURCE: California Nurses Association/National Nurses United

DIGEST: This bill increases the period of time when a hospital is required to provide public notice of a proposed closure or elimination of a supplemental service, currently 90 days for the closure or downgrading of emergency services and 30 days for all other closures or eliminations of supplemental services, to 180 days prior to the closure of a hospital or the elimination or downgrading of emergency services, and 90 days prior to the elimination of any other supplemental service.

ANALYSIS:

Existing law:

- 1) Licenses and regulates health facilities by the Department of Public Health (DPH), including general acute care hospitals, acute psychiatric hospitals, skilled nursing facilities, and intermediate care facilities, among others. [HSC §1250, et seq.]

- 2) Requires any hospital that provides emergency medical services (EMS) to provide notice of a planned reduction or elimination of the level of EMS to DPH, the local government entity in charge of the provision of health services, and all health care service plans or other entities under contract with the hospital, as soon as possible but not later than 90 days prior to the planned reduction or elimination of emergency services. Requires the hospital to also provide public notice, within the same time limits, in a manner that is likely to reach a significant number of residents of the community serviced by that facility. [HSC §1255.1]
- 3) Specifies that a hospital is not subject to the notice requirements in 2), above, if DPH determines that the use of resources to keep the emergency center open substantially threatens the stability of the hospital as a whole, or if DPH cites the emergency center for unsafe staffing practices. [HSC §1255.1(c)]
- 4) Permits a health facility license holder, with the approval of DPH, to surrender its license or special permit for suspension or cancellation by DPH. Requires DPH, before approving a downgrade or closure of emergency services, to receive a copy of an impact evaluation by the county to determine impacts of the closure or downgrade on the community. Permits the county to designate the local EMS agency as the appropriate agency to conduct the impact evaluation. Requires development of the impact evaluation to incorporate at least one public hearing, and requires the impact evaluation and hearing to be completed within 60 days of the county receiving notification of intent to downgrade or close emergency services. [HSC §1300]
- 5) Requires a general acute care hospital or acute psychiatric hospital, not less than 30 days prior to closing the facility, eliminating a supplemental services, or relocating a supplemental service to a different campus, to provide public notice, containing specified information, of the proposed closure, elimination, or relocation, including a notice posted at the entrance to all affected facilities and a notice to DPH and the board of supervisors of the county in which the health facility is located. [HSC §1255.25]
- 6) Requires a health facility (which includes skilled nursing facilities, intermediate care facilities, and other types of facilities offering 24-hour care, in addition to hospitals) to make reasonable efforts to ensure that the community served by its facility is informed of a proposed downgrade, change or closure, including advertising the change in terms likely to be understood by a layperson, soliciting media coverage regarding the change, informing patients of the

facility of the impending change, and notifying contracting health care service plans. [HSC §1255.2]

This bill:

- 1) Increases the time period for when a general acute care hospital or acute psychiatric hospital is required to provide public notice of a proposed closure, the elimination of a supplemental service, or the relocation of a supplemental service to a different campus, currently 30 days prior to the proposed closure, elimination, or relocation, to instead be 180 days prior to a proposed closure and 90 days prior to an elimination or relocation of a supplemental service.
- 2) Increases the time period for when a hospital that provides EMS is required to provide prior notice of a planned reduction or elimination of the level of emergency medical service, currently 90 days prior to the reduction or elimination, to 180 days prior to the reduction or elimination of the level of EMS. Prohibits this notice from applying to a health facility that is forced to close or eliminate a service as a result of a natural disaster or state of emergency that prevents the health facility from being able to operate at its current level.
- 3) Requires the public notice in 1) and 2), above, to include all of the following:
 - a) Written notice to the city council of the city in which the health facility is located;
 - b) A continuous notice posted in a conspicuous location on the homepage of the health facility's internet website;
 - c) A notice published for a minimum of 15 publication dates in a conspicuous location within a newspaper of general circulation serving the local geographical area in which the health facility is located, and requires the notice to be posted continuously on the internet website of the newspaper; and,
 - d) A notice posted at the entrance of every community clinic within the affected county in which the health facility is located that grants voluntary permission for posting.

Comments

- 1) *Author's statement.* According to the author, given the impact that hospital closures have on local communities and in the continued global threat of COVID-19, the current timelines are inadequate and do not give patients and residents enough notice to prepare for a closure or reduction in services. The existing timeframes, however, are too short and do not allow for proper

community engagement. A hospital's decision to reduce or eliminate services, especially emergency medical services, still poses significant challenges for a community, as healthcare workers are forced to search for new employment, ambulances must divert to facilities farther away, and neighboring hospitals may experience overcrowding. This increased strain on regional health systems can lead to patients traveling longer distances for care, longer wait times, and lower quality of care. COVID-19 continues to rage our communities and killing more Californians every day, there are still hospitals trying to close. It is unacceptable in a global pandemic to deny health care service and continue to close hospital doors.

- 2) *Current process for closing an emergency department requires an impact evaluation.* Under existing law, hospitals are required to provide notice at least 90 days prior to a planned reduction or elimination of the level of EMS to DPH, the local health department, and all health care service plans or other entities under contract with the hospital to provide services to enrollees. However, a separate provision of law, which permits a hospital to surrender a license or permit with the approval of DPH, specifies that “before approving a downgrade or closure of emergency services,” the county or the local EMS agency is required to conduct an impact evaluation of the downgrade or closure upon the community, and how that downgrade or closure will affect emergency services provided by other entities. This impact evaluation is required to incorporate at least one public hearing, and must be done within 60 days of DPH receiving notice of the intent to downgrade or close emergency services. Despite the language stating “before approving a downgrade or closure of emergency services,” DPH has not interpreted this provision of law as giving them the ability to deny a hospital the ability to close or reduce emergency services, and therefore the impact evaluation is more of a tool to help the community and the local emergency services agency prepare for the reduction or closure.
- 3) *The Worker Adjustment and Retraining Notification (WARN) Act.* The federal WARN Act offers protection to workers, their families and communities by requiring employers to provide notice 60 days in advance of covered plant closings and covered mass layoffs. It applies to employers with 100 or more employees, not including those who work an average of less than 20 hours per week. A notice is triggered if an employment site will be shut down, and the shutdown will result in an employment loss for 50 or more employees during any 30-day period. A notice is also triggered if there is to be a mass layoff which does not result from a plant closing, but will result in an employment loss of 500 or more employees, or for 50-499 employees if they make up at least 33% of the employer's active workforce. The WARN Act contains exceptions

to the 60-day notice requirement for unforeseeable business circumstances, faltering companies, and natural disasters.

Related/Prior Legislation

AB 1014 (O'Donnell, 2019) was substantially similar to this bill. AB 1014 was vetoed by the Governor, who stated the following in his veto message: "I agree that hospital closures have vast impacts on communities. However, this bill would not change the fact that the State is not able to force a hospital to stay open when they are financially unable. I am concerned that this bill may exacerbate the financial and patient safety concerns that often lead to closures."

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

SUPPORT: (Verified 8/14/20)

California Nurses Association/National Nurses United (source)
California Labor Federation
California Professional Firefighters
City of Berkeley
City of Long Beach
Service Employees International Union

OPPOSITION: (Verified 8/14/20)

California Children's Hospital Association
California Department of Public Health
California Hospital Association
District Hospital Leadership Forum

ARGUMENTS IN SUPPORT: This bill is sponsored by the California Nurses Association/National Nurses United (CNA), which states that hospitals plan closures years in advance, and that corporate mergers and acquisitions affect the fiscal decisions large hospital chains make, which frequently mean smaller, less profitable hospitals are on the chopping block for closure or reduction in services. According to CNA, if a local community has time to put pressure on the large companies that run our healthcare system, the public engagement can be enough to encourage them to do the right thing and keep a facility open. CNA points to the closure in January of this year of St. Vincent Medical Center, which provided care to many Medi-Cal, undocumented, and low-income patients. According to CNA, adequate public notice could have helped the community find a way to maintain healthcare services. Additionally, CNA points to a proposal to close labor and

delivery services and the neo-natal intensive care unit (NICU) at Regional Medical Center in East San Jose, which would put the nearest NICU up to an hour away for some low-income delivering mothers. CNA states that communities need an appropriate amount of time to plan for the loss of emergency and lifesaving services, particularly in a pandemic.

The California Professional Firefighters state in support that when a hospital makes the decision to either reduce the services provided or eliminate a service altogether, emergency healthcare services, departments and providers must make restructuring decisions on how to divert and treat their patients based on reduced capacity or a service that has moved farther away. Absent time to plan properly, such reductions may impact health outcomes or threaten patient safety.

The City of Long Beach states in support that it has recently endured a hospital closure, and that while increased notice cannot guarantee a seamless transition, it can help address community concerns.

The California Labor Federation states that this bill will not ultimately require a hospital to stay open, but it does make sure communities have an appropriate amount of time to plan for the loss of emergency and lifesaving services.

ARGUMENTS IN OPPOSITION: The California Hospital Association (CHA) opposes this bill unless amended to align with the federal WARN Act requirement of a 60 day notice. According to CHA, prior to the COVID-19 response, one in three hospitals in California was showing signs of financial distress. The response to the pandemic has deepened these losses and hospitals now face delayed capital projects, emergency loans, a 50% reduction in emergency department visits, reduced operating room volume, significant decreases in operation margins, and ongoing COVID-19 expenses. Facing difficult resource decisions, hospitals must have the ability to reduce services to address financial losses otherwise, the financial security of the hospital operations are at risk. According to CHA, the increased public notifications of these changes will have the unintended consequence of hastening hospital closure and reducing access to care even sooner. CHA states that under the WARN Act, employers must provide 60 days' notice if their facility will lay off 50 or more employees in a 30 day period or close entirely. CHA suggests a 60-day notification for facility closure to align with the WARN Act. CHA also request that the bill include an exception in cases of exigent economic circumstances, employee loss, or quality of care concerns that force early closure or reductions in service. The District Hospital Leadership Forum also opposes this bill unless amended, making similar arguments to CHA and requesting the same amendments.

The California Children's Hospital Association (CCHA) is similarly opposed to this bill unless amended, arguing that the increase in the notice periods are substantial and unnecessary to protect the interests of the local communities affected by these decisions. CCHA states that as a general rule, financially health hospitals don't shut their doors or cut profitable services lines, and that they best way to prevent a hospital closure or service reduction is to address the underlying cause of the financial hardship that has led to the decision. CCHA requests the same amendments as CHA.

The California Department of Public Health (DPH) opposes this bill unless amended, stating that while it agrees that the specific means of notification outlined in this bill are appropriate for community notification, the extended notification periods do not address the financial issues that often motivate closures. DPH states that the notification required by this bill may delay closures, however it has not authority to force a hospital to remain open when they are financially unable. Additionally, DPH states that forcing a facility to stay open when they are unable might result in harm to patient safety, as there is concern this will lead to inadequate staffing. DPH suggests amendments to extend closure requirements by 30 days beyond current law, which would mean reducing the notification requirement for the elimination of emergency services in this bill from 180 days to 120 days (current law is 90), reducing the notice period for hospital closures from 180 days to 60 days, and reducing the notice period for the elimination or relocation of a supplemental service from 90 days to 60 days.

ASSEMBLY FLOOR: 50-15, 6/8/20

AYES: Aguiar-Curry, Bauer-Kahan, Berman, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Chu, Cooley, Eggman, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Holden, Jones-Sawyer, Kalra, Kamlager, Levine, Limón, Low, Maienschein, McCarty, Medina, Mullin, Nazarian, O'Donnell, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Smith, Mark Stone, Ting, Weber, Wicks, Wood, Rendon

NOES: Bigelow, Megan Dahle, Diep, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Mayes, Obernolte, Patterson, Blanca Rubio, Voepel, Waldron

NO VOTE RECORDED: Arambula, Chen, Choi, Cooper, Cunningham, Daly, Frazier, Grayson, Irwin, Muratsuchi, Petrie-Norris, Quirk, Quirk-Silva, Ramos

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
8/14/20 12:31:08

**** END ****

CONSENT

Bill No: AB 2038
Author: Committee on Transportation
Amended: 5/4/20 in Assembly
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 14-0, 8/4/20
AYES: Beall, Bates, Allen, Dahle, Dodd, Galgiani, Lena Gonzalez, McGuire,
Morrell, Roth, Rubio, Skinner, Umberg, Wieckowski
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Transportation: omnibus bill

SOURCE: Author

DIGEST: This bill makes several non-controversial, non-substantive changes to provisions of law related to transportation.

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

- 1) Government Code §76000.3 was added by SB 857 (Senate Committee on Budget and Fiscal Review, Chapter 720, Statutes of 2010), the Judiciary budget trailer bill, with sunset provisions later removed by SB 1021 (Senate Committee on Budget and Fiscal Review, Chapter 41, Statutes of 2012). This section generally imposes a \$3 penalty surcharge on “each parking offense” where a parking penalty, fine, or forfeiture is imposed, without reference to whether the offense is an infraction or misdemeanor. However, rather than referring to “parking offenses,” the provisions describing how this surcharge should be collected refers to “infraction parking violations” or “parking violations.” The

inconsistency in the terms used creates ambiguity in the code regarding whether those rare parking violations charged as misdemeanors are also subject to the surcharge.

By using “parking offense” throughout the section, this bill clarifies that the \$3 surcharge applies to misdemeanors and makes the code internally consistent.
[Judicial Council of California]

- 2) Property and business improvement district (PBIDs) were created as a financing mechanism where property owners enter into a special assessment district to improve their commercial districts. The 1994 Property and Business Improvement District Act specified multiple procedures for establishing a PBID, including the passage of a resolution of establishment (SHC §36626) and a resolution of formation (SHC §36625). Nevertheless, some practitioners argued that the resolution of establishment was duplicative of the resolution of formation and the management district plan, which together specify the purposes and activities of a PBID. SB 1498 (Senate Committee on Local Government, Chapter 467, Statutes of 2018) repealed the requirement to enact a resolution of establishment. Yet, current law regarding contestation of PBID assessments (SHC §36633) still reference the obsolete code section.

This bill removes reference to the obsolete section and replaces it with the appropriate reference to resolution of formations. [California Travel Association]

- 3) Existing law requires the DMV to determine and implement basic level of emergency medical dispatcher training for dispatchers employed by the DMV. Existing law also requires the DMV report to the Legislature on the progress of this training program no later than January 1, 1988. This bill removes the obsolete reporting requirement for the DMV medical dispatch training program.
- 4) Existing law creates a two-year pilot program for emergency road service organizations, commencing on July 1, 1992 with a report requirement to the Legislature no later than September 1, 1994. 4. This bill repeals those provisions, as they are obsolete.

Background

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

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

Comments

Purpose. According to the Assembly Committee on Transportation, the purpose of omnibus bills is to make a number of minor, non-controversial changes to statute at one time in a cost-effective manner. If issues arise that cannot be resolved, the provision of concern will be deleted from the bill. There is no known opposition to any item in this bill.

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

SUPPORT: (Verified 8/12/20)

Judicial Council of California

OPPOSITION: (Verified 8/12/20)

None received

ASSEMBLY FLOOR: 76-0, 6/8/20

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

NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Katie Bonin / TRANS. / (916) 651-4121
8/14/20 12:33:57

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

CONSENT

Bill No: AB 2046
Author: Voepel (R)
Amended: 3/4/20 in Assembly
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-0, 7/30/20
AYES: Jackson, Borgeas, Durazo, Lena Gonzalez, Melendez, Monning, Stern,
Umberg, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Family law: child support

SOURCE: Coalition of California Welfare Rights Organizations

DIGEST: This bill limits the amount of child support arrears that can be collected from a low-income child support obligor who is also a disabled veteran receiving disability compensation to five percent of their monthly disability compensation.

ANALYSIS:

Existing law:

- 1) Establishes a uniform, statewide guideline for calculating child support, based on the income of both parents and the time they each spend with the children. (Fam. Code § 4050 et seq.)¹
- 2) Establishes procedures to enforce the payment of child support arrearages, including authorizing a local child support agency to require an employer to withhold income in specified amounts. (§ 17400 et seq.) Generally limits that

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

amount to 50 percent of the obligor's income, although in some circumstances it may be up to 65 percent. (15 U.S.C. § 1673.)

- 3) Provides that, if an obligor is disabled, meets the SSI resource test, and is receiving SSI/ SSP or, but for certain excess income, would be eligible to receive SSI/SSP, as provided, and the obligor has supplied the local child support agency with proof of eligibility for and, if applicable, receipt of, SSI/SSP or Social Security Disability Insurance benefits, then the order/notice to withhold income issued by the local child support agency may not exceed five percent of the obligor's total monthly Social Security Disability payments. (§ 5246.)

This bill similarly provides that if a child support obligor is a disabled veteran receiving disability compensation from the United States Department of Veterans Affairs and, but for receipt of the disability compensation, would have an income that would qualify the obligor for Supplemental Security Income/State Supplementary Payments (SSI/SSP), and the obligor has supplied the local child support agency with proof of receipt of disability compensation and proof of other income and assets, the order/notice to withhold income issued by the local child support agency may not exceed five percent of the obligor's total monthly disability compensation.

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

SUPPORT: (Verified 8/13/20)

Coalition of California Welfare Rights Organizations (source)
California Association of Certified Family Law Specialists
California In-Home Supportive Services Consumer Alliance
California Judges Association

OPPOSITION: (Verified 8/13/20)

None received

ARGUMENTS IN SUPPORT: The author writes: "There isn't an equalized field when it comes to protecting disabled veterans the same way to non-veterans when it comes to child support. ... It's all about being fair." This sentiment is echoed by the sponsor and supporters of the bill. The author also argues that the bill's protections are necessary to ensure veterans are not driven into destitution, noting that veterans disproportionately experience homelessness, mental illness, and substance abuse problems.

ASSEMBLY FLOOR: 76-0, 6/8/20

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

NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Josh Tosney / JUD. / (916) 651-4113
8/14/20 12:11:59

**** END ****

CONSENT

Bill No: AB 2049
Author: Cooley (D)
Amended: 3/2/20 in Assembly
Vote: 21

SENATE INSURANCE COMMITTEE: 13-0, 8/4/20

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

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Reinsurance credit

SOURCE: California Department of Insurance

DIGEST: This bill updates California insurance law to conform to recent changes to the Credit for Reinsurance Model Act adopted by the National Association of Insurance Commissioners (NAIC).

ANALYSIS: Existing federal law, the Nonadmitted and Reinsurance Reform Act, part of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank Act”) provides that even though a reinsurer may sell in many states, only the state where the reinsurer is domiciled (where it is incorporated or entered through, and licensed) may regulate the financial solvency of a reinsurer provided the reinsurer meets financial integrity standards that demonstrate that it can meet its obligations to insurers.

Existing state law:

- 1) Establishes a comprehensive system of financial regulation for insurers, including allowing the use of reinsurance; “insurance for insurers” that satisfies some portion of the insurer’s statutory financial requirements.

- 2) Limits the amount of insurance an insurer can sell according to its capital and surplus (surplus is the value of the insurer's assets minus its liabilities).
- 3) Allows a domestic insurer to take credit for reinsurance if the reinsurance is ceded to an insurer domiciled in this state, is domiciled in another U.S. State or territory and "accredited" as reinsurer, or is "certified" as a reinsurer domiciled within or outside of the U.S.
- 4) Establishes a process and standards for certifying reinsurers domiciled within or outside of the U.S. and provides for a cooperative, multi-jurisdictional, and sometimes international, system of supervising these reinsurers. Qualifications include:
 - a) The reinsurer is domiciled in a "qualified jurisdiction," i.e. a jurisdiction that has agreed to cooperate in joint supervision and meets minimum regulatory standards.
 - b) Meets minimum capital and surplus requirements.
 - c) Meets minimum credit rating requirements.
 - d) Agrees to submit to the jurisdiction of this state and appoint an agent for service of process.
 - e) Meet specified filing requirements, as well as other requirements imposed by the Insurance Commissioner (commissioner).
- 5) Requires the commissioner to create and publish a list of qualified jurisdictions reinsurers that satisfy the applicable standards.

This bill:

- 1) Establishes a new category of reinsurer, a reinsurer from a "reciprocal jurisdiction," and requires that a domestic insurer be allowed a credit for reinsurance ceded to an assuming insurer from a reciprocal jurisdiction that meets specified standards.
 - a) Provides that a reciprocal jurisdiction falls into one of the following categories:
 - i) A non-U.S. jurisdiction that is subject to an in-force "covered agreement" with the U.S. and that the covered agreement be made pursuant to the Dodd-Frank Act and meets other standards.

- ii) An NAIC accredited jurisdiction within the U.S.
 - iii) A “qualified jurisdiction” that applies similar and reciprocal standards as determined by the commissioner and agrees to share information as provided.
- b) Establishes that qualifying reinsurers meet minimum requirements for capital and surplus, maintain a minimum solvency or capital ratio, provide assurance to the commissioner that it submits to the jurisdiction and specified legal remedies of this state, will provide certain regulatory documents, and will maintain a practice of prompt payment of claims.
- 2) Requires the commissioner to publish a list of reciprocal jurisdictions and a list of reinsurers with a head office or domicile in, and that are licensed in, a reciprocal jurisdiction.
- 3) Requires a certified reinsurer to file with the commissioner audited financial statements, regulatory filings, and actuarial opinion as filed with a non-United States jurisdiction, with an English translation, and authorizes the commissioner to consider those documents to evaluate the reinsurer’s financial strength.

Background

Reinsurance plays a critical role in the insurance market. It can serve as a failsafe when things go really bad (like a catastrophic wildfire), it can provide a form of security that allows an insurer to take on more risk than it would otherwise (like home with a replacement value over \$1 million), it can provide the additional capacity that allows smaller insurers to grow more quickly, and it helps to spread risks across multiple balance sheets (including domestic and international companies) so that no one actor is “left holding the bag.” In fact, reinsurance is so important that federal law, which generally leaves insurance regulation to the state, intercedes and has established a uniform framework for crediting reinsurance contracts against their liabilities when calculating an insurer’s statutory capacity.

NAIC’s Uniform Approach to Oversight of Multijurisdictional Reinsurance Transactions. Federal law leaves the primary responsibility for setting insurance policy with the States. In order to regulate such a large, sophisticated industry, the States generally work together through the NAIC to coordinate policy. NAIC is the U.S. standard-setting and regulatory support organization composed of the chief insurance regulators from the 50 states, the District of Columbia and five U.S. territories. The NAIC provides policy and support to the insurance regulators in each state, and provides model law proposals on a wide range of insurance issues.

There are a core set of insurance model laws states must conform to in order to obtain and maintain “accreditation.” Accreditation allows for coordination in financial regulation of insurers whose operations typically span multiple states and nations. Through the NAIC, State Insurance Commissioners operate in large part under a delegation of authority from the legislative branches of individual states, to among other things, develop model legislation. This bill implements recent revisions to the NAIC Model Law governing reinsurance transactions.

State insurance regulators receive accreditation by meeting certain legal, financial, and organizational standards established by the NAIC. Accreditation allows for inter-state regulatory cooperation and decreases regulatory costs. For instance, state insurance commissioners can accept the examination report prepared by another accredited state insurance department in lieu of performing its own financial examination, allowing insurers to operate efficiently in multiple states.

On June 25, 2019, the NAIC unanimously adopted revisions to the Credit for Reinsurance Model Act and Regulations in order to implement the Bilateral Agreement between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance. The agreement eliminates reinsurance collateral requirements for certain reinsurers that maintain a minimum amount of funds and a solvency capital requirement. It also requires states to enact the provisions of the revised model act with respect to the reinsurance collateral requirements or the state’s laws regarding credit for reinsurance will face potential federal preemption. The provisions will also become part of the NAIC state accreditation process.

Specifically, this bill expands the methods that a reinsurer can be deemed worthy of issuing agreements that will be credited against a ceding insurer’s liabilities. This new process recognizes that the reinsurers are already overseen in a similar fashion when it is domiciled or has its headquarters in a qualifying reciprocal jurisdiction and meets other standards designed to ensure financial stability.

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

SUPPORT: (Verified 8/13/20)

California Department of Insurance (source)
American Property Casualty Insurance Association
Reinsurance Association of America

OPPOSITION: (Verified 8/13/20)

None received

ARGUMENTS IN SUPPORT: The American Property Casualty Insurance Association writes, “The bill tracks the newly revised National Association of Insurance Commissioners (NAIC) Credit for Reinsurance Model Law and provides for collateral relief for reinsurers in the European Union and the U.K. The U.S. has entered into agreements with both countries that ensure that only financially stable and well-regulated EU reinsurers qualify for collateral relief. The bill also grants similar relief to reinsurers in certain countries outside of the E.U. who have been found by U.S. regulators to be similarly financially strong and well-regulated.”

ASSEMBLY FLOOR: 76-0, 6/8/20

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

NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Brian Flemmer / INS. / (916) 651-4110
8/14/20 12:12:03

**** END ****

CONSENT

Bill No: AB 2068
Author: Petrie-Norris (D)
Amended: 8/6/20 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 7-0, 7/29/20
AYES: McGuire, Moorlach, Beall, Hertzberg, Hurtado, Nielsen, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Voluntary tax contributions: California Firefighters' Memorial Fund:
California Peace Officer Memorial Foundation Fund

SOURCE: California Professional Firefighters
Peace Officers' Research Association of California

DIGEST: This bill extends the sunset date of the "California Firefighters Memorial Voluntary Tax Contribution Fund" and the "California Peace Officers Memorial Foundation Voluntary Tax Contribution Fund" to January 1, 2028.

ANALYSIS:

Existing law:

- 1) Allows a taxpayer to contribute money to voluntary contribution funds (VCFs), by checking a box on his or her state Personal Income Tax return.
- 2) Requires taxpayers to make VCF contributions from their own resources, and not from their own tax liability.
- 3) Allows taxpayers to claim the contributions as charitable deductions on his or her tax return in the subsequent year.

- 4) Requires that each VCF be added or extended individually through legislation.
- 5) Mandates that VCFs remain on the return until the Franchise Tax Board (FTB) removes the VCF due to a sunset provision, or the VCF fails to meet the minimum contribution amount of \$250,000 (that begins in the fund's second year), with a few exceptions.
- 6) Allows the following VCFs to be exempted from the minimum contribution amount:
 - a) California Firefighters' Memorial Foundation Fund;
 - b) California Peace Officer Memorial Foundation Fund; and
 - c) California Senior Citizen Advocacy Voluntary Tax Contribution Fund.
- 7) Directs the FTB to deposit the total of all contributions, less its costs of administration, into a fund named for the VCF.
- 8) Enacts general provisions for all VCFs enacted on, or extended after, January 2, 2017 (SB 1476, Committee on Governance and Finance, Chapter 597, Statutes of 2016), including:
 - a) Extending the current standard sunset provision from five to seven years;
 - b) Requiring the administering agency to post online the process and the administrative costs of awarding the money;
 - c) Providing that funds shall be continuously appropriated to the administering agency; and
 - d) Required "voluntary tax contribution" to be in the name of the fund.
- 9) Sunsets both the California Peace Officer Memorial Fund and California Firefighters Memorial Fund on January 1, 2021.

This bill:

- 1) Extends the sunset date for both the California Peace Officer Memorial Fund and California Firefighters Memorial tax VCFs from January 1, 2021, to January 1, 2028.
- 2) Renames the funds the California Firefighters Memorial Voluntary Tax Contribution Fund and the California Peace Officers Memorial Foundation

Voluntary Tax Contribution Fund and adds reporting requirements to conform to SB 1476.

Background

Last year, the Legislature enacted AB 984 (Lackey, Chapter 445, Statutes of 2019), which added the Suicide Prevention Voluntary Tax Contribution Fund, but seven VCFs fell short of their minimum contribution amounts last year, leaving 21 VCFs on the tax return for the 2019 taxable year. FTB notes that VCFs generally receive between four to six million dollars each year in total contributions, regardless of the number that appear on the return.

First added by the Legislature in 1994 and 1999, respectively, the California Peace Officer Memorial Fund and the California Firefighters Memorial Fund provide resources to maintain the California Firefighters' Memorial on the grounds of the State Capitol, and the California Peace Officers' Memorial in Sacramento, California, as well as to assist the surviving families of fallen California firefighters and fallen California peace officers. The Legislature previously extended the sunset for both funds to January 1, 2021 (AB 1561, Rodriguez, Chapter 127, Statutes of 2014). While neither VCF has a minimum limit, 12,930 taxpayers donated \$140,935 to the California Peace Officer Memorial Fund, and 20,884 taxpayers donated \$273,799 to the California Firefighters Memorial Fund in 2019.

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

SUPPORT: (Verified 8/13/20)

California Professional Firefighters (co-source)
Peace Officers' Research Association of California (co-source)
California Association of Highway Patrolmen
California Fire Chiefs Association
California Physical Therapy Association
California Police Chiefs Association
California State Firefighters Association
California State Sheriffs' Association
City of Newport Beach
Fire District Association of California
Los Angeles Police Protective League
Orange County Fire Authority

OPPOSITION: (Verified 8/13/20)

None received

ARGUMENTS IN SUPPORT: According to the author, “Under current law, the state's voluntary income tax check-off for the California Firefighters and Peace Officer Memorial Fund is slated to become inoperative on January 1, 2021. In order to continue to offer a place of honor and remembrance for our State's fallen firefighters and peace officers, as well as protect these gathering places where surviving family members and their community are strengthened by the power of remembering each firefighter or peace [officer's] ultimate sacrifice, the income tax check-off sunset should be extended. Such an extension will continue a crucial source of funding for the Firefighters and Peace Officers Memorial, thereby ensuring that the California Fire Foundation and the California Peace Officers Memorial Foundation are able to build on their good work and offer the citizens of California a place to honor those who have given their lives to save the lives and property of others.”

ASSEMBLY FLOOR: 76-0, 6/8/20

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

NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Jessica Deitchman / GOV. & F. / (916) 651-4119
8/14/20 12:33:58

**** END ****

THIRD READING

Bill No: AB 2077
Author: Ting (D)
Amended: 5/20/20 in Assembly
Vote: 21

SENATE HEALTH COMMITTEE: 6-2, 8/1/20
AYES: Pan, Lena Gonzalez, Leyva, Mitchell, Monning, Rubio
NOES: Grove, Hurtado
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 50-18, 6/8/20 - See last page for vote

SUBJECT: Hypodermic needles and syringes

SOURCE: Drug Policy Alliance
Health Officers Association of California
San Francisco AIDS Foundation

DIGEST: This bill extends the sunset on existing law, until January 1, 2026, which permits pharmacists to furnish hypodermic needles and syringes without a prescription or a permit, for human use to a person 18 years of age or older and which permits a person 18 years of age or older, without a prescription or license, to obtain hypodermic needles and syringes solely for personal use from a physician or pharmacist.

ANALYSIS:

Existing law:

- 1) Prohibits, except as specified, the sale of a hypodermic needle or syringe at retail except upon the prescription of a physician, dentist, veterinarian, podiatrist, or naturopathic doctor. [BPC §4142]

- 2) Permits a physician or pharmacist, until January 1, 2021, to furnish hypodermic needles and syringes without a prescription or a permit, for human use to a person 18 years of age or older. Permits a person 18 years of age or older, without a prescription or license, to obtain hypodermic needles and syringes solely for personal use from a physician or pharmacist. [BPC §4145.5(b)]
- 3) Makes a person who obtains a hypodermic needle or hypodermic syringe by a false or fraudulent representation or design or by a forged or fictitious name, or contrary to, guilty of a misdemeanor. Makes a person who has obtained a hypodermic needle or hypodermic syringe from any person to whom a permit has been issued and who uses, or permits or causes, directly or indirectly, the hypodermic needle or hypodermic syringe to be used for any purpose other than that for which it was obtained is guilty of a misdemeanor and punishable by a fine not exceeding \$1,000, or by imprisonment in a county jail not exceeding one year, or both a fine and imprisonment. [BPC §4326]
- 4) Establishes the Disease Prevention Demonstration Project (DPDP), within the former Department of Health Services (DHS), for the purpose of evaluating the long-term desirability of allowing licensed pharmacists to furnish or sell nonprescription hypodermic needles or syringes to prevent the spread of blood-borne pathogens, including HIV and hepatitis C. Requires DHS to evaluate the effects of allowing pharmacists to sell a limited number of hypodermic needles and syringes without a prescription. [HSC §121285]

This bill:

- 1) Extends the sunset on existing law, until January 1, 2026, which permits pharmacists to furnish hypodermic needles and syringes without a prescription or a permit, for human use to a person 18 years of age or older and which permits a person 18 years of age or older, without a prescription or license, to obtain hypodermic needles and syringes solely for personal use from a physician or pharmacist.
- 2) Deletes the penalties associated with obtaining a hypodermic needle or syringe without a prescription described in 3) of existing law above.
- 3) Repeals the DPDP statute described in 4) of existing law above.
- 4) Makes other technical, clarifying changes.

Comments

- 1) *Author's statement.* According to the author, research has shown that allowing adults to purchase sterile syringes from pharmacists without prescriptions is a key component to the prevention and control of HIV and hepatitis C. Existing law allows pharmacists to sell and adults to possess sterile syringes for personal use without a prescription and no study has shown that allowing adults to purchase sterile syringes has increased the rates of drug use, drug injection, or crime. This bill will extend the sunset on this law and ensure that we are continuing to stem the spread of HIV and viral hepatitis.
- 2) *Injection drug use and HIV/hepatitis.* According to the Centers for Disease Control and Prevention (CDC), people who inject drugs (PWID) are at high risk for getting HIV, hepatitis B virus (HBV), and hepatitis C virus (HCV) infection if they use needles, syringes, or other drug injection equipment (for example, cookers) that someone with HIV, HBV, or HCV has used. The CDC estimates that 62% to 80% of PWID who are HIV-infected are also infected with HCV and at least 60% of new cases of HCV nationally are associated with injection drug use. Although new HIV diagnoses among PWID have declined in recent years, the risk for getting or transmitting HIV is very high if an HIV-negative person uses injection equipment that someone with HIV has used because the virus can survive in a used syringe for up to 42 days, depending on temperature and other factors. In 2017, PWID accounted for 9% (3,641) of the 38,739 diagnoses of HIV in the US and dependent areas (2,389 cases were attributed to injection drug use and 1,252 to male-to-male sexual contact *and* injection drug use). In a study of cities with high levels of HIV, 40% of new PWID (those who have been injecting for five years or less) reported sharing syringes. From 2005 to 2015, syringe sharing declined 34% among black/African American PWID and 12% among Hispanic/Latino PWID, but did not decline among white PWID. Young PWID (aged <30 years) are more likely to share syringes than older PWID.

Public health experts, including those at the CDC, have for decades identified access to sterile syringes as one component of a comprehensive HIV prevention strategy designed to reduce HIV and hepatitis transmission among PWIDs. In 1999, a number of national organizations endorsed deregulation to allow PWIDs to purchase and possess syringes and needles without a prescription, including the American Medical Association, the American Pharmaceutical Association, the National Association of Boards of Pharmacy, the National

Alliance of State and Territorial AIDS Directors, and the Association of State and Territorial Health Officials.

- 3) *California data.* DPH's Office of Viral Hepatitis Prevention estimates there are least 400,000 people living with HCV in the state and that between 2002 and 2011 there were more than 300,000 hospitalizations in California for complications related to HCV infection, at a cost of over \$20 billion. DPH reports that there are approximately 136,566 persons reported to be living with HIV/AIDS in California in 2018. Of those with HIV infection, 12.2% reported injection drug use as a risk factor, including approximately 8,864 men who reported both injection drug use and having sex with men as risk factors.
- 4) *DPDP.* SB 1159 (Vasconcellos, Chapter 608, Statutes of 2004) established a five-year pilot program to allow California pharmacies, when authorized by a local government, to sell up to ten syringes to adults without a prescription. According to the DPH Office of AIDS, 16 counties and four cities in California authorized a DPDP (counties: Alameda, Contra Costa, Humboldt, Los Angeles, Mendocino, Marin, San Francisco, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma, Yolo, and Yuba; cities: Long Beach, Los Angeles, Sacramento, and West Hollywood). By February 2010, over 650 pharmacies were registered to participate in the program (according to DPH, this is an estimate because some counties did not keep fully accurate records, and some pharmacies misunderstood DPDP requirements and sold syringes without first registering with the local health jurisdiction [LHJ]).

According to an evaluation of DPDP published in July 2010 by DPH, SB 1159 appeared to have the desired effect of augmenting access to sterile syringes to prevent transmission of blood-borne viral infections among PWIDs without many of the negative consequences that some had feared. DPH's evaluation suggests that counties authorizing over-the-counter (OTC) sale of syringes without a prescription possess lower syringe sharing levels among PWIDs than counties that have not authorized OTC sale. Additionally, since implementation of SB 1159, fewer clients presenting for testing for HIV at state-funded testing sites report injecting illegal drugs, suggesting that authorization of OTC syringe sales did not have the negative impact of increased injection drug activity, a concern expressed by some prior to authorization. DPH's evaluation found that, following implementation of SB 1159, accidental needle-stick injury to law enforcement officers remained rare in California. Between 2005 and 2009, post-authorization of DPDPs, 19 accidental needle-stick injuries were reported

among law enforcement in LHJs that had authorized DPDPs and 15 accidental needle-stick injuries were reported among law enforcement in LHJs that had not authorized DPDPs. The variation in recent years is not great enough to suggest a statistically significant relationship to the authorization of DPDP. DPH's evaluation found no increase in unsafe discard of syringes since implementation of SB 1159. Finally, comparing time periods prior to and following SB 1159 authorization, DPH found no evidence of an increase in drug use or crime in the state of California as a whole or in areas that authorized sale of syringes without a prescription. The overall findings are consistent with those of other states that have transitioned, as California has, from a complete prohibition on sale and possession of syringes, to allowing a limited number to be sold to adults. The program was considered successful by the localities that implemented it and the DPDP was suspended when statewide sales were authorized by SB 41 (Yee, Chapter 738, Statutes of 2011).

Related/Prior Legislation

AB 1743 (Ting, Chapter 331, Statutes of 2014) deleted the limit on the number of syringes a pharmacist has the discretion to sell to an adult without a prescription and extended, until January 1, 2021, the statewide authorization for pharmacists to sell syringes without a prescription, as specified.

SB 41 (Yee, Chapter 738, Statutes of 2011) permitted non-prescription syringe sales of a maximum of 30 hypodermic needles or syringes to a person without a prescription through licensed pharmacies throughout the state until January 1, 2015 and made inoperative until that date, portions of the law establishing the DPDP.

AB 1701 (Chesbro, Chapter 667, Statutes of 2010) established, indefinitely, the DPDP, permitting cities or counties to authorize licensed pharmacists to sell or furnish ten or fewer hypodermic needles or syringes to a person for use without a prescription, as specified.

AB 1858 (Blumenfield of 2010) was substantially similar to AB 604 and was *vetoed by Governor Schwarzenegger, who stated, "I signed legislation in 2005 that reflected a careful balance between good public health policy and local decision-making authority. I remain comfortable with that original decision and do not believe it is appropriate to change this balance and instead give authority to the state Department of Public Health to overrule local decisions regarding syringe exchange programs."*

SB 1029 (Yee of 2010) contained similar provisions to those contained in this bill, and was vetoed by Governor Schwarzenegger who stated, *"When I signed legislation my first year in office allowing for a pilot program to allow the sale of syringes through participating counties and registered pharmacies, I was seeking to balance the competing public health, law enforcement and local control issues that this issue requires. I believe this balance was achieved and SB 1029 would remove the ability of local officials to best determine policies in their jurisdiction."*

AB 110 (Laird, Chapter 707, Statutes of 2007) permitted a public entity that receives General Fund money from the Department of Health Services (now DPH) for HIV prevention and education to use that money to support needle exchange programs. *AB 1597 (Laird of 2005) contained substantially similar provisions to AB 110, but was vetoed by Governor Schwarzenegger.*

AB 547 (Berg, Chapter 692, Statutes of 2005) created the Clean Needle and Syringe Exchange Program to permit needle exchange programs without a local declaration of emergency.

AB 946 (Berg of 2003) and AB 2871 (Berg of 2004) would also have repealed the requirement that a city or county authorize its needle exchange program through a declaration of a local emergency. *Both bills were vetoed by Governor Davis and Governor Schwarzenegger, respectively.*

SB 774 (Vasconcellos of 2003) and SB 1785 (Vasconcellos of 2002) would have permitted the furnishing of syringes without a prescription. *Both measures were vetoed by Governor Davis.*

AB 136 (Mazzoni, Chapter 762, Statutes of 1999) exempted public entities and their agents and employees who distribute hypodermic needles or syringes to participants in clean needle and syringe exchange projects authorized by the public entity pursuant to a declaration of a local emergency from criminal prosecution.

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

SUPPORT: (Verified 8/14/20)

Drug Policy Alliance (co-source)

Health Officers Association of California (co-source)

San Francisco AIDS Foundation (co-source)

A New Path

A New Way of Life Re-Entry Project

Access Support Network
AIDS Healthcare Foundation
American Civil Liberties Union of California
American Congress of Obstetricians and Gynecologists – District IX
Any Positive Change, Inc.
APLA Health
Asian Liver Center at Stanford University
Being Alive LA
Biensestar Human Services, Inc.
California Access Coalition
California Association of Alcohol and Drug Program Executives
California Attorneys for Criminal Justice
California Council of Community Behavioral Health Agencies
California Medical Association
California Nurses Association
California Pharmacists Association
California Public Defenders Association
California Retailers Association
California Society of Addiction Medicine
California Society of Health-System Pharmacists
Californians for Safety and Justice
Center for Health Justice
Center for Living and Learning
CLARE|MATRIX
Community Clinic Association of Los Angeles County
County Health Executives Association of California
Democratic Party of the San Fernando Valley
Desert AIDS Project
Ella Baker Center for Human Rights
End Hep C SF
Equality California
Face to Face
Face to Face/ Sonoma County AIDS Network
Fresno Needle Exchange Program
GLIDE Foundation
Harm Reduction Coalition
Harm Reduction Services
HIV Education and Prevention Project of Alameda County
Homeless Healthcare Los Angeles
Initiate Justice

Los Angeles LGBT Center
Los Angeles Regional Reentry Partnership
Mendocino County Aids/Viral Hepatitis Network
National Association of Chain Drug Stores
National Association of Social Workers, California Chapter
National Health Law Program
NEXT Harm Reduction
Orange County Needle Exchange Program
Planned Parenthood Affiliates of California
PleasePrEPMe
Re:Store Justice
Sierra Harm Reduction Coalition
St. Anthony's Foundation
Tarzana Treatment Centers, Inc.
Tenderloin Neighborhood Development Corporation
The Sidewalk Project
The Spahr Center
Treatment Action Group
Valley Community Healthcare
Veterans for Recovery, Ontario
Western Center on Law & Poverty

OPPOSITION: (Verified 8/14/20)

California State Sheriffs' Association

ARGUMENTS IN SUPPORT: Drug Policy Alliance writes that decades of research have established that access to sterile syringes reduces HIV and hepatitis B and C infections, is safe, effective, and cost-saving, and do not increase illegal drug use or crime. The need for safe injection supplies is as great as it has ever been: the opioid epidemic has resulted in increased injection drug use; this in turn has resulted in steep increases in hepatitis C diagnosis rates and there is concern that HIV transmission may increase also. Allowing adults to purchase sterile syringes without a prescription costs the taxpayers of California nothing, while saving billions of dollars in healthcare costs by preventing HIV and HCV disease. The San Francisco AIDS Foundation states that syringe sharing is the most common cause of hepatitis C transmission and the second most common cause of HIV and hepatitis B transmission in the United States. These preventable infections are devastating to individuals and families, and put costs burdens on taxpayer supported healthcare and health insurance, and the CDC reports that the lifetime cost to treat a single case of HIV is \$380,000 in 2010 dollars. The Health

Officers Association of California states that providing discretion to pharmacists to sell syringes to adults without a prescription is an extremely effective public health tool that increases the health and safety of individuals and communities, as well as reduces the costs of treatment of diseases like hepatitis C and HIV/AIDS.

ARGUMENTS IN OPPOSITION: The California State Sheriffs' Association writes that this bill encourages, or at least facilitates, drug use because by removing the possibility of a felony conviction for most drug possession offenses, much of the meaningful encouragement that guided users toward drug court has evaporated.

ASSEMBLY FLOOR: 50-18, 6/8/20

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

NOES: Bigelow, Brough, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Diep, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Patterson, Ramos, Salas, Voepel

NO VOTE RECORDED: Boerner Horvath, Chen, Daly, Frazier, Gray, Grayson, Mayes, Muratsuchi, Petrie-Norris, Quirk, Rodriguez

Prepared by: Melanie Moreno / HEALTH / (916) 651-4111
8/15/20 12:04:10

**** END ****

CONSENT

Bill No: AB 2104
Author: Cristina Garcia (D)
Amended: 3/4/20 in Assembly
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-0, 8/11/20
AYES: Allen, Dahle, Hill, Stern, Wieckowski
NO VOTE RECORDED: Bates, Skinner

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Lead-acid batteries: Lead-Acid Battery Recycling Facility
Investigation and Cleanup Program

SOURCE: Author

DIGEST: This bill revises the Lead-Acid Battery Recycling Facility Investigation and Cleanup Program (LABRIC Program) to expand requirements for the Department of Toxic Substance Control (DTSC) to receive and respond to information from the public and provides additional time for DTSC to complete or renew investigations.

ANALYSIS:

Existing law:

- 1) Requires, on and after April 1, 2017, until March 31, 2022, a California Battery Fee of \$1 to be imposed on a person for each replacement lead-acid battery purchased from a dealer. Requires, on and after April 1, 2022, the amount of the California Battery Fee to increase to \$2. (HSC § 25215.25)

- 2) Allows an out-of-state lead-acid battery manufacturer, not subject to the Manufacturer Battery Fee, to pay the fee on behalf of an importer and claim the associated credits to offset potential hazardous waste liability. Requires the California Department of Tax and Fee Administration (CDTFA) to report to the Legislature relating to out-of-state manufacturers who opted to pay the Manufacturer Battery fee. (HSC § 25215.3)
- 3) Requires, until April 1, 2022, each manufacturer to remit to the CDTFA a \$1 Manufacturer Battery Fee for each lead-acid battery sold at retail to a person in California. Requires, on and after April 1, 2022, the Manufacturer Battery Fee to increase to \$2. (HSC § 25215.35)
- 4) Requires all California Battery Fee and Manufacturer Battery Fee revenues be remitted to the CDTFA for administration of the fee and the remainder to be deposited into the Lead-Acid Battery Cleanup Fund (Fund). Moneys in the Fund shall be expended to perform cleanup, remedial action, removal, monitoring, or other response actions to address contamination directly attributable to releases from a facility known to have been a lead-acid battery recycling facility. (HSC § 25215.5)
- 5) Requires DTSC to establish a LABRIC Program to identify areas of the state eligible for expenditure of moneys from the Fund. Requires proposed designations to include explanations and documentation relied upon during investigation. Requires the LABRIC Program to provide public notice of an investigation or site evaluation and accept public comment. (HSC § 25215.51)

This bill:

- 1) Clarifies DTSC will accept comments or information from the public by 90 days after public notice of the initiation of an investigation or site evaluation.
- 2) Requires DTSC to review and provide written responses to any comments or information submitted by the public before completing its investigation or site evaluation.
- 3) Allows for a deadline extension for completion of the investigation in increments of three months, not to exceed one year, with good cause and adequate public notice.
- 4) Provides additional technical clarifications.

Background

- 1) *Health impacts associated with lead:* Lead is a toxic metal that does not break down in the environment and accumulates in the human body. Exposures to lead can lead to a number of health problems, including: behavioral problems, learning disabilities, joint and muscle weakness, anemia, organ failure, and even death. Lead has been listed under California's Proposition 65 since 1987 as a substance that can cause reproductive damage and birth defects and has been on the list of chemicals known to cause cancer since 1992.

Children 6 years old and under are most at risk because their bodies are growing quickly. According to the Centers for Disease Control and Prevention there is no safe blood lead level in children. Lead is a leading environmental threat to children's health in the United States. When children are exposed to lead it has lifelong adverse effects, such as lowered IQ scores, hearing disabilities, difficulty paying attention, hyperactivity, and disrupted postnatal growth.

- 2) *Lead-acid batteries.* Lead-acid batteries are rechargeable batteries made of lead plates situated in sulfuric acid within a plastic casing. They are used globally for a wide range of purposes, most commonly in vehicles like automobiles, boats, trucks, and industrial vehicles. The lead-acid battery market in the United States was valued at more than \$9.9 billion in 2018, and is expected to grow with increased demand for use in electric vehicles and energy storage. The demand for lead is high and as such lead is a highly valued commodity that makes recycling highly profitable.

The United States and California have increased regulations over smelting operations (the process through which lead is retrieved) to decrease potential environmental and public health exposures to smelting emissions and contamination. However, some smelters in California, like the Exide facility, have pollution resulting from operations prior to the air, soil, and water regulations of today.

The operation of lead-acid battery recycling facilities, or secondary lead smelters, bring with them the potential for threats to public health from lead poisoning. The recycling process includes: crushing the batteries, draining the sulfuric acid, and smelting the remaining lead material in large furnaces. The smelting process produces significant emissions and furnaces require extensive air pollution control systems to meet current air pollution control requirements.

DTSC estimates that each of these older smelters emitted up to one ton of lead particles into the air each hour. The particles would land on nearby residential properties, potentially mixing with lead dust from automobile exhaust, lead based paint residues, and lead from other industrial operations.

As a result, there is historical pollution from lead-acid battery smelters all around where they operated in California, many in vulnerable and environmentally burdened communities that needs to be cleaned up to protect the public from the known and irreparable dangers of lead.

- 3) *Lead-Acid Battery Recycling Act.* The LABRIC Program was established pursuant to Assembly Bill 2153 (C. Garcia, Chapter 666, Statutes of 2016), which enacted the Lead-Acid Battery Recycling Act (Act) of 2016. The Act has been subsequently amended pursuant to Assembly Bill 142 (C. Garcia, Chapter 860, Statutes of 2019).

Beginning on or after April 1, 2017, The Act imposed a fee on a manufacturer for each lead-acid battery sold at retail to a person in California, or that is sold to a dealer, wholesaler, distributor, or other person for retail sale in California. The Manufacturer Battery Fee and California Battery Fee on lead-acid batteries sold in the state is deposited into the Lead Acid Battery Cleanup Fund created by the Act. The Fund is a dedicated source to pay for the investigation and cleanup of the Exide battery recycling site in Vernon, California, and at other contaminated former lead-acid battery recycling sites. There was a question of whether the Act applied to secondary lead smelters. AB 142 narrowed the definition of "lead-acid battery recycling facility" to exclude any facility designed and operated for the primary purpose of recovering lead from materials other than used lead-acid batteries. The Act also provides that manufacturers paying the Manufacturer Battery Fee receive a one-time credit equal to the amount each manufacturer has paid against any future judgement of legal responsibility for a share of those cleanup costs for those manufacturers that did not also operate a lead-acid battery recycling facility in California.

- 4) *Exide Technologies.* The Exide Technologies (Exide) battery recycling facility in Vernon, California recycled lead from used automotive batteries and other sources. The facility could process about 25,000 automotive and industrial batteries per day, providing a source of lead for new batteries. Over the course of decades of operation, the facility polluted the soil beneath it with high levels of lead, arsenic, cadmium, and other toxic metals. It also contaminated

groundwater, released battery acid onto roads, and contaminated homes and yards in surrounding communities with lead emissions. In March, 2015, Exide was forced to close the facility for good and, under a state agreement with DTSC, set aside \$7.7 million in emergency funding to test homes and other structures around the facility for pollution resulting from the facility.

Properties up to 1.3 and 1.7 miles away from the facility are impacted by Exide's lead contamination, which amounts to upwards of 10,000 properties. According to DTSC, cleaning each home costs between \$68,000 and \$83,000 depending on the contractor, an increase from the anticipated cost per property. DTSC has sampled 8,555 properties to-date; 90% of the properties tested have exceeded the screening level of 80 parts per million (ppm) for lead and will require remediation. As of February 2020, 1,676 properties have been cleaned up. Removing lead-contaminated soil from thousands of homes surrounding Exide could result in the most extensive cleanup of its kind in California and will be among the largest cleanup ever conducted in the nation.

On April 20, 2016, Governor Jerry Brown signed AB 118 (Santiago, Chapter 10, Statutes of 2016) and SB 93 (De León, Chapter 9, Statutes of 2016), appropriating a \$176.6 million loan from the General Fund (GF) to the Toxic Substances Control Account (TSCA) to enable DTSC to test properties, schools, daycare centers, and parks in the 1.7 mile radius and remove contaminated soil at the properties that have the highest lead levels and greatest potential exposure to residents. AB 2153 authorized use of the fee revenues in the Fund to fill that gap and repay the state loan while providing an ongoing source of funds to address lead contamination from lead-acid battery recycling facilities. AB 142 specified that the repayment of the \$176.6 million GF loan or any other loan provided to DTSC to clean up the Exide remediation site will not be paid back until the cleanup of Exide and all other areas of the state contaminated by lead-acid batteries is completed. The 2018-19 Budget Act included \$6.5 million for the testing and remediation of parkways. The 2019-20 Budget Act included \$74.5 million for a one-time basis to accelerate the cleanup of additional properties within the 1.7 mile radius and cover the increased cost of cleanup.

- 5) *DTSC evaluation of lead-acid battery recycling facility sites:* According to DTSC's first report to the Legislature in February 2018, DTSC worked with the U.S. Environmental Protection Agency Region 9 (EPA Region 9) to evaluate 39 former lead smelter sites identified from a comprehensive review of site investigation and cleanup records maintained by EPA Region 9 and

DTSC. Based on an initial review, DTSC selected 18 potentially contaminated sites for more thorough assessment to determine if further actions were needed to protect public health. DTSC also evaluated areas around these sites to assess potential health impacts to schools, parks, and residential properties. Based on their assessment, DTSC prioritized four of the 18 sites for investigation and potential remedial action, and began evaluation for these sites in January 2019. Evaluation recommendations include performing sampling in the community to determine the nature and extent of contamination from the smelter facilities, and performing removal action if required. While AB 2153 requires DTSC to report to the Legislature annually on the implementation of the Act, a report has not been released since the 2018 report.

Based on changes made through AB 142, the LABRIC Program is required to provide public notice of the initiation of an investigation or site evaluation of an area suspected to have been contaminated by a lead-acid battery recycling facility. AB 2104 sets a time limit of 90 days from the time a public notice is issued for DTSC to receive public comments and requires DTSC to respond to comments before completing an investigation. If, within two years of the public notice DTSC is unable to designate a site as contaminated from a lead-acid battery recycling facility, the public notice is considered withdrawn and the investigation is no longer authorized. AB 2104 prolongs the time that DTSC can extend this deadline from three months to up to one year in three month intervals and provides an exception to these time limits if DTSC determines new evidence warrants renewed investigation.

DTSC developed a draft framework for the LABRIC Program presented at two public meetings in the summer of 2018 proposing to consider additional information on lead hazards in areas with contamination from lead-acid battery recycling facilities, including elevated blood lead levels in children, housing stock that contains lead-based paint, and other sources of lead emissions to enhance evaluation and prioritization. The Act requires DTSC to investigate and respond to information provided by the public that may suggest an area was not contaminated by a lead-acid battery recycling facility. AB 2104 explicitly requires DTSC to investigate and respond to information from the public suggesting other sources may be responsible for the lead contamination.

The author is currently in discussion with DTSC regarding some additional amendments to address changes to the Act made by AB 142 which narrowed the use of the Fund. The author has agreed to involve Committee staff in those discussions as the bill moves forward.

Comments

- 1) *Purpose of Bill.* According to the author, "AB 2153 (Chapter 666, Statutes of 2016) was signed in to law by Governor Brown. This law reallocates a fee already imposed on all car batteries to fund the cleanup of contamination caused by lead acid batteries throughout the state. At the point of sale, \$1 from the consumers' deposit will go to the cleanup fund. Manufacturers will also pay a \$1 fee on all batteries sold in the state. On April 1, 2022 the Consumer fee will go up to \$2, and the Manufacture fee will sunset.

“AB 142 (Chapter 860, Statutes of 2019) was signed in to law by Governor Newsom. This measure removed the April 1, 2022 sunset from the manufacturer battery fee, and increased the manufacturer battery fee from \$1 to \$2 to match the consumer fee. This will help bring relief to these affected communities and ensure funding solutions to a major long-term problem.

“Since the bill was signed in to law the Department of Toxic Substance Control (DTSC) has been working on regulations to implement the testing and cleanup of possible sites and technical problems have been identified.”

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

SUPPORT: (Verified 8/17/20)

None received

OPPOSITION: (Verified 8/17/20)

None received

ASSEMBLY FLOOR: 76-0, 6/8/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Diep, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Limón, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Nazarian, Obernolte, O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas,

Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone,
Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Gabrielle Meindl / E.Q. / (916) 651-4108
8/19/20 10:49:45

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

CONSENT

Bill No: AB 2107
Author: Rodriguez (D) and Gray (D)
Introduced: 2/6/20
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 7-0, 7/29/20
AYES: McGuire, Moorlach, Beall, Hertzberg, Hurtado, Nielsen, Wiener

ASSEMBLY FLOOR: 75-0, 5/26/20 (Consent) - See last page for vote

SUBJECT: Local government: securitized limited obligation notes

SOURCE: California Special Districts Association

DIGEST: This bill extends, until December 31, 2024, the sunset date for special districts to issue securitized limited obligation notes (SLONs).

ANALYSIS:

Existing law:

- 1) Allows, until December 31, 2019, special districts to issue SLONs, a type of debt secured by a dedicated revenue source, with a 4/5 vote of their governing board to finance acquisitions or improvements of land, facilities, or equipment.
- 2) Allows any special district to borrow up to \$2 million for up to 10 years at interest rates not to exceed 12% per year through SLONs.
- 3) Requires SLONs to be paid only from the pledged revenues, a district's general fund is not liable for repaying the principal and interest, and lenders cannot force a district to raise taxes to repay its SLONs.

This bill extends, until December 31, 2024, special districts' authority to issue SLONs.

Background

In 2002, the Legislature first authorized the San Bernardino County Flood Control District to SLONs (SB 1561, Soto, Chapter 288). In the following year, the Legislature extended the authority to the Humboldt Bay Harbor, Recreation, and Conservation District (AB 878, Pavley, Chapter 389, Statutes of 2003). Rather than continuing to extend this authority one district at a time, the Legislature approved SB 1770 (Committee on Local Government, Chapter 114, Statutes of 2004) to provide all special districts with the authority to issue SLONs until December 31, 2009. SB 1124 (Committee on Local Government, Chapter 709, Statutes of 2008) extended this sunset date to 2014, and SB 1462 (Committee on Governance and Finance, Chapter 201, Statutes of 2014) subsequently extended the sunset to December 31, 2019.

SLONs can be more practical than long-term bonds that require 20 to 30 years of interest payments. Since special districts pledge a dedicated stream of revenues, such as user fees and charges, the notes may be less risky and less costly to finance compared to promissory notes.

Comments

- 1) *Purpose of the bill.* According to the author, “SLONs permit a public agency to issue a note to finance lower-cost acquisitions or improvements of land, facilities, or equipment. SLONs are secured by a pledge of any available revenue and approved by a four-fifths vote of the governing body. Unfortunately, on December 31, 2019, the authorization for special districts to use this financing tool expired. AB 2107 simply restores this authority for another five years.”
- 2) *Once and for all.* AB 2107 will be the third sunset date extension for special district authority to issue SLONs. Barring negative reports regarding SLONs, the Legislature may wish to consider removing the sunset date, or adjusting the SLON borrowing limit annually for inflation, to avoid the need for future legislation.

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

SUPPORT: (Verified 7/30/20)

California Special Districts Association (source)
Alpine Village-Sequoia Crest Community Services District
California Association of Recreation & Park Districts
California Fire Chiefs Association

California Municipal Utilities Association
Costa Mesa Sanitary District
Cucamonga Valley Water District
Fire District Association of California
Frazier Park Public Utility District
Golden Hills Community Services District
Hilmar County Water District
Keyes Community Services District
Municipal Water District of Orange County
Orange County Cemetery District
Southgate Recreation & Park District
Three Valleys Municipal Water District
Tulare Mosquito Abatement District
Volta Community Services District
Walnut Valley Water District

OPPOSITION: (Verified 7/30/20)

None received

ASSEMBLY FLOOR: 75-0, 5/26/20

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

NO VOTE RECORDED: Diep, Maienschein, Quirk, Wicks

Prepared by: Jonathan Peterson / GOV. & F. / (916) 651-4119
7/31/20 17:51:55

**** END ****

CONSENT

Bill No: AB 2134
Author: Chen (R), et al.
Introduced: 2/10/20
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-0, 8/8/20
AYES: Glazer, Chang, Archuleta, Dodd, Galgiani, Hill, Leyva, Pan, Wilk

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Crematories: burning of flags

SOURCE: Author

DIGEST: This bill adds additional dates during which time American flags can be incinerated at a crematory for purposes of retirement.

ANALYSIS:

Existing federal law:

- 1) Describes the role and proper use of the American flag, including handling, displaying, and appropriate conduct during ceremonies involving a flag. (4 United States Code (U.S.C.) Section 8 et seq.)
- 2) Recommends that an American flag, when in such condition that it is no longer a fitting emblem for display, should be retired in a dignified way, preferably by burning. (4 U.S.C. Section 8(k))

Existing state law:

- 1) Establishes the Cemetery and Funeral Bureau (Bureau) under the Department of Consumer Affairs for the licensure and regulation of cemetery brokers, cemetery salespersons, cemetery managers, cemeteries, crematories, crematory managers, cremated remains disposers, and licensed hydrolysis facilities. (Business and Professions Code (BPC) § 7600 *et. seq.*)

- 2) Requires a crematory regulated by the Bureau to only cremate human remains in cremation chambers, along with the cremation container, personal effects of the deceased, and no more than a negligible amount of chlorinated plastic pouches utilized for disease control when necessary, unless otherwise exempted. (Health and Safety Code (HSC) § 8344.5(a))
- 3) Permits a crematory regulated by the Bureau to incinerate one or more American flags under the following conditions:
 - a) Incineration of the flag or flags is performed separately from the cremation of human remains, as provided in 3) above;
 - b) Incineration of the flag or flags is in accordance with Section 8(k) of Title 4 of the United States Code; and,
 - c) Incineration of the flag(s) occurs within one week before or after any of the following: Memorial Day, Flag Day, or Independence Day. (HSC 8344.5(b))
- 4) Requires a crematory that incinerates an American flag(s) to maintain on its premises, an accurate record of all American flags incinerated and maintain it in the crematory log for at least 10 years after the incineration, and requires the record to include all of the following information:
 - a) Name of the organization or person requesting incineration of the flag or flags;
 - b) Date of incineration of the flag or flags;
 - c) Name of the cremation chamber operator;
 - d) Time and date that the flag or flags were inserted in the cremation chamber;
 - e) Time and date that the flag or flags were removed from the cremation chamber;
 - f) Weight of the ashes of the flag or flags after being removed from the cremation chamber; and,
 - g) Disposition of the ashes of the incinerated flag or flags. (HSC 8344.6)

This bill provides two additional periods of time in which a flag may be incinerated at a crematory regulated by the Bureau – one week before or after Veterans' Day, and one week before or after Presidents' Day.

Background

Crematory Regulation. The Bureau is responsible for the oversight and regulation of crematories. A crematory may be operated by a corporation, partnership or natural person provided that a valid crematory license has been issued by the Bureau. In addition, each licensed crematory must at all times employ a licensed crematory manager to manage and supervise all of the crematory operations. As specified in BPC Section 7712.8, each crematory license is required to keep records as prescribed by the Bureau, and file a report annually with the Bureau describing the operations of the licensee, including the number of cremations made, the disposition of the remains and any other information as the Bureau may require. Further, HSC Section 8343 requires each crematory to maintain the name of deceased, date of cremation, name of cremation chamber operator, time and date that final processing of cremated remains was completed, disposition of cremated remains which must be maintained for at least 10 years after the cremation is performed that information is subject to inspection by the Bureau.

SB 119 (Calderon, Chapter 205, Statutes of 2013) permitted the incineration of American flags in crematories licensed by the Bureau for the retirement of a flag. Currently, the cremation of flags can occur only one week before or after Memorial Day, Flag Day, and Independence Day. Essentially, flags may only be retired via the crematory process six weeks a year. This bill provides an additional timeframe for individuals or groups to retire flags in the controlled and safe environment of a cremation chamber. This bill provides two more periods of time in which the American Flag may be cremated for purposes or retirement. Specifically, this bill allows a flag to be burned at a crematory within one week before or after both Presidents' Day and Veteran's Day. Many of the current record keeping requirements for crematory practice for humans also extend to any American flag incinerated by the crematory.

Flags. Federal code establishes standards for the respectful treatment of the flag of the United States of America, and provides that when the flag is in such a condition that is no longer fitting as an emblem for display, that the flag should be destroyed in a dignified way, preferably by burning. This bill simply adds additional timeframes to retire an American flag in California.

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

SUPPORT: (Verified 8/12/20)

Cemetery and Mortuary Association of California

OPPOSITION: (Verified 8/12/20)

None received

ARGUMENTS IN SUPPORT: The Cemetery and Mortuary Association of California (CMAC) writes in support, “CMAC agrees that adding dates throughout the year would facilitate the ability to ensure that flags are retired safely, respectfully, and in a timely manner.”

ASSEMBLY FLOOR: 76-0, 6/8/20

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

NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
8/12/20 14:14:58

**** END ****

CONSENT

Bill No: AB 2141
Author: Mathis (R), et al.
Amended: 3/4/20 in Assembly
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 14-0, 8/4/20
AYES: Beall, Bates, Allen, Dahle, Dodd, Galgiani, Lena Gonzalez, McGuire,
Morrell, Roth, Rubio, Skinner, Umberg, Wieckowski
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Department of Motor Vehicles

SOURCE: Author

DIGEST: This bill authorizes the Department of Motor Vehicles (DMV) to exempt specified veterans from certain commercial driver's license (CDL) tests.

ANALYSIS: Existing federal regulations permits states to waive the knowledge and skills test required to obtain a commercial driver's license for certain individuals with military commercial motor vehicle experience.

Existing state law:

- 1) Prohibits an individual from operating a commercial motor vehicle unless he or she has in his or her immediate possession a valid CDL of the appropriate class.
- 2) Requires a CDL for a variety of trucks weighing more than 26,000 lbs., passenger buses, and vehicles carrying hazardous materials.
- 3) Requires an individual, in order to obtain a CDL, to successfully complete both a written and driving test that comply with the minimum federal standards to

operate a commercial motor vehicle. Separate endorsements, obtained through successful completion of knowledge tests, are required for driving tank vehicles, commercial vehicles transporting hazardous materials, commercial vehicles transporting passengers, and other specified commercial motor vehicles.

- 4) Authorizes DMV to waive the driving test for an individual with military commercial motor vehicle experience if the individual is currently licensed with the U.S. Armed Forces and his or her driving record and experience meet the minimum federal standards.
- 5) Exempts active duty members and most reservists of the U.S. Armed Forces, active duty members of the National Guard, and active duty personnel of the U.S. Coast Guard from all CDL requirements and sanctions.

This bill:

- 1) Authorizes DMV to waive the knowledge test for obtaining a CDL for specified military veterans who have received equivalent military training.
- 2) Authorizes DMV to waive the specialized knowledge tests required to obtain an endorsement for tank vehicles, commercial vehicles transporting hazardous materials, and commercial vehicles transporting passengers for specified military veterans who have received equivalent military training.
- 3) Deletes the state policy statement prohibiting the waiving of fees for obtaining CDLs by veterans.

Background

Pursuant to federal law, in 2014 the DMV implemented the Troops to Trucks program to make it easier for trained military veterans to obtain civilian CDL, which are required to operate large trucks and busses. The program allows DMV to waive the CDL driving test for qualified military service members who are or were, employed within the last year in a military position requiring the operation of a military vehicle equivalent to a commercial motor vehicle. To be eligible the individual need to have a relatively clean driving record including no alcohol or drug offenses, no record of at-fault accidents, and few traffic violations. The DMV has waived 1500 tests since the program inception.

In 2018, federal rules were expanded to also allow for waivers of the CDL knowledge test. This bill authorizes the DMV to waive the CDL knowledge tests, in addition to waiving the driving test allowed under current DMV regulations. In

addition, this bill authorizes the waiver for specialized knowledge tests for operating tank vehicles, transporting hazardous materials, and transporting passengers.

Comments

- 1) *Eliminating Duplicative Testing.* Commercial vehicles are bigger and heavier than passenger vehicles. They are harder to drive and, because of their mass and payload, create increased risk for others. Consequently, additional testing is required to earn a license to drive commercial vehicles. Recent legislation has recognized that commercial driver training can be inadequate leading to injury and death (SB 1236, Monning, Chapter 984, Statutes of 2018). However, there seem to be no concerns that the testing exemptions created by this bill will create unnecessary public risk. The California Highway Patrol has reviewed the provisions of this bill and does not have any concerns. They believe that the military driver training is sufficient and note that several other states have adopted these provisions without incident.
- 2) *Fees.* This bill removes the statutory statement of state policy against waiving CDL fees for veterans, but this bill does not mandate that fees be waived. CDL fees are \$82 with additional fees for tank or hazardous materials endorsements.

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

SUPPORT: (Verified 8/13/20)

None received

OPPOSITION: (Verified 8/13/20)

None received

ASSEMBLY FLOOR: 76-0, 6/8/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Diep, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Limón, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Nazarian, Obernolte, O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas,

Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone,
Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Randy Chinn / TRANS. / (916) 651-4121
8/14/20 12:33:59

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

CONSENT

Bill No: AB 2143
Author: Mark Stone (D)
Amended: 3/2/20 in Assembly
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-0, 8/13/20
AYES: Jackson, Borgeas, Durazo, Lena Gonzalez, Melendez, Monning, Stern,
Umberg, Wieckowski

ASSEMBLY FLOOR: 75-0, 5/26/20 (Consent) - See last page for vote

SUBJECT: Settlement agreements: employment disputes

SOURCE: Author

DIGEST: This bill allows an employer to include a no-rehire clause in a settlement agreement with a worker who filed an official complaint in good faith if, before the worker filed the complaint, the employer made and documented a good faith determination that the worker engaged in sexual harassment, sexual assault, or any criminal conduct.

ANALYSIS:

Existing law:

- 1) Identifies certain types of contracts as unlawful or contrary to public policy and therefore void and unenforceable. (Civ. Code §§ 1667-1670.10.)
- 2) Provides that every contract by which anyone is restrained from engaging in a lawful profession, trade, or business of any kind is to that extent void, except as provided by statute. (Bus. & Prof. Code § 16600.)
- 3) Prohibits and renders void any no-rehire provision in settlement agreements executed after January 1, 2020, that resolve an employment dispute in which the worker filed an official complaint, except where the employer has made a

good faith determination that the person engaged in sexual harassment or sexual assault. (Code of Civ. Proc. § 1002.5.)

This bill allows employers to include a no-rehire provision in a settlement agreement with a worker who filed an official complaint in good faith if, before the worker filed the complaint, the employer made and documented a good faith determination that the worker engaged in sexual harassment, sexual assault, or any criminal conduct.

Comments

1) Impetus for the Bill

According to the author, when Governor Newsom signed AB 749 last fall, he asked the author to introduce this bill as a follow up. It makes logical policy sense to do so. AB 749, now codified as Code of Civil Procedure Section 1002.5, banned the use of no-rehire clauses in settlement agreements resolving an employment dispute in which the worker made an official complaint. The bill contained an exception, however: employers could use a no-rehire clause in a settlement with a worker who had complained if the employer determined in good faith that the worker committed sexual harassment or assault.

The inclusion of this exception was arguably unnecessary. As the Assembly Judiciary Committee analysis of this bill points out, AB 749's ban on the use of no-rehire clauses never prevented an employer from refusing to rehire an employee for lawful reasons, and engaging in sexual harassment or assault would certainly qualify as a lawful reason. Since the exception was ultimately included in AB 749, however, the present state of the law is a bit awkward: an employer can use a no-rehire clause when it has determined that an employee engaged in sexual harassment or sexual assault, but cannot use a no-rehire clause when it has determined that the employee did something criminal, such as embezzling, for example. This bill addresses that incongruity.

2) Additional Provisions to Help Ensure the Parties' Good Faith

During legislative deliberations over AB 749, advocates for employees and employers alike expressed concern that the bill's provisions could be exploited by unscrupulous actors. Worker advocates worried that abusive employers would simply conjure a sexual harassment or sexual assault determination against an employee who made a complaint so as to easily evade the bill's intended effect. Employers worried that bad employees would submit unfounded complaints just to bring themselves within the bill's protections.

AB 749 partially addressed these concerns. It required the employer to act in “good faith” when determining whether or not the employee had engaged in sexual harassment or sexual assault.

This bill goes further to ensure that its protections apply only to those parties acting in good faith. In regard to employees, the bill would now require workers’ complaints to be made in good faith before they would be protected against having to sign a non-rehire clause. On the employers’ side, this bill adds further preconditions before an employer could utilize a no-rehire clause.

Whereas existing law only requires the employer to make a good faith determination that the employee engaged in inappropriate workplace behavior, this bill also requires that the employer reach and document that conclusion before the employee filed the complaint. These additional nuances should help guard against the possibility that unscrupulous employers or workers might attempt to game AB 749’s legal protections.

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

SUPPORT: (Verified 8/13/20)

California Apartment Association
California Association of Joint Powers Authorities
California Association of Winegrape Growers
California Chamber of Commerce
California Restaurant Association
California State Association of Counties
North Orange County Chamber of Commerce
Official Police Garages of Los Angeles
Rancho Cordova Chamber of Commerce
San Gabriel Valley Economic Partnership
Santa Maria Valley Chamber of Commerce
Southwest California Legislative Council
Western Growers Association

OPPOSITION: (Verified 8/13/20)

None received

ARGUMENTS IN SUPPORT: According to the author:

AB 749 expressly exempted settlements with employees who engaged in sexual harassment or sexual assault. In response to concerns raised by employers and the Governor’s office, I agreed to consider other exemptions. In light of these

considerations, AB 2143 now expands upon existing exemptions to include cases where the settling employee has engaged in criminal conduct, as long as the employer documented the misconduct before the employee filed the claim or complaint.

In support, a coalition of 10 trade associations led by the California Chamber of Commerce writes:

Last year, [...] AB 749 limited an employer's ability to include a provision in a settlement agreement that prohibited the employee's ability to seek future employment with the same employer, except with regard to employees who engaged in sexual harassment or sexual assault. We opposed AB 749 on the basis that there are additional reasons other than harassment or assault that justify an employer prohibiting future employment.

AB 2143 recognizes these additional reasons and allows an employer to include a prohibition to future employment for any employee the employer believes in good faith engaged in any criminal conduct. Although we still believe there are additional non-criminal reasons that justify an employer prohibiting reemployment of an individual, we are pleased to see the addition of criminal conduct.

ASSEMBLY FLOOR: 75-0, 5/26/20

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

NO VOTE RECORDED: Diep, Maienschein, Quirk, Wicks

Prepared by: Timothy Griffiths / JUD. / (916) 651-4113
8/14/20 12:34:00

**** END ****

CONSENT

Bill No: AB 2151
Author: Gallagher (R) and Gonzalez (D), et al.
Introduced: 2/10/20
Vote: 27

SENATE ELECTIONS & C.A. COMMITTEE: 5-0, 8/4/20
AYES: Umberg, Nielsen, Hertzberg, Leyva, Stern

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Political Reform Act of 1974: online filing and disclosure system

SOURCE: Author

DIGEST: This bill requires a local governmental agency that receives campaign finance disclosure filings in paper format to post copies of the paper filings on its internet website within 72 hours of the filing deadline, as specified.

ANALYSIS:

Existing law:

- 1) Creates the Fair Political Practices Commission (FPPC), and makes it responsible for the impartial, effective administration and implementation of the Political Reform Act of 1974 (PRA).
- 2) Requires state and local elected officials, candidates for state and local elective office, and committees formed primarily to support or oppose a candidate for public office or a ballot measure, among other entities, to file periodic campaign statements, as specified.

- 3) Requires campaign statements to contain prescribed information related to campaign contributions and expenditures of the filing entities, as specified.
- 4) Requires the Secretary of State (SOS), in consultation with the FPPC, to develop and certify a new online filing and disclosure system for public use that provides public disclosure of campaign finance and lobbying information in a user-friendly, easily understandable format, as specified.
- 5) Permits local jurisdictions to provide online and electronic filing and disclosure systems for use by local candidates, officeholders, and committees, as specified.
- 6) Requires the SOS to post hyperlinks on its internet website to any local government agency website that contains publicly disclosed campaign finance information.

This bill:

- 1) Requires a local government agency, within 72 hours of each applicable filing deadline, to post on its internet website a copy of any statement, report, or other document required to be filed pursuant to the campaign finance disclosure provisions of the PRA, if the document is filed with that agency in paper format.
- 2) Provides that if the final day of the 72-hour period is a Saturday, Sunday, or holiday, the deadline for posting copies of paper filings is extended to the next day that is not a Saturday, Sunday, or holiday.
- 3) Requires the local filing officer, before posting, to redact the street name and building number of the persons or entity representatives listed on any statement, report, or document, or any bank account number required to be disclosed by the filer.
- 4) Specifies that a local government agency that provides a link on the agency's internet website to copies of statements, reports, and other documents that are filed in paper format satisfies the requirements of this bill.
- 5) Requires a statement, report, or other document posted pursuant to the provisions of this bill to be made available for four years from the date of the election associated with the filing.

Background

Political Reform Act and Campaign Finance Filings. In general, the PRA requires local and state candidates and committees to file campaign statements by specified deadlines disclosing contributions received and expenditures made. These documents are public documents, meant to be available to the public as one of the purposes of the PRA is that “receipts and expenditures in election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited.”

Generally, candidates and committees involved in state elections (constitutional officers, Senate, Assembly, statewide ballot measures) file with the SOS, while those involved in county, city, or special district elections file with the local elections or clerk’s office. On the state level, candidates and committees who raise or spend \$25,000 or more are required to file electronically with the SOS, as specified. Local candidates and committees, however, are not subject to the same rules. While current law permits a local government to require disclosure reports to be filed online or electronically for an elected officer, candidate or committee that raises or spends more than \$1,000, many local government agencies do not have this requirement or do not have electronic filing available. Consequently, many local campaign finance reports are filed only in paper format and are available for review through a public records request or in-person at the local city or county clerk’s office or elections official’s office.

Secretary of State and Local Campaign Filing Systems and Public Websites. In an effort to increase transparency for local campaign filings, last session the Legislature approved and Governor Brown signed SB 358 (Stern, Chapter 624, Statutes 2017), which required the SOS to display hyperlinks for all local jurisdictions that provide any means to publicly view campaign reports on their websites. According to the SOS’s internet website, each of the local governments listed has an online filing system and a public website for viewing reports. Cities and counties not listed on the SOS’s internet website may still have filing requirements but do not provide online access to the filings. The SOS currently has approximately 32 counties and 160 city hyperlinks available on its internet website.

California Municipal Democracy Index 2016. According to the California Municipal Democracy Index 2016, published by California Common Cause, in the majority of cities (445 cities, 92%), candidates file only paper versions of their campaign finance reports. Additionally, the report states that 24 cities (5%) require online filing of campaign finance reports, which are posted online

generally in a searchable format, and 13 cities give candidates the option between filing campaign reports online or in paper format. Moreover, the report states that 116 cities (24%) scan and publish online non-searchable copies of paper reports they receive.

Cal-Access Replacement Project. In 1997, the Legislature passed and Governor Pete Wilson signed SB 49 (Karnette, Chapter 866, Statutes of 1997), which amended the PRA and established the Online Disclosure Act of 1997. SB 49 required the SOS, in consultation with the FPPC, to develop and implement, by the year 2000, an online filing and disclosure system for reports and statements required to be filed under the PRA, as specified. As a result, the SOS created and deployed a system called the California Automated Lobby Activity and Campaign Contribution and Expenditure Search System, commonly referred to as Cal-Access. Cal-Access, however, is over 20 years old, and the SOS reports that components of the system are no longer supported by their vendor. As a result, the system has periodically crashed and denied public access.

Given the limitations of the existing Cal-Access system, the Legislature has taken steps to replace that system. In 2012, the Legislature enacted SB 1001 (Yee, Chapter 506, Statutes of 2012), which imposed a \$50 annual fee on political committees that are required to file disclosure reports pursuant to the PRA and increased the fee on lobbying firms and lobbyist employers from \$25 to \$50 per year per lobbyist. The revenue generated by the bill is deposited into the Political Disclosure, Accountability, Transparency, and Access Fund, and is available to be used to update or replace the Cal-Access system.

In 2016, the Legislature approved and the Governor signed SB 1349 (Hertzberg, Chapter 845, Statutes of 2016), which requires the SOS, in consultation with the FPPC, to develop and certify for public use a new online filing and disclosure system for statements and reports that provide public disclosure of campaign finance and lobbying information in a user-friendly, easily understandable format, as specified. The new system is intended to be data driven, rather than form-based, and is intended to permit future compatibility with local campaign finance data.

SB 1349 initially required the SOS to make the new filing and disclosure system available no later than December 31, 2019. That deadline, however, was established by the Legislature when the state's 2020 primary election was scheduled for June. After the 2020 primary election was moved to March through the enactment of SB 568 (Lara, Chapter 335, Statutes of 2017), the deadline for making this new disclosure system available fell during a key campaign disclosure

filing period for the primary election. Due in part to concerns that implementing and certifying the new system during that period could cause significant public confusion, inadvertent non-compliance, and insufficient time for filers to understand the new system, the Legislature passed and the Governor signed SB 84 (Committee on Budget and Fiscal Review, Chapter 30, Statutes of 2019), which delayed the implementation deadline for the new filing and disclosure system to February 2021.

Comments

According to the author, candidates running for local office are required to submit campaign finance documents outlining information about who is contributing to their campaigns and how campaign funds are spent. State law requires local government agencies to make these campaign finance documents available for public review. While some local governments make these documents available online, many do not.

In these cases, the public's only option to access campaign finance information is to travel to the local elections office building during normal business hours. In more rural areas, individuals may have to travel great distances. In more urban areas, lack of parking or parking costs may also be an issue. These restraints discourage the public from accessing the desired information, and are unacceptable obstacles in the 21st century. Moreover, the public can easily access campaign finance documents online for candidates running for State or Federal office. Why should local government elections be any different?

AB 2151 would require local election officials to post campaign finance documents on the Internet within 72 hours of each FPPC filing deadline, thereby ensuring greater access and transparency for the public.

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

SUPPORT: (Verified 8/13/20)

California Clean Money Campaign
California Common Cause
League of Women Voters of California
MapLight

OPPOSITION: (Verified 8/13/20)

None received

ARGUMENTS IN SUPPORT: In a letter supporting AB 2151, California Common Cause stated the following, in part:

In the twenty-first century, all campaign finance documents should be posted online. The transparency of our campaign finance system requires it. It is not realistic to expect Californians to take time off during the workday to go to their clerk's or registrar's office to see and photocopy these records. Moreover, paper records can be archived or misplaced, making it hard to get this information in a timely manner.

Ultimately, all of California's campaign finance data, state and local, should be centralized into a single database. This would make the information easier to find and give the public and the media a better sense, across elections, of who is financing our elections and to what degree. This bill is an important next step towards that end goal.

ASSEMBLY FLOOR: 76-0, 6/8/20

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

NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Darren Chesin / E. & C.A. / (916) 651-4106
8/14/20 12:12:02

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

THIRD READING

Bill No: AB 2152
Author: Gloria (D) and O'Donnell (D), et al.
Amended: 7/22/20 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-0, 8/8/20
AYES: Glazer, Chang, Archuleta, Dodd, Galgiani, Hill, Leyva, Pan, Wilk

ASSEMBLY FLOOR: 75-0, 6/10/20 - See last page for vote

SUBJECT: Public health: prohibition on the retail sale of dogs, cats, and rabbits

SOURCE: San Diego Humane Society

DIGEST: This bill prohibits a pet store from selling dogs, cats, or rabbits, but allows a pet store to provide space to display animals for adoption if the animals are displayed by either a shelter or animal rescue group, as defined, and establishes a fee limit, inclusive of the adoption fee, for animals adopted at a pet store.

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) Requires each pet store to maintain records sufficient to document the origin of each dog, cat, or rabbit the pet store sells or provides space for, for at least one year; and further requires each pet store to post, in a conspicuous location on the cage or enclosure of each animal, a sign listing the name of the public animal control agency or shelter, society for the prevention of cruelty to

animals shelter, humane society shelter, or nonprofit from which each animal was obtained. (HSC § 122354.5(c))

- 3) Subjects a pet store operator who violates the prohibition on the sale of retail animals is subject to a civil penalty of five hundred dollars, as specified. (HSC § 122354.5(i))
- 4) 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 a pet store from adopting out, selling or offering for sale a dog, cat, or rabbit; but does not prevent a pet store from providing space to display animals for adoption, as specified.
- 2) Requires the animals displayed for adoption to be either from a public animal control agency or shelter, or animal rescue group, and any animal displayed must be sterilized and the adoption fee must not exceed \$500.
- 3) Requires any animal displayed for adoption, by a public animal control agency or animal rescue group, to be both sterilized and adoptable for total fees, including, but not limited to adoption fees not to exceed \$500.00, and requires the fees to be posted to and visible to the public, as specified.
- 4) Prohibits the pet store displaying the dogs, cats, or rabbits from receiving any fees in connection with the display of dogs, cats, or rabbits.
- 5) Defines “animal rescue group” to mean any not-for-profit organization that has tax-exempt status as 501(c)(3) under the Internal Revenue Code, whose mission and practice is, in whole, or significant part, the rescue and placement of animals into permanent homes and does not breed animals or obtain animals in exchange for payment or compensation from any person that breeds or brokers animals.
- 6) Defines “public animal control agency or shelter” as any facility operated by or under contract with any governmental entity for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted dogs, cats, rabbits,

or other animals.

- 7) States for purposes of this bill, pet store does not include an animal rescue group operating a retail establishment in compliance with 3) above.
- 8) States that the provisions of this bill do not prohibit a local government from adopting requirements that are more protective of animal welfare than those in this bill.
- 9) States that a violation of the above provisions of this bill will result in a single notice to correct, which must detail the specific violation, the corrective action that must be taken, and the time period in which it must be corrected, and a failure to correct in the specified time period will result in a civil penalty of \$1,000 for a first violation, \$2,500 for a second violation and \$5,000 for subsequent violations of the same provision.
- 10) Specifies that each animal adopted, sold, or offered for sale in violation constitutes a separate violation.
- 11) Authorizes an action for a violation to be brought in the name of the people of the state of California by the district attorney for the county where the violation occurred in the appropriate court or by the city attorney in the city where the violation occurred.
- 12) Authorizes, in addition to any other remedy, the district attorney to apply to the court for, and the court must grant, a temporary or permanent injunction enjoining or restraining any person or entity from violating any of the specified violations.

Background

This bill aims to end the perceived practice of possibly circumventing state law related to the sale of dogs, cats, and rabbits at pet stores as a result of AB 485 (O'Donnell, Chapter 740, Statutes of 2017). Under this bill, pet stores would be broadly prohibited from adopting out, selling, or offering for sale a dog, cat, or rabbit unless they specifically obtain the animal from a public animal control agency or shelter or animal rescue group. Additionally, the adoption fees must be posted in a visible area and the fees cannot be more than \$500.00. This bill also provides penalties for violations; however, the first violation provides the retail store with a notice to correct prior to any issuance of a monetary fine.

AB 485 and the Prohibition on the Retail Sale of Animals. In 2017, the Legislature passed and the Governor signed, AB 485, 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.

This bill builds upon the existing law as a result of AB 485, but revises the law to more narrowly define the not-for-profits that will be authorized to provide adoptable animals to the retail pet establishment, and adds additional limitations. This bill specifies that a pet store is prohibited from providing space to display dogs, cats, and rabbits, unless the animals are displayed by either a public animal control agency or shelter, or an animal rescue group. To address the problems of potential fraudulent non-profit rescues, the bill provides for a specific definition of an animal rescue group. In addition, the bill establishes a total fee limit of \$500, inclusive of the adoption fee and any other fees, for any animals displayed and adopted at a pet store.

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

SUPPORT: (Verified 8/12/20)

San Diego Humane Society (source)
Animal Legal Defense Fund
Best Friends Animal Society
California Animal Welfare Association
City of West Hollywood
Humane Society of the United States
Humane Society Veterinary Medical Association
Pawpac
San Francisco SPCA

OPPOSITION: (Verified 8/12/20)

Healthy Spot
Kriser's
Pet Industry Joint Advisory Council
Pet Supermarket
Pet Valu
Petco Animal Supplies Stores, INC.
Petco Foundation
Petsmart

Petsmart Charities

ARGUMENTS IN SUPPORT: Animal Legal Defense Fund, Best Friends Animal Society, California Animal Welfare Association, Humane Society of The United States; San Diego Humane Society, and the San Francisco SPCA write in support, “when signed by Governor Brown in 2017, AB 485 (O’Donnell)...made California the first state in the country to prohibit the sale of commercially bred dogs, cats and rabbits in retail stores, allowing for certain exceptions. Unfortunately, when the statute went into effect after a year-long grace period, it became clear that breeders and retail store operators discovered how to circumvent the law by obscuring the source of the animals.

The City of West Hollywood writes in support, “AB 2152 prohibits the retail sale of dogs, cats, and rabbits while still allowing pet stores to partner with rescue organizations and shelters to host animal adoption events. AB 2152 will eliminate the kitten factories and puppy and rabbit mill industry in California and their inhumane breeding practices of dogs, cats, and rabbits.

The Humane Society Veterinary Medical Association writes in support, “If enacted, it would safeguard the health and welfare of homeless, adoptable companion dogs, cats and rabbits sold to families in California.”

ARGUMENTS IN OPPOSITION: Pet Industry Joint Advisory Council writes in opposition, “PIJAC strongly opposed AB 485 (O’Donnell) that banned retail stores from selling legally obtained dogs/cats/rabbits from sources other than animal shelters. Pet sale bans and limits on the types of pet’s people may own can cripple legitimate businesses and foster an underground, unregulated market for pets in the future.”

Petco Animal Supplies Stores, INC., The Petco Foundation, PetSmart, PetSmart Charities, Kriser’s, Healthy Spot, Pet Valu, and Pet_Supermarket are opposed unless amended and write, “Unfortunately, one of the provisions in Assembly Bill 2152 has the potential to put an end to hosting in-store adoptions and adoption events. As currently written, the bill holds pet stores criminally liable for any adoptions from or provisions of space to any organization that does not meet the definition of “animal rescue group” in the bill. If this becomes law, our exposure to criminal liability for the actions or omissions of a third-party organization would leave us unable to continue hosting in-store adoptions, adoption events or provide adoption centers and habitats to all our animal welfare partners in California.”

ASSEMBLY FLOOR: 75-0, 6/10/20

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

NO VOTE RECORDED: Choi, Cooper, Kiley, Quirk

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
8/12/20 15:36:45

**** END ****

THIRD READING

Bill No: AB 2157
Author: Wood (D)
Introduced: 2/10/20
Vote: 21

SENATE HEALTH COMMITTEE: 8-0, 8/1/20
AYES: Pan, Lena Gonzalez, Grove, Hurtado, Leyva, Mitchell, Monning, Rubio
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/13/20
AYES: Portantino, Bates, Bradford, Hill, Jones, Leyva, Wieckowski

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Health care coverage: independent dispute resolution process

SOURCE: California Society of Anesthesiologists

DIGEST: This bill requires the Department of Managed Health Care (DMHC) and the California Department of Insurance (CDI) to include confidential information as part of the independent dispute resolution process (IDRP) created for processing and resolving claims disputes between health plans/health insurers and noncontracting health professionals, and requires the IDRP organization to conduct a de novo review, and assign reviewers with relevant background and experience.

ANALYSIS:

Existing law:

- 1) Establishes the DMHC to regulate health plans under the Knox-Keene Health Care Service Plan Act of 1975 and the CDI to regulate health insurance. [HSC §1340, et seq. and INS §106, et seq.]

- 2) Establishes a payment rate for covered services provided by noncontracting health professionals at contracting facilities, which is the greater of the average of a health plan or health insurer's contracted rate, as specified, or 125% of the amount Medicare reimburses for the same or similar services. [HSC §1371.31 and INS §10112.8]
- 3) Requires DMHC and CDI to establish an IDRP for processing and resolving a claims dispute between a health plan/health insurer and a noncontracting individual health professional related to covered services provided at a contracted health facility, as specified. Requires DMHC and CDI to establish uniform written procedures and guidelines. [HSC §1371.30 and INS §10112.81]
- 4) Requires the IDRP organization to be independent and to base its decision regarding appropriate reimbursement on all relevant information. [HSC §1371.30 and INS §10112.81]

This bill:

- 1) Requires DMHC and CDI to include in the IDRP process a process for each party to submit into evidence information that will be kept confidential from the other party, in order to preserve the confidentiality of the source contract.
- 2) Requires the IDRP organization to conduct a de novo review and base its decision solely on the information and documents timely submitted into evidence by the parties to the dispute.
- 3) Requires the IDRP organization to assign reviewers to each case based on their relevant education, background, and medical claims payment and clinical experience.

Comments

According to the author, the IDRP for surprise balance billing health insurance claims has been in place for a couple of years now and this bill addresses some of the concerns raised by the providers impacted by this recent legislation.

Surprise bills. Surprise bills can arise when a patient receives planned care at an in-network facility but later finds out that an out-of-network provider (i.e., anesthesiologist, pathologist, or radiologist) provided treatment. This practice is called “surprise balance billing” when it happens at an in-network facility because most consumers cannot distinguish or control when an out-of-network provider is providing services at an in-network facility. To stop this practice and remove

consumers from the middle of these billing disputes, AB 72 (Bonta, Chapter 492, Statutes of 2016) was enacted, which prohibits providers from surprise balance billing consumers, and also created a default reimbursement rate (125% of Medicare or the average contracted rate for that region, whichever is greater) for out-of-network or non-contracted providers to resolve payment disputes with health plans/insurers and not involve consumers. In compliance with AB 72, both CDI and DMHC each launched an IDR in 2017 as a mechanism for non-contracted providers, health plans and health insurers to dispute the default reimbursement amount. According to DMHC's annual report, in 2019, DMHC received 32 IDR applications. Of those, nine were ineligible, nonjurisdictional or withdrawn, and 22 completed the process and a determination letter was issued. One IDR was pending as of December 31, 2019. According to DMHC, in 2019, one determination letter awarded additional reimbursement to the provider and 21 determination letters found that the payor's reimbursement was appropriate. In March 2020, DMHC's IDR guidelines and submission portal were updated to allow parties to submit information about contracted rate information confidentially (visible only to DMHC and the external reviewer). One recent (July 2020) IDR determination letter where the provider used the new portal capabilities to submit confidential evidence of its commercial contracted rates resulted in the external reviewer finding that the payor's reimbursement for the claim was too low. DMHC has observed that majority of the submissions are from anesthesiologists. According to CDI, there have been no submissions to IDR.

IDR process. The AB 72 IDR is conducted electronically through a web-based portal that is managed by MAXIMUS Federal Services, Inc., (MAXIMUS), which is the independent organization currently conducting the AB 72 IDR.

Noncontracting providers and payors may request independent review through the AB 72 IDR for an individual claim or multiple claims (up to 50) involving the same or similar services, same noncontracting provider and the same health care service plan. MAXIMUS has a maximum of 30 calendar days following receipt of payment from the parties to provide DMHC with an AB 72 IDR Decision Letter. MAXIMUS' decision regarding the appropriate reimbursement amount for the claim(s) dispute is based on all relevant information as submitted by the parties. This information includes, but is not limited to, information regarding the following factors:

- 1) The provider's training, qualifications, and length of time in practice;
- 2) The nature of the services provided;
- 3) The fees usually charged by the provider;

- 4) Prevailing provider rates charged in the general geographic area in which the services were rendered;
- 5) Other aspects of the economics of the medical provider's practice that are relevant; and,
- 6) Any unusual circumstances in the case.

The AB 72 IDR decision provides a written explanation of the appropriate reimbursement amount decision, and includes a list of appropriate reimbursement amounts by relevant billing code. MAXIMUS is not limited to the suggested appropriate reimbursement amounts offered by each party when making its decision.

Complaints about the IDR process. According to background information provided by proponents, a number of anesthesia providers have submitted reimbursement disputes through DMHC AB 72 IDR. The final determination letters from MAXIMUS have rejected most or all evidence submitted by the providers. MAXIMUS ruled for the payor in each instance. The objections raised by MAXIMUS related to documentary evidence (or the lack of such evidence) and a failure to explain the evidence submitted. Related to the most recent July 2020 determination letter, although MAXIMUS ruled for the provider for the first time, it appears to continue to employ a "baseball" arbitration approach rather than independently determining the appropriate rate. That is, it decides whether the payor or the providers proposed rate is more reasonable. Also, MAXIMUS has continued to reject out of hand information the provider has submitted consistent with DMHC guidance.

Support if amended. Health Access California requests an amendment to allow all relevant information to be considered as part of the IDR process. As an example, Health Access California suggests the Health Care Payments Database may have relevant data that may not be submitted by either party in the process but should be considered by the IDR reviewer.

Related/Prior Legislation

AB 72 (Bonta, Chapter 492, Statutes of 2016) established a payment rate, which is the greater of the average of a health plan or health insurer's contracted rate, as specified, or 125% of the amount Medicare reimburses for the same or similar services; and an independent dispute resolution process for claims and claim disputes related to covered services provided at a contracted health facility by a noncontracting individual health care professional. Limited enrollee and insured

cost sharing for these covered services to no more than the cost sharing required had the services been provided by a contracting health professional.

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

According to the Senate Appropriations Committee:

- *CDI*. The department reports one-time costs of \$120,000 (Insurance Fund) for 0.67 FTE to promulgate regulations (approximately 1,191 hours). However, staff notes this figure may be lower to the extent regulations do not need to be promulgated, but need only to be analyzed, in a similar approach as DMHC, and adjusted in a minor way.
- *DMHC*. The department's Office of Legal Services anticipates one-time \$33,000 (Managed Care Fund) and 0.2 PY in FY 2020-21 to clarify this bill's requirements with the existing process.

SUPPORT: (Verified 8/14/20)

California Society of Anesthesiologists (source)
Allied Anesthesia Medical Group
California Chiropractic Association
California Orthopaedic Association
VaPRNet Anesthesiology Network
Ventana Anesthesia Associates

OPPOSITION: (Verified 8/14/20)

None received

ARGUMENTS IN SUPPORT: The California Society of Anesthesiologists, (CSA), the sponsor of this bill, states that some payors and delegated entities have taken advantage of the law and paid providers, anesthesiologists in particular, far lower average contracted rates than many providers would consider their true fair average in that region. Compounding this is the fact that the physician groups that contract with health plans and provide anesthesia services do not know the average contracted rates for that region, since anti-trust laws prohibit physician groups and health plans from discussing payments and incentives with their competitor. However, health plans contract with multiple providers and have a much better vantage point of the local price ranges. According to CSA, this bill codifies recent changes to DMHC's IDR process sought by physician groups to ensure fairness in certain billing disputes.

ASSEMBLY FLOOR: 76-0, 6/8/20

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

NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
8/19/20 14:12:12

**** END ****

THIRD READING

Bill No: AB 2165
Author: Robert Rivas (D), et al.
Amended: 7/7/20 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-0, 7/30/20
AYES: Jackson, Borgeas, Durazo, Lena Gonzalez, Melendez, Monning, Stern,
Umberg, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Electronic filing and service of documents

SOURCE: Judicial Council

DIGEST: This bill amends the statute governing electronic filing of court documents to clarify and update requirements relating to signing electronically filed documents, notices of rejection of electronically filed documents, electronic filing fees, and court-ordered electronic filing.

ANALYSIS:

Existing law:

- 1) Permits trial courts to adopt local rules permitting or mandating the electronic filing of documents in civil actions under certain conditions. (Code Civ. Proc., § 1010.6(b), (d).)
- 2) Provides that a court may adopt local rules permitting, but not requiring, electronic filing of documents in civil actions, subject to the following:
 - a) A document filed electronically has the same legal effect as an original paper document. (Code Civ. Proc., § 1010.6(b)(1).

- b) A document that must be signed not under penalty of perjury is deemed to have been signed by the person who filed the document electronically. (Code Civ. Proc., § 1010.6(b)(2)(A).)
 - c) A document received electronically by the court between 12:00 a.m. and 11:59:59 p.m. on a court day is deemed filed on that court day, and any document received electronically on a noncourt day shall be filed on the next court day. (Code Civ. Proc., § 1010.6(b)(3).)
 - d) The court receiving an electronically filed document must issue a confirmation that the document was received and filed; the confirmation serves as proof that the document was filed. (Code Civ. Proc., § 1010.6(b)(4).)
 - e) Upon electronic filing of a complaint, petition, or other document that must be served with a summons, the trial court upon request of the filing party shall issue a summons with the court seal and the case number, and personal service of the printed form of summons shall have the same legal effect as personal service of the original summons. (Code Civ. Proc., § 1010.6(b)(5).)
 - f) The court must permit a party or attorney to file an application for a waiver of court fees and costs in lieu of paying the filing fee, and the court shall consider the waiver request in the same manner it considers a waiver request filed by paper. (Code Civ. Proc., § 1010.6(b)(6).)
 - g) If the court, electronic filing manager, or electronic filing service provider charges a fee to process a payment for the filing fees, the processing fee cannot exceed the costs incurred in processing the payment. (Code Civ. Proc., § 1010.6(b)(7).)
 - h) The court's filing procedures must comply with uniform rules for electronic filing adopted by the Judicial Council. (Code Civ. Proc., § 1010.6(e).)
- 3) Provides that, if the trial court adopts rules for permissive electronic filing conforming to the above conditions, a trial court may also order parties to file and serve documents electronically in particular types of cases, provided that the trial court's order does not cause undue hardship or significant prejudice to any party in the action. The types of cases in which parties may be ordered to file and serve documents electronically are class actions, consolidated actions, groups of actions, coordinated actions, or actions deemed complex under Judicial Council rules. (Code Civ. Proc., § 10106.(c).)

- 4) Provides that a trial court may adopt local rules mandating electronic filing in all civil actions, provided that the trial court's local rules comply with all the permissive filing conditions set forth above in 2), and also all the following conditions:
- a) The court must have the ability to maintain the official court record in electronic format for all cases where electronic filing is required. (Code Civ. Proc., § 1010.6(d)(1).)
 - b) The court and parties must have access to electronic filing either directly through the court, or through more than one electronic filing service provider capable of electronically filing documents with the court (i.e., if the court chooses not to provide electronic filing access itself, the court may not contract with only one vendor to provide electronic filing services). (Code Civ. Proc., § 1010.6(d)(2).)
 - c) If the court provides electronic filing access directly, it may not charge fees of more than the actual cost of the electronic filing and service of documents; fees charged by an electronic filing service provider must be reasonable. (Code Civ. Proc., § 1010.6(d)(2).)
 - d) The court, an electronic filing manager, or an electronic filing service provider shall waive any fees charged if the court deems a waiver appropriate, including in instances where a party has received a fee waiver. (Code Civ. Proc., § 1010.6(d)(2).)
 - e) The court must have a procedure for nonelectronic filing of documents in order to prevent undue hardship or significant prejudice to any party in an action, including, but not limited to, unrepresented parties. (Code Civ. Proc., § 1010.6(d)(3).)
 - f) Unrepresented persons are exempt from mandatory electronic filing and service. (Code Civ. Proc., § 1010.6(d)(4).)
 - g) Until January 1, 2021, a local child support agency, as defined in subdivision (h) of Section 17000 of the Family Code, is exempt from mandatory electronic filing and service, unless the agency and the Department of Child Support Services determine the agency has the capacity and functionally to comply with the court's requirements. (Code Civ. Proc., § 1010.6(d)(5).)
 - h) The filing procedures and contracts with vendors to serve as electronic filing managers and/or electronic filing service managers must comply with

uniform rules for electronic filing and electronic filing vendors adopted by the Judicial Council. (Code Civ. Proc., § 1010.6(d), (f).)

- 5) Establishes disability access requirements for any electronic filing system. (Code Civ. Proc., § 1010.6(g).)
- 6) Sets forth rules adopted by the Judicial Council regarding electronic filing and electronic service of court documents (Cal. Rules of Court, rs. 2.250-2.261), including:
 - a) Defining “electronic filing” as the electronic transmission to a court of a document in electronic form. For the purposes of this chapter, this definition concerns the activity of filing and does not include the processing and review of the document, and its entry into the court records, which are necessary for a document to be officially filed.” (Cal. Rules of Court, r. 2.250(b)(7).)
 - b) Defining “electronic filing service provider” as “a person or entity that receives an electronic filing from a party or other person for retransmission to the court or for electronic service on other parties or other persons, or both. In submission of filings, the electronic filing service provider does so on behalf of the electronic filer and not as an agent of the court.” (Cal. Rules of Court, r. 2.250(b)(8).) The Rules do not define the term “electronic filing manager.”
 - c) Permitting a court to contract with one or more electronic filing managers to act as an intermediary between the court and electronic filing service providers. (Cal. Rules of Court, r. 2.255.)
 - d) Requiring, when the clerk does not file a document because it does not comply with applicable filing requirements or because the required filing fee has not been made, the court to promptly send notice of the rejection of the document for filing to the electronic filer, including the reasons the document was rejected for filing. (Cal. Rules of Court, r. 2.259.)

This bill:

- 1) Adopts the definition of “electronic filing” currently in use in Rule 2.250(b)(7) of the California Rules of Court.
- 2) Modifies the provisions for who may be deemed to have signed a document not under penalty of perjury, so that the document may be deemed signed by either

- a) The party who electronically filed the document; or
 - b) The person who signed the document pursuant to the procedures for signing set forth in the California Rules of Court.
- 3) Expands the requirements relating to the notices of receipt, filing, and rejection of documents submitted for electronic filing in the following ways:
- a) Whichever of the court, an electronic filing service provider, or an electronic filing manager is the first to receive a document submitted for electronic filing, that entity must promptly send a confirmation of receipt of the document indicating the date and time of receipt to the party or person who submitted the document.
 - b) If a document received by the court complies with the relevant filing requirements and the necessary fees have been paid, the court shall promptly send a confirmation that the document has been filed to the party or person who submitted the document.
 - c) If the clerk of the court does not file a document because it does not comply with the relevant filing requirements or the necessary fee has not been paid, the court shall promptly send notice of the rejection to the party or person who filed the document, including the reasons the document was rejected and the date the clerk sent the notice.
 - d) Where the court uses an electronic filing service provider or electronic filing manager to send a notice of rejection, the electronic filing service provider or electronic filing manager must promptly send the notice of rejection to the party or person who submitted the document, including the date the electronic filing service provider or electronic filing manager sent the notice.
 - e) If the clerk of the court does not file a complaint or cross-complaint because it does not comply with the relevant filing requirements or the necessary fee has not been paid, any statutes of limitations applicable to the causes of action alleged will be tolled for the period beginning on the date the court received the document through the later of either (i) the date on which the clerk of the court sends a notice of rejection to the person or party who submitted the document, or (ii) the date the electronic service provider or electronic filing manager sends a notice of rejection to the person or party who submitted the document, plus one additional day, if the complaint or cross-complaint is subsequently submitted in a form that corrects the errors that caused the document to be rejected. The party refiling the complaint or

cross-complaint may not make changes in the refiled document other than those required to correct the errors that prevented its filing.

- 4) Requires the court, an electronic service provider, or an electronic filing manager filing a document to waive filing fees for any party granted a fee waiver pursuant to Code of Civil Procedure Section 68631, and prohibits an electronic service provider or electronic filing manager from seeking payment of waived fees from the court.
- 5) Provides that parties submitting filings for which no charge is required under Welfare and Institutions Code Section 212, subdivision (b), or Government Code Section 70617, shall not be required to pay court fees associated with the electronic filing of the document, and that an electronic filing service provider and/or an electronic filing manager shall not seek payment of these fees from the court.
- 6) Moves the requirement that a court may not charge fees for electronic filing and service of documents than are more than the court's actual cost of electronic service from the "mandatory" electronic filing subsection (subsection (d)) to the "permitted" electronic filing subsection (subsection (b)), the requirements of which are incorporated into the "mandatory" section.
- 7) Adds, for trial courts with permissive electronic filing, conditions under which the court may order electronic filing in particular types of cases, including:
 - a) Requiring that the court and parties have access to more than one electronic filing service provider capable of electronically filing documents with the court or to electronic filing access directly through the court, and that the fees charged by an electronic filing service provider or electronic filing manager shall be reasonable.
 - b) Requiring that an electronic filing service provider or electronic filing manager shall waive any fees charged in circumstances where the court deems a waiver is appropriate, including where a party has received a fee waiver.
 - c) Requiring that the court have a procedure for the filing of nonelectronic documents in order to prevent undue harm to any party in the action, including, but not limited to, unrepresented parties.
 - d) Exempting unrepresented parties from mandatory electronic filing and service.

Background

California has permitted some forms of electronic filing since January 1, 2000.¹ The availability of electronic filing has expanded over time, and the Legislature and Judicial Council have continually updated the statute governing electronic filing, Code of Civil Procedure Section 1010.6, to reflect the needs of the courts and litigants.

Current law does not impose an electronic filing requirement, but instead gives trial courts the discretion to adopt local rules providing for electronic filing. Three types of electronic filing are contemplated by the statute:

- *Permissive electronic filing.* A trial court may adopt local rules permitting, but not requiring, parties to file documents electronically.² The statute provides for various requirements under the permissive filing approach, including requiring means by which electronic filers may apply for fee waivers in lieu of filing fees.³
- *Case-specific court-ordered electronic filing.* In trial courts with permissive electronic filing, a trial court may also order electronic filing in specified types of cases, which may include some or all of the following: a class action, a consolidated action, a group of actions, a coordinated action, or an action that is deemed complex under Judicial Council rules.⁴ A court may not order electronic filing if it will result in undue hardship or significant prejudice to any party in the action.⁵
- *Mandatory electronic filing.* Alternatively, a trial court may adopt local rules requiring electronic filing in all cases.⁶ The mandatory electronic filing rules must include all of the rules governing permissive filing, and the trial courts must adhere to additional requirements such as maintaining the court record in electronic format, and either (1) allowing parties to file directly through the court, or (2) providing access to more than one electronic filing service provider through which filings can be made.⁷ Mandatory electronic filing jurisdictions must retain a paper filing system for unrepresented parties and other parties for whom electronic filing would be an undue hardship.⁸

¹ See Code Civ. Proc., § 1010.6 (Stats. 1999, ch. 514, § 1.)

² Code Civ. Proc., § 1010.6(b).

³ *Ibid.*

⁴ *Id.*, § 1010.6(c).

⁵ *Ibid.*

⁶ *Id.*, § 1010.6(d).

⁷ *Ibid.*

⁸ *Ibid.*

As contemplated by the statute and California Rules of Court, courts may contract with two types of entities in order to implement electronic filing: electronic filing service providers, and electronic filing managers. An electronic filing service providers is “a person or entity that receives an electronic filing from a party or other person for retransmission to the court.”⁹ An electronic filing manager acts “as intermediary between the court and electronic service providers.”¹⁰ As noted above, under current law, if a trial court imposes mandatory electronic filing, it must contract with more than one electronic filing service provider to prevent a single provider gaining a monopoly on electronic filing fees in a jurisdiction.

This bill modifies several provisions of the electronic filing statute to streamline electronic filing procedures, increase uniformity across courts, and ensure access to justice for all litigants.

Definition of “electronic filing”. The electronic filing statute does not define the term “electronic filing.”¹¹ To prevent courts from circumventing electronic filing rules—unintentionally or otherwise—this bill codifies the Rules of Court’s definition of “electronic filing.”

Electronic signatures. Under current law, an electronically filed document required to be signed by a person, not under penalty of perjury, is deemed to have been signed by that person if that person electronically filed the document.¹² The California Rules of Court set forth procedures for how a party *other than* the filer may sign a document, not under penalty of perjury, that is then electronically filed.¹³ The statute, however, is potentially ambiguous and could conflict with the Rules of Court, leaving litigants with no way to electronically file a document not under penalty of perjury that is not signed by the filer. To eliminate this ambiguity, this bill provides that a document required to be signed, not under penalty of perjury, is deemed signed by the required signatory under two circumstances: where the signatory electronically files the document, or where the signatory actually signs the document in accordance with the procedure set forth in the California Rules of Court.

Mandatory notification of rejected filings. The electronic filing statute already requires a court to send a notice of *confirmation* to the filing party when it (1) receives or (2) files an electronically filed document.¹⁴ There is no statutory

⁹ Cal. Rules of Court, r. 2.250(b)(8).

¹⁰ *Id.*, r. 2.255(a)(3).

¹¹ See generally Code Civ. Proc., § 1010.6.

¹² Code Civ. Proc., § 1010.6(b)(2)(A).

¹³ See Cal. Rules of Court, r. 2.257(c)(2).

¹⁴ Code Civ. Proc., § 1010.6(b)(4).

requirement, however, that the court notify a party when an attempted electronic filing has been *rejected*. This bill codifies the Rules of Court's requirement that a court promptly provide a notice of rejection, including clarifying that, where the notice is provided through an electronic filing service provider or an electronic filing manager, those entities also must promptly pass the notice of rejection onto the person or party filing the document.

Tolling for rejected pleadings. Under current law, if a litigant files a complaint or cross-complaint near the end of the statute of limitations period, and the court does not immediately provide a notice of rejection, it is possible that the statute of limitations could expire before the litigant realizes the filing was rejected. Relatedly, if the litigant receives a notice of rejection late on the final day of the statute of limitations, the litigant would not have adequate time to resolve the problems with the filing that led to its rejection. To prevent parties being shut out of the courthouse due to purely technical filing problems, this bill implements two (brief) tolling periods. First, a litigant's statute of limitations is tolled from the time of filing until the litigant receives the notice from the court that the filing was rejected. Second, the statute of limitations is tolled for one additional day, *if* the complaint or cross-complaint is subsequently submitted in a form that corrects the errors that led to the document's rejection, giving the litigant time to fix technical errors that do not bear on the merits of the claim(s).

Clarification of when electronic filing fees may be charged. The statute's provisions for *mandatory* electronic filing provide that electronic filing service managers and electronic filing managers must waive fees as ordered by the court.¹⁵ The statute is potentially unclear, however, as to what fees (if any) an electronic filing service provider or electronic filing manager may charge in cases with *permissive* electronic filing where a fee waiver is granted. This bill clarifies that the court, electronic filing service providers, and electronic filing managers may not charge filing fees where the court has granted a fees waiver, protecting the goals of the fee waiver statutes; and protects the courts by prohibiting electronic filing service providers and electronic filing managers from seeking those waived fees from the courts. Relatedly, this bill adds a new provision clarifying that, if a party electronically files any of the documents which are statutorily required not to have a filing fee,¹⁶ the court may not charge any court fee for those filings, which will ensure that the Legislature's mandate that certain documents not require a court filing fee is respected. Finally, this clarifies that all courts adopting electronic filing may not charge fees that are greater than the cost of the electronic filing and

¹⁵ Code Civ. Proc., § 1010.6(d)(2).

¹⁶ See, e.g., Gov. Code, § 70617(b); Welf. & Inst. Code, § 212.

service of the documents; current law imposes that limitation only on courts with mandatory electronic filing.¹⁷

Additional protections for court-ordered electronic filing. Under current law, jurisdictions with permissive electronic filing may also allow courts to order mandatory filing in certain types of cases, which can include class actions, consolidated actions, groups of actions, coordinated actions, or actions deemed complex under Judicial Council rules.¹⁸ The statute requires that courts adopting this approach must comply with all the permissive filing requirements, and prohibits a court from ordering mandatory filing where it would cause significant harm or undue prejudice to any party in the case.¹⁹ This bill modifies the requirements for adopting case-specific mandatory electronic filing, incorporating some of the requirements for jurisdictions that require mandatory electronic filing in all cases, providing additional protections for self-represented parties or persons for whom electronic filing would impose an undue hardship.

Comments

According to the author:

AB 2165 improves access to justice and overall efficiency by allowing trial courts to recover costs of electronic filing. California must encourage courts to use electronic filing and services to improve efficiency and accessibility of the judicial system. In order to accomplish this, the courts need to recover actual costs of the electronic services provided. AB 2165 promotes the digitalization of the courts, thus increasing access to the courts, administering justice in an efficient manner, and enhancing overall case processing for the State.

As more courts that do have electronic filing make electronic filing mandatory, courts can reduce the burden on litigants to retain paper records by allowing electronic signatures on electronically filed documents, reduce the travel to courthouses, and ultimately increase access to the judicial system. For Californians in the remote and rural parts of the State, this is especially important. Often times courthouses are hours away, resulting in litigants having to take work off, thus creating a disincentive to access the judicial system.

As we move towards a technologically based judicial system, we must continue to modernize the statutes in the judicial code to facilitate the use of

¹⁷ Civ. Code, § 1010.6(d)(2).

¹⁸ *Id.*, § 1010.6(c).

¹⁹ *Ibid.*

technology in court operations and delivery of court services. Allowing recovery of actual costs for permissive electronic filing will encourage the courts expansion into the digital area to improve access to judicial services while limiting financial strains of making this transition.

According to the Judicial Council, the sponsor of the bill:

AB 2165...incentivizes more courts to offer e-filing in civil cases by clarifying procedures governing electronic filing of court documents, and improves the consistency of e-filing fee provisions. This bill enhances access to justice and the efficiency of courts by reducing the existing barriers that prevent courts from offering filing services to litigants.

This legislation advances the Judicial Council's Strategic Plan for Technology by supporting a foundation for the digital court and promoting the modernization of statutes to facilitate the use of technology in court operations. AB 2165 advances this goal by updating the statute to encourage the adoption of e-filing technology solutions by courts.

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

SUPPORT: (Verified 8/13/20)

Judicial Council (source)
California Judges Association
City of King
Coalition for Improving Court Access
Legal Aid Association of California

OPPOSITION: (Verified 8/13/20)

None received

ASSEMBLY FLOOR: 76-0, 6/8/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Diep, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Limón, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Nazarian, Obernolte, O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas,

Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone,
Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Allison Meredith / JUD. / (916) 651-4113
8/19/20 14:16:12

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

THIRD READING

Bill No: AB 2174
Author: Gallagher (R), et al.
Amended: 8/17/20 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 7-0, 8/10/20
AYES: Hurtado, Jones, Beall, Jackson, Melendez, Pan, Wiener

ASSEMBLY FLOOR: 77-0, 6/8/20 - See last page for vote

SUBJECT: Homeless multidisciplinary personnel teams

SOURCE: Author

DIGEST: This bill permits Yuba and Sutter counties to establish a joint homeless adult and family multidisciplinary personnel team (MDT) in order to facilitate the expedited identification, assessment, and linkage of homeless individuals to housing and supportive services.

Senate Floor Amendments of 8/17/20 add Senator Nielsen as a co-author.

ANALYSIS:

This bill:

- 1) Allows a county to establish a homeless adult and family MDT in order to facilitate the expedited identification, assessment, and linkage of homeless individuals to housing and supportive services within that county and to allow provider agencies to share confidential information for the purpose of coordinating housing and supportive services to ensure continuity of care. (*WIC 18999.8(a)*)
- 2) Defines “homeless adult and family MDT” as any team of two or more persons who are trained in the identification and treatment of homeless adults and families, and who are qualified to provide a broad range of services related to

homelessness. Further specifies that the MDT shall include, but not be limited to, mental health and substance abuse services personnel, law enforcement entities, legal counsel, social services workers, and medical personnel, among other entities. *(WIC 18999.8(b)(2))*

- 3) Allows members of a homeless adult and family MDT engaged in the identification, assessment, and linkage of housing and supportive services to homeless adults or families to disclose to, and exchange with, one another information and writings that relate to any information that may be confidential under state law if the member of the team having that information or writing reasonably believes it is generally relevant to the identification, reduction, or elimination of homelessness or the provision of services. *(WIC 18999.8(c)(1))*
- 4) Prohibits disclosure and exchange of information to anyone other than members of the homeless adult and family MDT and those qualified to receive information, as provided. *(WIC 18999.8(c)(3))*
- 5) Requires the representatives of a domestic violence victim services organization, as defined, participating in a county's homeless adult and family MDT to obtain an individual's informed consent before disclosing confidential information about that individual to another team member, as provided. *(WIC 18999.8(c)(4))*
- 6) Allows a homeless adult and family MDT to designate persons qualified, as provided, to be a member of the MDT for a particular case, and thus able to receive and disclose relevant information and records, subject to confidentiality provisions, for that specific case. *(WIC 18999.8(d))*
- 7) Requires each county operating a homeless adult and family MDT to develop protocols describing how and what information may be shared by members of the MDT to ensure that confidential information gathered by the team is not disclosed in violation of state or federal law. *(WIC 18999.8(e))*
- 8) Requires every member of the homeless adult and family MDT who receives information or records regarding adults and families in their capacity as a member of the MDT to be under the same privacy and confidentiality obligations and subject to the same penalties as the person disclosing or providing the information or records. Further requires the information or records obtained by the MDT to be maintained in a manner that ensures the maximum protection of privacy and confidentiality rights. *(WIC 18999.8(f))*

- 9) Establishes a pilot program, until January 1, 2025, in the counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Clara, and Ventura to allow homeless adult and family MDT's established in those counties to have the goal of facilitating expedited identification, assessment, and linkage of individuals at risk of homelessness to housing and supportive services, and the goal of facilitating the expedited prevention of homelessness for those individuals. (*WIC 18999.81(a)*)

This bill:

- 1) Allows Yuba and Sutter counties to establish a joint homeless adult and family MDT with the goal of facilitating the expedited identification, assessment, and linkage of homeless individuals to housing and supportive services within either of those counties and to allow provider agencies and members of the MDT to share confidential information for the purpose of coordinating housing and supportive services to ensure continuity of care.
- 2) Requires a joint homeless adult and family MDT established in Yuba and Sutter counties to conform to all requirements and obligations of a homeless adult and family MDT, as established in current law.
- 3) Requires Yuba and Sutter counties to adopt a joint protocol to govern the sharing of information that is in full compliance with the requirements and obligations of existing homeless adult and family MDT protocols, as provided.
- 4) Requires the adopted joint protocol to be at least as restrictive of the sharing of confidential information as any protocol adopted under existing law for the sharing of information by a team comprised solely of members of either county individually.
- 5) Allows for the participation of appropriate city personnel, as determined by the counties, from a city within Yuba County or Sutter County that requests to participate in the joint MDT, unless the counties determine that participation by the city would hinder compliance with the requirements and obligations, as provided, or otherwise conflict with the counties' goals and objectives.
- 6) States legislative findings and declarations that a special statute is necessary because of unique geographical characteristics of Yuba and Sutter counties and

their preexisting and coordinated approach to addressing homelessness and providing services to individuals who are homeless.

Comments

Purpose of the Bill. According to the author, current law “hinders the efforts of Yuba and Sutter counties to provide housing and supportive services to homeless individuals, which are especially critical to containing COVID-19, because current law limits the utilization of homeless MDTs to providers within a single county.” This limitation prevents Yuba and Sutter Counties, which share homeless services providers, a bi-county behavioral health department, a bi-county health officer, and have created a bi-county homeless consortium, from being able to better coordinate services across counties lines for their homeless populations. The author states, “authorizing Yuba and Sutter counties to establish a joint MDT would help with the identification, assessment, and linkage of homeless individuals to housing and supportive services. This will create cost savings and improve government efficiency by preventing duplicative efforts through better coordination, while enhancing the continuity of care for homeless individuals and families.”

Homelessness in California. The U.S. Department of Housing and Urban Development’s (HUD) 2019 Annual Point in Time Count Homelessness Report (Report) found that although much of the country experienced a combined decrease in homelessness in 2019, the west coast saw significant increases in unsheltered and chronic homelessness. The Report showed California as having an increase of 16.4 percent, or 21,306 individuals, experiencing homelessness from the state’s numbers reflected in the 2018 Report. Additionally, the Report found that California has more than half of all unsheltered homeless people in the country, 53 percent or 108,432 individuals.

California has taken variety of ongoing actions to address homelessness at the state, county and local level. In 2016, SB 1380 (Mitchell, Chapter 847, Statutes of 2016) created the Homeless Coordinating and Financing Council (HCFC) to coordinate the state’s response to homelessness. The HCFC was created to oversee the state’s implementation of Housing First; identify mainstream resources, benefits, and services that can be accessed to prevent and end homelessness in California; and to create partnerships between state agencies and departments, local government agencies, participants in HUD’s Continuum of Care (CoC) program, federal agencies, and service providers, among others.

Homelessness in Yuba and Sutter Counties. Yuba and Sutter counties report a drastic increase in homelessness over the past decade, with the number of reported persons experiencing homelessness more than doubling from 362 in 2007 to 760 in 2017. Furthermore, during that same time period, the counties report the number of individuals experiencing chronic homelessness within their borders more than tripled from 44 persons in 2007 to 150 person in 2017.¹ The majority of these individuals are unsheltered, with 62.2 percent of individuals experiencing homelessness within Yuba and Sutter counties reported to be unsheltered, including 57.4 percent of veterans experiencing homelessness, 62.5 percent of youth experiencing homelessness, and 66.6 percent of parenting youth experiencing homelessness.²

Yuba and Sutter counties coordinate to provide services to individuals experiencing homelessness. In 2017, the counties developed a 2017 Action Plan for Homelessness in Yuba and Sutter counties, which provided an outline of the homeless situation within the counties and identified key partners, stakeholders, and goals. Also in 2017, the counties established a Bi-County Homeless Services Program to address homelessness regionally. The program consists of elected officials and staff from each jurisdiction: Sutter County, Yuba County, and each of the four incorporated cities found within the two counties (Yuba City, Live Oak, Marysville, and Wheatland). This program works to devise, propose, conduct, evaluate, and administer public social services programs, funding, and revitalization programs serving individuals experiencing homelessness. The counties also share a CoC, the Sutter-Yuba Homeless Consortium, which is responsible for conducting the annual point-in-time count, coordinated entry system, and other U.S. Department of Housing and Urban Development regulated activities. This bi-county CoC is made up of representatives from community-based organizations, non-profits, government staff from both counties, school district staff, law enforcement, and faith based organizations. As result of this shared CoC, the counties share a coordinated entry program, with one-stop centers in both counties.

This bill allows Yuba and Sutter counties to jointly form a homeless adult and family MDT. This allows the MDT to include members from government agencies in each county, as well as non-profits and services providers that might operate in only one of the counties. By being able to utilize the MDT model, members of the MDT will be able to share private information about the individuals being served

¹ See [https://www.yuba.org/Homeless%20Plan%20-%20Regional%20Strategic%20Plan%20FINAL%20-%20APPROVED%20\(Sutter-Yuba%20Counties\).pdf](https://www.yuba.org/Homeless%20Plan%20-%20Regional%20Strategic%20Plan%20FINAL%20-%20APPROVED%20(Sutter-Yuba%20Counties).pdf)

² *Id.*

that would likely not be available to all team members without the creation of an MDT.

Multidisciplinary Personnel Teams (MDTs). MDTs have been authorized in California to allow for a coordinated interagency response to elder and child abuse cases since the passage of AB 1049 (Bader, Chapter 353, Statutes of 1987). MDTs are formed and operated at the county level and afford their members with the ability to share confidential information among team members for the purposes of preventing, identifying, or treating child abuse. MDTs are seen as an effective tool for conducting a timely and objective investigation, with the added benefit of facilitating coordination among the different agencies and entities participating on the team, enabling decisions to be made through team decision-making.

In 2017, AB 210 (Santiago, Chapter 544, Statutes of 2017) gave counties the ability to create MDTs for homeless adults and families to facilitate the expedited identification, assessment, and linkage of individuals experiencing homelessness to housing and supportive services within that county and to allow provider agencies and other MDT members to share confidential information for the purpose of coordinating housing and supportive services to ensure continuity of care. The sharing of confidential information is governed by protocols developed by the county in which the MDT operates, as provided. In 2019, AB 728 (Santiago, Chapter 337, Statutes of 2019) established a five year pilot program in the counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Clara, and Ventura that allows those counties to expand the scope of their homeless adult and family MDTs to include the identification, assessment, and linkage to services and housing of individuals who are at risk of homelessness, as defined, with the goal of preventing these individuals from becoming homeless.

Those counties participating in the AB 728 pilot program must notify individuals at risk of homelessness that their confidential information may be shared for the purpose of coordinating housing and supportive services and requires the MDT member who first establishes contact with the individual at risk of homelessness to attempt to obtain the individual's consent to that information sharing. There is no such notification or consent requirement for individuals experiencing homelessness who are identified, assessed, and/or linked to housing or services by a county's homeless adult and family MDT, even in those counties participating in the AB 728 pilot. Rather the requirement to provide notice and attempt to gain consent only applies to individuals at risk of homelessness.

This bill allows Yuba and Sutter counties to operate a joint homeless adult and family MDT, rather than each county operating a homeless adult and family MDT separately. This bill does not allow for the counties to operate a homeless adult and family MDT that target individuals at risk of homelessness, but limits this jointly operated MDT to the same restrictions as those established through AB 210 (Santiago, Chapter 544, Statutes of 2017). AB 728 and AB 210 do not allow counties to operate a homeless adult and family MDT in partnership with another county, rather those MDTs are geographically limited to a single county.

COVID-19 Impacts on Committee Jurisdiction. Due to the COVID-19 Pandemic and the unprecedented nature of the 2020 Legislative Session, all Senate Policy Committees are working under a compressed timeline. This timeline does not allow this bill to be referred and heard by more than one committee as a typical timeline would allow. In order to fully vet the contents of this measure for the benefit of Senators and the public, this policy committee analysis includes information from Senate Judiciary Committee. To see the Senate Judiciary Committee's full comment on this bill please refer to the Senate Human Services Committee analysis.

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

SUPPORT: (Verified 8/11/20)

County Behavioral Health Directors Association
County of Sutter
Yuba County Board of Supervisors

OPPOSITION: (Verified 8/11/20)

ACLU California

ARGUMENTS IN SUPPORT: According to the Yuba County Board of Supervisors, "Yuba and Sutter counties have made a concentrated effort to work together to address homeless issues. The homeless population often moves freely between the two counties, and many homeless service providers in the area serve both Yuba County and Sutter County residents. In addition, many homeless residents receive behavioral health services from the bi-county behavioral health department, Sutter-Yuba Behavioral Health... The limitation that the team act within its county jurisdiction creates doubt as to whether a bi-county team can be formed and afforded the same statutory protection related to the sharing of confidential information...Yuba County, Sutter County, and all cities within the two counties created the Bi-County Homeless Consortium to jointly address

homelessness...AB 2174 would allow 1Yuba and Sutter Counties to work together to provide meaningful social services to homeless individuals in the most efficient manner.”

ARGUMENTS IN OPPOSITION: According to ACLU California, who opposes this bill unless amended due to their ongoing privacy concerns with homeless MDTs, AB 2174 “would permit this MDT and provider agencies to share confidential information to coordinate services for the unhoused community in [Sutter and Yuba] counties. While increasing inter-county coordination may be appropriate to provide adequate services to those experiencing homelessness, it should be done consistent with comparable provisions of existing law addressing underlying privacy concerns with MDTs in various contexts...While appropriate sharing of information across agencies and programs can improve services and assist with preventing homelessness, this disclosure must be balanced by honoring the important privacy interests of the individuals the team is trying to serve and recognizing the important purpose that privacy seeks to achieve. Strong confidentiality laws create an environment of trust that supports safety and access to vital services and helps ensure that sensitive information is not used to criminalize or incarcerate people using these services.”

ASSEMBLY FLOOR: 77-0, 6/8/20

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

NO VOTE RECORDED: Muratsuchi, Quirk

Prepared by: Marisa Shea / HUMAN S. /
8/19/20 10:49:43

**** END ****

CONSENT

Bill No: AB 2193
Author: Committee on Veterans Affairs
Introduced: 2/11/20
Vote: 21

SENATE VETERANS AFFAIRS COMMITTEE: 5-0, 8/10/20
AYES: Archuleta, Hurtado, Roth, Umberg, Wilk
NO VOTE RECORDED: Grove, Nielsen

ASSEMBLY FLOOR: 77-0, 6/8/20 - See last page for vote

SUBJECT: Military: State Guard

SOURCE: Author

DIGEST: This bill changes the name of the State Military Reserve (SMR) to the State Guard.

ANALYSIS: Existing law authorizes the Governor to organize and maintain the SMR when necessary to defend and for the security of the state during a period in which any part of the National Guard is in active federal service, or when Congress consents. The Governor is authorized to maintain the SMR at cadre strength at any time. The SMR is part of the active militia of the state along with the National Guard and the Naval Militia.

This bill changes each mention of the "State Military Reserve" in statute – in the Education, Government, Military and Veterans, and Revenue and Taxation Codes – to "State Guard."

Background

Federal law authorizes the states – as well as Washington, D.C. and specified territories – to organize and maintain defense forces within their respective jurisdictions, but which may not be "called, ordered, or drafted into the armed forces." These defense forces are not reserve components of the United States

Armed Forces, nor state National Guards, though they may be organized within a state's military department, as in California.

California has had a state defense force under several different names. First as the "California State Defense Guard," but more widely known as the "California Home Guard," then by World War II, the "California State Guard." In 1951, it was changed to the "California National Guard Reserve" before being renamed again in 1963 to the "State Military Reserve."

The SMR is an all-volunteer body, and currently has about 1,200 members. It assists civil authorities during domestic emergencies and with the mobilization and demobilization of the National Guard. SMR members are generally uncompensated, though reimbursed for certain travel costs. SMR members may be ordered to Emergency State Active Duty, for which they are compensated. Members of the SMR are not necessarily veterans or members of the United States Armed Forces, though they may be.

The Adjutant General changed the name of the "State Military Reserve" administratively in May 2019 to the "State Guard," citing his authority under Government Code Section 11152. In the memorandum ordering the change, the Adjutant General cited a need for greater cohesion between units of the Military Department, and confusion that arises from the name. Specifically, the Adjutant General noted that the new name was consistent with other states. A consensus does emerge from the names used by other states. Ten of 22 states with state-level guards use the name "State Guard," others use varieties of "Defense Force" or "Militia" "Military Reserve." Another 15 state forces that are now inactive use "State Guard."

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

SUPPORT: (Verified 8/12/20)

None received

OPPOSITION: (Verified 8/12/20)

None received

ASSEMBLY FLOOR: 77-0, 6/8/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Megan Dahle, Daly,

Diep, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Limón, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Nazarian, Obernolte, O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Muratsuchi, Quirk

Prepared by: Veronica Badillo / V.A. / (916) 651-1503
8/12/20 14:15:00

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

THIRD READING

Bill No: AB 2199
Author: Nazarian (D)
Amended: 5/18/20 in Assembly
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-0, 8/8/20
AYES: Glazer, Chang, Archuleta, Dodd, Galgiani, Hill, Leyva, Pan, Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 72-0, 6/8/20 - See last page for vote

SUBJECT: Healing arts: clinical laboratories

SOURCE: Plasma Protein Therapeutics Association

DIGEST: This bill extends the authorization for laboratory personnel who meet specified requirements to perform a total protein test using a digital refractometer in a licensed plasma collection center in this state until January 1, 2023, and adds a clinical laboratory scientist as one of the personnel who can supervise the person.

ANALYSIS:

Existing law:

- 1) Provides for the licensure, registration, and regulation of clinical laboratories and various clinical laboratory personnel by the California Department of Public Health (CDPH), with specified exceptions. (Business and Professions Code (BPC) § 1200-1327)
- 2) Defines, for purposes of state regulation of clinical laboratories, the following:
 - a) “CLIA” means the federal Clinical Laboratory Improvement Amendments of 1988 (42 U.S.C. Sec. 263a; P.L. 100-578) and the regulations adopted thereunder by the federal Health Care Financing Administration and

effective on January 1, 1994, or any later date, when adopted in California pursuant to subdivision (b) of Section 1208. (BPC § 1202.5(a))

- b) “Clinical laboratory” meant any place used, or any establishment or institution organized or operated, for the performance of clinical laboratory tests or examinations or the practical application of the clinical laboratory sciences. That application may include any means that applies the clinical laboratory sciences. (BPC § 1206(a)(8))
- 3) Authorizes a person to perform a total protein test using a digital refractometer in a licensed plasma collection center in this state, as specified. (BPC § 1246.7(a))
- 4) Specifies that the person may only perform the test, if CDPH, as part of its routine, fee-supported inspection of the licensed plasma collection center, including its review of personnel reports for licensed and unlicensed personnel and job descriptions of all center positions for a licensed plasma collection center, determines that certain conditions have been met, including training for the individual performing testing and supervision and practice protocols.
- 5) Requires the digital refractometer used to perform a total protein test pursuant under this exemption to meet specified criteria. (BPC § 1246.7(b))
- 6) Requires a licensed plasma collection center to assess the competency and performance of persons authorized to perform the total protein test pursuant to this authorization and to make any required information or test results available to CDPH, as specified. (BPC § 1246.7(c))
- 7) Requires records of digital refractometer test results collected to be maintained for three years and made available to CDPH upon request. (BPC § 1246.7(d))
- 8) Specifies that this authorization remains in effect only until January 1, 2021.

This bill:

- 1) Extends the operation of the above provisions until January 1, 2023, thereby extending the application of a crime and the provisions that make the records described above confidential.
- 2) Authorizes a total protein test to be performed under the supervision of a clinical laboratory scientist.

- 3) Makes a technical change to the standardized procedures that may apply to the performance of a total protein test under these provisions, as specified.
- 4) Makes other technical and clarifying changes.

Background

Federal and State Regulation of Plasma for Donor Safety. Source plasma is a biologic and product derived from blood so the process of collecting source plasma is regulated and licensed under federal and state biologics laws to ensure donor safety. (42 U.S. Code § 262; BPC §§ 1600-1630). When donors give plasma, they undergo plasmapheresis: a process where a donor gives blood, plasma is separated from the formed elements, and then that blood is returned to the donor. Given this process, federal and state biologics laws provide safety precautions for source plasma donations, including various testing, timing, and fatality reporting requirements. They also require that a plasma collection center test a donor's total protein level, among other things, before undergoing plasmapheresis. (42 CFR §640.65(b)(1)(i); CCR, tit. 17, § 1025(b))

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. While CLIA establishes minimum federal standards, it allows states to enact more stringent state law requirements. At the federal level and in California, anyone may perform a waived test in a licensed laboratory. For moderate complexity tests, federal law requires that, at a minimum, personnel have (1) a high school diploma or equivalent and (2) documentation of training appropriate for the testing performed prior to analyzing patient specimens. However, in California, only specified licensed, certified, or otherwise authorized individuals may perform moderate complexity tests. There are two exceptions allowing unlicensed individuals to perform a moderate complexity test in California. One is for anyone performing a blood gas analysis under BPC Section 1245 and anyone in a physician's office laboratory with a physician readily available.

Total Protein Digital Refractometer Test. According to information provided by the author, donor centers typically use a digital refractometer to perform the total protein test. FDA considers the refractometer as a moderate complexity test. There

are multiple types of protein refractometer devices, ranging from manual to automatic and handheld to benchtop. Depending on the device, the test requires varying, small samples of blood from the donor, which is then placed into the device. Generally, a manual device requires the user to analyze the sample and calculate the result. An automatic device performs the analysis without input from the user and displays the result, which the user then compares to a set of standard guidelines for total protein levels. The FDA's medical device database shows that the FDA has classified all total protein refractometer devices as of moderate complexity under CLIA...the total protein test helps to detect underlying conditions that may cause complications.

CDPH and Extending the Existing Pilot Program. Until 2018, state law required that the refractometer test be performed by various licensed personnel, such as a registered nurse or a clinical laboratory scientist, because the test is classified as a moderate complexity test under federal law. AB 613 (Nazarian, Chapter 799, Statutes of 2018) established a pilot program in order to demonstrate that an unlicensed individual could safely conduct a refractometer test. The pilot program, now codified into law, allows anyone with a high school diploma to carry out the test, as long as that person has completed certain training requirements. The program sunsets at the beginning of 2021.

Current Licensing Requirements for Operating a Refractometer. Under current state law, a person performing a total protein test must be supervised by a licensed individual who is available for consultation while the individual is processing specimens. These licensed individuals can be a moderate complexity laboratory technical consultant, a licensed registered nurse, a licensed physician or surgeon, or a clinical laboratory director. This bill adds a clinical laboratory scientist to the list of licensed professionals who can supervise an individual running the test. Of the professionals listed, moderate complexity laboratory technical consultants have the most comparable training and experience to clinical laboratory scientists. However, there are important differences in training and experience between the two. Moderate clinical laboratory technical consultants must have an active license in California to perform high complexity testing or to practice medicine, osteopathy or podiatry. They also must have a minimum of two years of experience in moderate or high complexity testing in the specialty or specialties in which they are consulting. They are also generally responsible for the technical and scientific oversight of the laboratory.

In contrast, a clinical laboratory scientist is licensed to engage in clinical laboratory practice under the supervision of a clinical laboratory director. A person licensed as a clinical laboratory scientist and qualified under CLIA may perform clinical

laboratory tests or examinations classified as of high or moderate complexity under CLIA. This means that clinical laboratory scientists: (1) are not licensed medical professionals whereas moderate complexity laboratory technical consultants may be, (2) are not required to have two years of experience in the field, and (3) do not have the training for a good understanding of the technical and scientific oversight of a laboratory.

Plasma Donation and COVID-19. The sponsors of this bill report that they are developing potential treatments for COVID-19 patients using plasma donated by individuals who have recovered from COVID-19. The goal is to use the antibodies found in the collected manufacture of hyperimmune globulins to treat COVID-19 patients. The convalescent plasma is being collected at licensed plasma donation centers in the United States, including California.

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

SUPPORT: (Verified 8/18/20)

Plasma Protein Therapeutics Association (source)

Biocom

Cigna

Grifols, Inc.

Immune Deficiency Foundation

Takeda Pharmaceuticals America

The American Plasma Users Coalition

OPPOSITION: (Verified 8/18/20)

California Nurses Association

ARGUMENTS IN SUPPORT: Generally, supporters argue that the pilot program has provided data showing that properly trained, but unlicensed individuals are able to satisfactorily perform the total protein test with no harm to the potential donor. They argue extending the pilot program during COVID-19 makes sense so that the program can continue and so that plasma centers can be ready in the event that scientists develop a plasma therapy treatment for COVID-19.

ARGUMENTS IN OPPOSITION: The California Nurses Association argues that AB 2199 deskills the workforce and creates potential health risks, noting that “supporters have not demonstrated that there is a shortage of licensed and experienced personnel requiring this change in law. AB 2199 is simply unnecessary.”

ASSEMBLY FLOOR: 72-0, 6/8/20

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

NO VOTE RECORDED: Chiu, Friedman, Gonzalez, Kalra, Muratsuchi, Quirk, Wicks

Prepared by: Dana Shaker / B., P. & E.D. /
8/19/20 10:49:42

**** END ****

CONSENT

Bill No: AB 2210
Author: Aguiar-Curry (D)
Amended: 3/16/20 in Assembly
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-0, 8/8/20
AYES: Glazer, Chang, Archuleta, Dodd, Galgiani, Hill, Leyva, Pan, Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Contractors: violations: disciplinary actions

SOURCE: Contractors State License Board

DIGEST: This bill expands the Contractors State License Board's (CSLB) authority to take enforcement action against a tree-service contractor.

ANALYSIS:

Existing law:

- 1) Establishes the CSLB within the Department of Consumer Affairs (DCA) to license and regulate contractors and home improvement salespersons. (Business and Professions Code (BPC) § 7000 *et seq.*)
- 2) Requires the CSLB registrar to initiate disciplinary action against a licensee within 180 days of the receipt of the Labor Commissioner's (Commissioner) finding of a willful or deliberate finding of a violation of the Labor Code (LC). (BPC § 7110.5)
- 3) States that a violation of a safety provision, as specified in the LC resulting in death or serious injury to an employee constitutes a cause for disciplinary

action. (BPC §7109.5)

- 4) Requires the Department of Industrial Relations' Division of Occupational Safety and Health (DOSH), after consultation with the CSLB, to transmit to the CSLB copies of any citations or other actions taken by the DOSH against a contractor. (LC § 6313.5)

This bill:

- 1) Adds additional violations that constitute a cause for disciplinary action without regard to whether death or serious injury to an employee resulted from the violation.
- 2) Extends from 180 days to 18 months the time that CSLB has to bring disciplinary action against a contractor, for a contractor's willful or deliberate violation of the LC assessed by the Labor Commissioner.
- 3) Adds a requirement for the registrar to initiate disciplinary action against a contractor upon transmission to the CSLB of copies of any citations or other actions for willful or deliberate violations of specified tree trimming regulations.

Background

Contractors State License Board. The CSLB is responsible for the implementation and enforcement of the Contractors' State License Law (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. The CSLB licenses and regulates licensees in 44 licensing classifications and 2 certifications, and registers approximately 18,000 Home Improvement Salespersons. Each licensing classification specifies the type of contracting work permitted in that classification. Specific to this bill, the "C"—Specialty Contractor – A specialty contractor's operations involve the performance of construction work requiring special skill and involving the use of specialized building trades or crafts.

Tree service providers are regulated by both the CSLB and DOSH within the Department of Industrial Relations. DOSH tree safety regulations require tree-service employers provide employees with a safe work environment, including proper safety training and equipment. CSLB licensees, who are primary employers in the tree service industry, must abide by these regulations. Under current law, the LC is required to notify the CSLB of violations of certain provisions of the LC, including violations of tree worker safety requirements. However, the CSLB may only take enforcement actions if “death or serious injury to an employee” occurs. This bill will expand that authority and authorize the CSLB to take enforcement actions for additional violations of tree worker safety requirements in the LC.

At the CSLB’s April 2018, meeting, CSLB staff were directed to meet with representatives from the DOSH to identify possible solutions to the concerns raised regarding safety. BPC §7109.5 requires that, before CSLB can discipline a license, a contractor’s violation of a safety provision must result in the death of or serious injury to an employee. This bill seeks to expand BPC §7109.5 to provide CSLB with greater authority to initiate disciplinary action against a licensee for any violations specified in CCR regardless if death or serious injury occurred.

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

SUPPORT: (Verified 8/17/20)

Contractors State License Board (source)
Center for Contract Compliance
West Coast Arborists

OPPOSITION: (Verified 8/17/20)

None received

ARGUMENTS IN SUPPORT: The Contractors State License Board writes in support, “Assembly Bill (AB) 2210 provides authority for the Board to discipline a licensed contractor who violates any of the provisions of California’s regulatory “Tree Safety Orders” administered by the Division of Occupational Safety and Health, regardless of whether death or injury occurs first. Existing law conditions discipline of a contractor for safety violations on the occurrence of death or serious injury.”

Center for Contract Compliance writes in support, “Current law requires the Contractors State License Board (CSLB) to enforce safety regulations only if the

violation causes a serious injury or death. This enforcement mechanism does too little to promote safe practices before an accident occurs. AB 2210 will help solve this problem by providing the CSLB the authority to enforce any other violations, like failing to provide proper training and equipment, which will help prevent accidents before they occur.”

West Coast Arborists writes in support, “The passing of this proposal will help ensure the safety and well-being of workers who put their lives on the line day in and day out.”

ASSEMBLY FLOOR: 76-0, 6/8/20

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

NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
8/19/20 10:49:41

**** END ****

THIRD READING

Bill No: AB 2231
Author: Kalra (D)
Amended: 5/6/20 in Assembly
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 8/5/20
AYES: Hill, Jackson, Mitchell, Pan
NOES: Morrell

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 57-15, 6/8/20 - See last page for vote

SUBJECT: Public works

SOURCE: Author

DIGEST: This bill sets a limit of \$500,000 and 2% of the total cost on the amount of public reimbursement or subsidy a private developer can receive for a project before triggering additional public works regulations, including the payment of prevailing wages.

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) Authorizes a public entity to require a bidder, contractor, or other entity to use a skilled and trained workforce to complete a contract or project, and requires that the commitment to use a skilled and trained workforce be made in an enforceable agreement that meets specified requirements. (Public Contract Code §2600, 2602)
- 6) Defines “Skilled and trained workforce” to mean a workforce where all the workers performing work in an apprenticeable occupation, as defined, in the building and construction trades are either skilled journeypersons or apprentices registered in an apprenticeship program approved by the chief of the Division of Apprenticeship Standards. (Public Contract Code §2601)
- 7) Requires that at least 50% of the skilled journeypersons employed to perform work on these contracts or projects, on or after January 1, 2019, to be graduates of an apprenticeship program. (Public Contract Code §2601)
- 8) Increases that percentage to 60% for work performed on or after January 1, 2020 but excludes specified occupations from both of these increased percentage requirements. (Public Contract Code §2601)
- 9) Allows a state or political subdivision to reimburse a private developer or subsidize the costs of a private development without triggering public works requirements if the reimbursement or subsidy is de Minimis in the context of the project. (Labor Code §1720)
- 10) Defines “Dwelling Unit” to mean one or more habitable rooms which are occupied, or which are intended or designed to be occupied by one family with facilities for living, sleeping cooking and eating. (Health and Safety Code §19970)

This bill:

- 1) Defines “de Minimis” to mean both less than \$500,000 and less than 2 percent of the total project cost.
- 2) Specifies that the provisions of this bill do not apply to a project that was advertised for bid, or a contract that was awarded before July 1, 2021.
- 3) Specifies that for projects consisting entirely of single-family dwellings that a public subsidy is considered de Minimis if it is less than 2% of the total cost of the project, with no specific dollar cap.

Background

- 1) *Need for this bill?* Discussions surrounding the technical definition of de Minimis public funding frequently center on public works laws, specifically prevailing wage provisions. Private developments are allowed much more freedom to make decisions about the workforce they utilize and the wages they pay; under prevailing wage laws developers must pay workers higher than minimum wage, the exact amount varying by region and craft. Under current Department of Industrial Relations (DIR) policy, once a private development accepts public funds (as a subsidy or a reimbursement) greater than 2% of the total cost of the project, the development becomes a public work.

This has been established by numerous cases, including PW 2011-033, Blue Diamond Agricultural Processing Facility – City of Turlock (2012), where DIR decided that a public subsidy of 1.75% was “proportionately small enough in relation to the overall cost of the Project, such that the availability of the subsidy does not significantly affect the economic viability of the Project.” This 2% threshold is not currently reflected in law, but has become the standard widely utilized by DIR. Under AB 2231 (Kalra) the threshold of 2% would be codified. Additionally, AB 2231 (Kalra) designates private projects that accept \$500,000 or more of public funds to be public works.

Since the 2% threshold is largely current DIR practice, the more impactful limit is the hard cap of \$500,000. This new limit would primarily affect large projects; an excellent example of the impact the proposed law would have is in the case cited above, PW 2011-033 involving the Blue Diamond Agricultural Processing Facility. In this case, the project’s total cost was \$95.3 million and received a public subsidy of approximately \$1.7 million or 1.75% of the total

cost. Under current practice, this private development would stay private because de Minimis is accepted to mean less than 2%; under the proposed law, this project would have been designated a public work, as even though the subsidy was under 2%, the actual dollar amount exceeded \$500,000.

Public works regulations reflect California's desire to ensure that workers employed on public construction projects are paid a living wage. Under current law, it is the decision of local governments to subsidize private projects and the decision of DIR to determine on a case-by-case basis whether that makes it a public project. The question remains whether determinations about what constitutes "de Minimis" are best decided by a definitive limit or by local governments and DIR.

- 2) *AB 2231 in Context.* There has been much discussion on this bill and previous incarnations on whether imposing this additional limit could impact local governments' ability to stimulate and encourage private development with subsidies. Stakeholders in the construction industry cite higher costs in their opposition to AB 2231 and argue that this will have a chilling effect on public-private partnerships in construction. However, while that it might logically follow that increased wages would lead to higher overall construction costs, there is good evidence to suggest that this might not correlate quite so strongly. Research by the Federal Highway Administration which examined highway construction projects found that "There is no basis to the claim that lower wage rates result in lower construction costs." This was based on the findings that construction companies could save in the short term by paying lower wages, but that in the long run construction projects which adhered to higher prevailing wage standards lowered costs by having lower rates of injury and a higher quality of final product, reducing the need for future upkeep.

Finally, current law (Health and Safety Code §19970) defines "dwelling unit" to mean one or more habitable rooms which are occupied or which are intended or designed to be occupied by one family with facilities for living, sleeping cooking and eating. AB 2231 attempts to lessen the impact of this definition change on housing projects, given the recent efforts to increase the availability of housing in California. Given the historic shortage of housing in California, this effort is probably wise and the author could consider extending this exemption to housing projects that provide affordable housing or more densely packed units than single family dwelling units.

Related/Prior Legislation

AB 520 (Kalra, 2019), Vetoed by Governor Newsom: substantially similar to the current proposed legislation. Governor Newsom stated in his veto message:

“While I steadfastly support prevailing wage law, I am concerned that the restrictive nature of this law may have unintended consequences. Further, there is nothing to suggest that the longstanding administrative practice of considering the public subsidy in the context of the project and using two percent as a general threshold is insufficient.”

SB 418 (Hernández, Chapter 393, Statutes of 2017) initially provided clarification on de Minimis costs on public works projects before it was gut and amended and replaced with provisions related to public contracts and the utilization of a skilled and trained workforce.

AB 251 (Levine, 2015), Vetoed by Governor Brown: would have defined de Minimis as a public subsidy that is both less than \$250,000 and less than 2% of the total project cost. Governor Brown stated in his veto message:

“Longstanding practice has been to view [a] subsidy in context of the project and use 2% as a general threshold for determinations. There has been no showing that the current practice is unreasonable. While I remain a staunch supporter of prevailing wages I am concerned that this measure is too restrictive and may have unintended consequences.”

SB 975 (Alarcon, Chapter 938, Statutes of 2001) redefined “public works” to include installation and provide that “paid for in whole or in part with public funds” means certain payments, transfers, credits, reductions, waivers, and performances of work, but does not include the construction or rehabilitation of affordable housing units for low- or moderate-income persons.

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

SUPPORT: (Verified 8/14/20)

California Labor Federation, AFL-CIO
California State Association of Electrical Workers
California State Council of Laborers
California State Pipe Trades Council

International Brotherhood of Boilermakers, Western States Section
International Union of Elevator Constructors
International Union of Operating Engineers, Cal-Nevada Conference
Lang Hansen O'malley and Miller Governmental Relations
State Building & Construction Trades Council of California
Western States Council Sheet Metal, Air, Rail and Transportation

OPPOSITION: (Verified 8/14/20)

Associated Builders and Contractors Northern California Chapter
California Building Industry Association
San Gabriel Valley Economic Partnership

ARGUMENTS IN SUPPORT: The California Labor Federation, AFL-CIO writes in support of the bill:

Due to that lack of clarity, the DIR has made determinations on projects that have received public subsidies ranging from \$65,710 to \$4.5 million or from .5 percent to 1.75 percent of a project's total cost. There may be instances when the subsidy to a private developer might be key to the entire project moving forward. AB 2231 provides that governmental entities may still provide private developers with \$500,000 and two percent of the total project cost without triggering the worker protections of Labor Code Section 1720.

A public subsidy as much or more than the definition used in AB 2231 is a notable amount of taxpayer investment in a project and is not de minimis, so it is reasonable to require payment of prevailing wages if the developer chooses to receive a public subsidy over that amount.

ARGUMENTS IN OPPOSITION: The California Building Industry Association writes in opposition:

AB 2231 would overturn the established practice to view public funds in the context of the project and use two percent as a general threshold for de minimis determinations. In fact, the two percent threshold was specifically cited by, and understood to be, the benchmark for triggering such during the negotiations that ultimately resulted in the language enacted into law 19 years ago by Senate Bill (SB) 975 (Chapter 938, Statutes of 2001). This is

far less than a 10% contingency used in the construction industry for budgeting purposes.

As such, while we do not take issue with statutorily memorializing the longstanding two percent threshold, AB 2231 takes the unfortunate step of also inserting an arbitrary cap of \$500,000, which will have significant consequences for many state public policy goals. AB 2231's provisions will thoroughly discourage the continuance of the above working arrangements because of the risk that these partnerships would trigger a determination that the entire project would become subject to prevailing wage law.

Finally, AB 2231 comes on the heels of three almost identical bills previously pursued in recent years (AB 520/2019, AB 251/2015 and AB 302/2013) and subsequently vetoed on three occasions by Governors Newsom and Brown, respectively.

ASSEMBLY FLOOR: 57-15, 6/8/20

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

NOES: Bigelow, Brough, Chen, Choi, Megan Dahle, Fong, Frazier, Gallagher, Kiley, Lackey, Mathis, Obernolte, Patterson, Voepel, Waldron

NO VOTE RECORDED: Cunningham, Eggman, Flora, Mayes, Muratsuchi, Quirk, Blanca Rubio

Prepared by: Jake Ferrera / L., P.E. & R. / (916) 651-1556
8/15/20 12:15:33

**** END ****

CONSENT

Bill No: AB 2234
Author: Chau (D)
Amended: 3/12/20 in Assembly
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 8/5/20
AYES: Hill, Morrell, Jackson, Mitchell, Pan

ASSEMBLY FLOOR: 77-0, 6/8/20 - See last page for vote

SUBJECT: Classified school and community college employees: personnel
commission: legal counsel

SOURCE: California School Employees Association

DIGEST: This bill authorizes a merit based school or community college district's personnel commission to select its own attorney rather than having to use the district's attorney if a majority of the commission declares that a conflict of interest exists between the commission and the district or the district's governing board.

ANALYSIS:

Existing law:

- 1) Authorizes school and community college districts to adopt, as specified, a civil service merit system to regulate personnel through a three-member personnel commission (college districts may have five members) and a personnel director (Education Code § 45221 et seq. and Education Code § 88051 et seq.).
- 2) Requires, where a district adopts a merit system, the personnel commission to classify all employees and positions within the district's jurisdiction and designate them as the classified service. However, specified employees, including certificated employees, are exempt from the classified service (Education Code § 45256 and § 88076).

- 3) Requires the commission to prepare an annual budget which is subject, as specified, to approval by the county superintendent of schools and creates a process to resolve budget issues where the superintendent fails to approve the budget (Education Code § 45253 and § 88073).
- 4) Requires the district board's legal counsel to aid and represent the commission in all legal matters. If counsel does not respond to the commission's request for aid within 15 days the commission may employ its own attorney and charge the cost against the district's general fund. Existing law also requires the district board's counsel to refuse to represent the commission where counsel knows or has reason to know that a conflict of interest exists between the interests of the commission and the interests of the governing board or the district (Education Code § 45313 and § 88132).

This bill:

- 1) Authorizes a member of the commission to declare that a conflict exists between the interests of the commission and the interests of the governing board or the school district. However, this bill requires that a majority of the commission must approve the declaration for a conflict to exist.
- 2) Provides that if the commission finds that a conflict exists, the commission may employ its own attorney, and the reasonable cost thereof shall constitute a legal charge against the general funds of the district.

Background

According to the Los Angeles Unified School District website:

In the early 1930's, political corruption was rampant throughout the City of Los Angeles. Cronyism and patronage were prevalent at all levels of local government. In the Los Angeles Unified School District, the situation resulted in the replacement of over 700 District employees by "friends" and supporters of local politicians. As a result, there was a reaction by concerned citizens who petitioned the State legislature for the establishment of an independent civil service commission for the District. The Personnel Commission came into existence on June 15, 1936, as the first legally sanctioned Personnel Commission in the country to administer a personnel program under a merit system for non-certificated employees of a school system. Its primary purposes were to ensure that employees are selected for employment and promotion solely on the basis of merit and removed for just cause. It also provided for an impartial body to adjudicate employee appeals of discipline, medical

disqualification and examinations. Both employees and administrative representatives sponsored the merit system law when it was under consideration by the State Legislature and the Board of Education in a spirit of reform, formally adopted it.

Purpose of personnel commissions. According to the California State Personnel Commission Association:

The Personnel Commission has three core responsibilities as defined in the California Education Code. These are as follows:

- Oversee a personnel management program based on merit principles that ensure the selection and promotion of employees is based solely on qualifications through competitive examination.
- Develop and administer policies governing employment matters to ensure the fair and equitable treatment of employees within the classified service.
- Conduct appeal hearings on matters involving employee disciplinary action, employment examinations, and personnel policies and procedures.

Comments

Author's concerns with current law regarding legal counsel. According to the author:

The problem with the law is that only school district lawyers can decide when conflicts of interest exist, and personnel commissions have no role in that process. This favors one client over the other and is a growing problem.

Personnel commissions are civil service systems intended to provide fairness for classified employees and to ensure that districts are hiring and promoting qualified employees through consistent and lawful testing and hiring practices. One of the major functions of a personnel commission is to hear and render decisions on employee appeals of the district's disciplinary actions. The commission acts in a quasi-judicial capacity as a neutral decision maker.

In this hearing process, legal counsel of the district functions as the prosecutor, i.e., one of the parties litigating before the personnel commission. When the personnel commission needs legal advice, whether procedural or substantive, there is an inherent conflict of interest if the personnel commission must rely on the advice of the same attorney or law firm representing the district in the action.

When personnel commissions seek independent legal counsel, and a district's attorney refuses to agree that a conflict of interest exists, it diminishes the commission's ability to function and compromises the fairness of the entire hearing process. In addition, when district counsel blocks a commission from receiving independent counsel, it undermines the independence of the personnel commission.

AB 2234 ensures a fair process by giving commissioners and districts a role in determining when conflicts exist between them, so the process does not favor one side.

Committee comments. This bill establishes greater independence for the personnel commissions of school and community college districts that have adopted merit based personnel systems by allowing a majority of the personnel commission to decide when to hire outside counsel.

Senate Labor, Public Employment and Retirement Committee staff sees this bill as similar to current law that permits some state departments to hire outside counsel directly although the general rule is to use the Attorney General's Office (AG) or to get permission from the AG before employing outside counsel. Those statutory authorizations were effectively policy choices to provide those departments more independence to conduct their legal work. Here too, this issue is a policy choice to ensure school personnel commissions' independence in their mission to administer a merit based personnel system for classified school employees.

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

SUPPORT: (Verified 8/7/20)

California School Employees Association (source)
California Federation of Teachers
California Labor Federation
California Professional Firefighters
California School Personnel Commissioners Association
California Teachers Association
Service Employees International Union – California

OPPOSITION: (Verified 8/7/20)

None received

ARGUMENTS IN SUPPORT: According to the California School Employees Association (CSEA):

It is wrong to allow district legal counsel to be gatekeepers of whether commissions can secure their own counsel. CSEA is unaware of any other law that only allows lawyers to determine if a conflict exists between two clients and prevents clients from making such a determination.

AB 2234 remedies this problem by allowing personnel commissions, by majority vote, and district legal counsel, to determine if conflicts of interest exist, ensuring fairness for commissions, districts and classified employees.

According to the California Teachers Association:

Current law allows for the legal counsel of the governing board to represent the district personnel commission in all legal matters unless a conflict of interest exists between the commission and the governing board. This legislation would allow commissions to investigate conflicts with a majority vote of the commission and shifts power from the governing board and its legal counsel to the district personnel commission.

According to the Service Employees International Union – California:

It fundamentally undermines justice to allow lawyers to determine if a conflict of interest exists between two clients and then bar only one client from making such a decision for their self. AB 2234 would ensure personnel commissions can, in fact, remain impartial by allowing them to have a role in determining if a conflict of interest exists between themselves and a school district.

ASSEMBLY FLOOR: 77-0, 6/8/20

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

NO VOTE RECORDED: Muratsuchi, Quirk

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
8/7/20 15:19:33

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

THIRD READING

Bill No: AB 2247
Author: Burke (D)
Introduced: 2/13/20
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 7/29/20
AYES: McGuire, Beall, Hertzberg, Hurtado, Wiener
NO VOTE RECORDED: Moorlach, Nielsen

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 62-10, 6/8/20 - See last page for vote

SUBJECT: Personal income taxes: dependent exemption credit: identifying information

SOURCE: Franchise Tax Board

DIGEST: This bill allows certain nonresident alien dependents to be claimed on a California tax return by providing alternative information.

ANALYSIS:

Existing law:

- 1) Allows taxpayers to claim exemption credits, including a personal exemption credit and exemption credits only for dependents, so long as the dependent has a social security number (SSN) or federal individual tax identification number (ITIN).
- 2) Requires those taxpayers without an SSN to request an ITIN from the Internal Revenue Services (IRS).

This bill:

- 1) Allows a taxpayer to provide alternative identifying information for a dependent who is included and claimed as an exemption on a tax return, but who is ineligible for or has not received an ITIN.
- 2) Directs that the alternative identifying information must be in the form and manner prescribed by the Franchise Tax Board (FTB), and applies beginning in the 2018 taxable year.

Background

Federal ITIN. Federal ITINs are generally issued 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.

In December 2017, Congress enacted HR 1, enacting fundamental changes to the federal income tax, including eliminating reducing to zero the amount of dependent exemption credits for federal tax purposes. As a result, the IRS has recently stopped granting or renewing ITINs for nonresident alien dependents because there is no longer a federal purpose for doing so.

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

SUPPORT: (Verified 8/13/20)

Franchise Tax Board (source)
California Immigrant Policy Center

OPPOSITION: (Verified 8/13/20)

None received

ARGUMENTS IN SUPPORT: According to the author, “the FTB recently learned that the Internal Revenue Service has stopped issuing or renewing federal Individual Taxpayer Identification Numbers for certain nonresident dependents living in Canada or Mexico. This has prevented certain California taxpayers from claiming the dependent exemption credit for their otherwise qualifying nonresident

dependents. This is because current state law strictly requires a tax return to include either a Social Security number or ITIN for each dependent for the credit to be allowed. AB 2247, which is sponsored by the FTB, would very simply give these taxpayers the option of providing alternative identifying information for purposes of claiming the dependent exemption credit.”

ASSEMBLY FLOOR: 62-10, 6/8/20

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

NOES: Bigelow, Choi, Megan Dahle, Fong, Lackey, Mathis, Obernolte, Patterson,
Voepel, Waldron

NO VOTE RECORDED: Chen, Cunningham, Diep, Gallagher, Kiley,
Muratsuchi, Quirk

Prepared by: Jessica Deitchman / GOV. & F. / (916) 651-4119
8/14/20 12:34:02

**** END ****

CONSENT

Bill No: AB 2253
Author: Low (D)
Introduced: 2/13/20
Vote: 21

SENATE HEALTH COMMITTEE: 8-0, 8/1/20

AYES: Pan, Lena Gonzalez, Grove, Hurtado, Leyva, Mitchell, Monning, Rubio

NO VOTE RECORDED: Melendez

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Professional licensure

SOURCE: American Federation of State, County and Municipal Employees

DIGEST: This bill specifies that the five-year maximum limit on licensure waivers for persons practicing as a mental health professional in governmental settings while obtaining supervised experience begins from the start of employment in a position that includes qualifying experience towards licensure.

ANALYSIS:

Existing law:

- 1) Licenses and regulates psychologists through the Board of Psychology, and licenses and regulates marriage and family therapists (MFTs), licensed clinical social workers (LCSWs), and licensed professional clinical counselors (LPCCs) through the Board of Behavioral Sciences (collectively, BBS health professionals). Prohibits persons from engaging in the practice of psychology or BBS health professions, or representing themselves as a psychologist or a BBS health professional, without a license, except as specified. [BPC §2900 et seq., §4980 et seq., §4991 et seq., §4999.10 et seq.,]

- 2) Requires applicants for licensure as a psychologist to have engaged for at least two years in a supervised professional experience under the direction of a licensed psychologist. [BPC §2914(d)]
- 3) Requires applicants for licensure as a BBS health professional to have specified hours of supervised experience, including two years for an MFT, and 3,000 hours for an LCSW and an LPCC. [BPC §4980.40, §4980.43, §4996.23]
- 4) Requires, in the Health and Safety Code, the Penal Code, and the Welfare and Institutions Code, with certain exceptions, professional health care personnel in state and other governmental health facilities, in correctional facilities, and in county mental health organizations, to meet all required licensure requirements. [HSC §1277(b), PEN §5068.5(a), WIC §5751.2(a)]
- 5) Permits the requirements in 4) above to be waived by the Department of Public Health for persons in the professions of psychology or BBS health professions, working in state health facilities, who are gaining qualifying experience for licensure in this state. Limits the length of a waiver issued pursuant to this provision of law to a maximum of five years. [HSC §1277(b)(3)]
- 6) Permits the requirements in 4) above to be waived by the Department of Corrections and Rehabilitation (CDCR) for persons working in correctional facilities in the professions of psychology or clinical social work. Limits the length of a waiver to a maximum of five years. [PEN §5068.5(c)]
- 7) Permits the requirements in 4) above to be waived by the Department of Health Care Services for persons employed as psychologists and BBS professionals to provide mental health services for purposes of county community mental health services. In the case of psychologists, this waiver is limited to a maximum of five years. [WIC §5751.2(c)]

This bill:

- 1) Specifies that the five-year maximum limit on licensure waivers for persons practicing psychology or the BBS professions in state and other governmental health facilities, in correctional facilities, and in county mental health organizations, starts from the commencement of employment in a position that includes qualifying experience.
- 2) Defines “qualifying experience” as experience that satisfies the supervised experience requirements for licensure as a BBS professional or psychologist, for purposes of provisions of law granting waivers from licensure while persons in the BBS professions and the profession of psychology practice in state and

other governmental health facilities, in correctional facilities, and in county mental health organizations.

Background

State law generally requires mental health services provided by the state and local government to follow the same professional licensing requirements as those in the private sector. However, state law permits unlicensed persons who are doing their required supervised experience in order to apply for licensure as a mental health professional to be hired as a mental health professional under a time-limited waiver while they are completing the required supervised experience. The law generally limits this waiver to four years, with an extension of one additional year based on extenuating circumstances, at which time the person needed to complete licensure or could no longer continue working as a mental health professional for the state or local government entity. According to the the sponsor of this bill, since the fall of 2019, a growing number of psychologists and clinical social workers hired into the CDCR have been issued “non-punitive termination notices” due to a change in how CDCR calculated time for the purpose of the waiver. The sponsor and author argue this highlights the need for consistency across employers and licensing boards about how experience for licensure is defined and calculated. This bill specifies that the time period for the waiver begins when they were hired as a mental health professional and started obtaining supervised experience, as opposed to any time they may have been employed by the state in a different capacity.

Comments

Author’s statement. According to the author, this bill clarifies what constitutes as qualifying experience within applicable sections of the Health and Safety Code, the Penal Code, and the Welfare and Institutions Code for psychologists, MFTs, clinical social workers, and professional clinical counselors. This bill will provide consistency not only for professionals providing mental health services, but also for the state agencies regarding qualifying experience and the exemptions these employees are granted under these statutes. Mental health services are critical to the success of correctional and rehabilitative programs. Under this bill, employees striving toward licensure while gaining qualified experience would be able to both work and gain qualifying experience in order to obtain professional licensure that can benefit the department.

Related/Prior Legislation

AB 1456 (Low, Chapter 151, Statutes of 2017) extended the ability for persons to practice psychology without a license in government-related settings, while

obtaining required supervised experience, from three to five years, thereby conforming the license waiver provisions to the five year limitation for other mental health professionals such as clinical social workers and MFTs.

AB 705 (Eggman, Chapter 218, Statutes of 2015) updated the Psychology Licensing Law to require employees in exempt settings be supervised by a licensed psychologist and become licensed within five years of practice, and made technical and clarifying changes.

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

SUPPORT: (Verified 8/3/20)

American Federation of State, County and Municipal Employees (source)
Board of Behavioral Sciences
California Board of Psychology
California Psychological Association
National Association of Social Workers, California Chapter

OPPOSITION: (Verified 8/3/20)

None received

ARGUMENTS IN SUPPORT: This bill is sponsored by the American Federation of State, County and Municipal Employees (AFSCME), which states that this bill allows employees striving towards professional licensure to work and gain requisite qualifying experience. In addition, this bill provides psychology, MFT, clinical social work, and clinical counseling professionals with the job security necessary to carry out the critical work they have invested in, and provides for a more stable workforce without clusters of layoffs in classifications that historically experience vacancies. AFSCME argues that the pending terminations during this COVID-19 crisis are particularly concerning since these health professionals are “essential employees” who are providing necessary services during this time.

ASSEMBLY FLOOR: 76-0, 6/8/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Diep, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Limón, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Nazarian, Obernolte,

O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas,
Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone,
Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
8/5/20 12:01:39

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

CONSENT

Bill No: AB 2265
Author: Quirk-Silva (D), et al.
Amended: 8/12/20 in Senate
Vote: 27

SENATE HEALTH COMMITTEE: 8-0, 8/10/20
AYES: Pan, Lena Gonzalez, Hurtado, Leyva, Melendez, Mitchell, Monning,
Rubio
NO VOTE RECORDED: Grove

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Mental Health Services Act: use of funds for substance use disorder
treatment

SOURCE: Author

DIGEST: This bill clarifies that specified Mental Health Services Act funds are permitted to be used to fund treatment for individuals with co-occurring mental health and substance use disorders. This bill requires counties to report information about the individuals treated pursuant to the provisions of this bill, as specified.

ANALYSIS:

Existing law:

- 1) Establishes the Mental Health Services Oversight and Accountability Commission (MHSOAC) to oversee the implementation of the Mental Health Services Act (MHSA), enacted by voters in 2004 as Proposition 63 to provide funds to 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 §5845]

- 2) Requires the Department of Health Care Services (DHCS), in coordination with counties, to establish a program designed to prevent mental illnesses from becoming severe and disabling, including an emphasis on strategies to reduce the following negative outcomes that may result from untreated mental illness:
 - a) Suicide;
 - b) Incarcerations;
 - c) School failure or dropout;
 - d) Unemployment;
 - e) Prolonged suffering;
 - f) Homelessness; and,
 - g) Removal of children from their homes. [WIC §5840]
- 3) Requires each county mental health program to prepare and submit a three-year program and expenditure plan, with annual updates, adopted by the county board of supervisors, to the MHSOAC and DHCS within 30 days after adoption. [WIC §5847]
- 4) Requires DHCS, in consultation with the MHSOAC and the County Behavioral Health Directors Association of California, to develop and administer instructions for the Annual MHSA Revenue and Expenditure Report, including identifying the expenditure of funds, quantifying the amount of additional funds generated for the mental health system, identifying unexpended funds and interest earned on funds, and determining reversion amounts from prior fiscal year distributions. [WIC §5899]

This bill:

- 1) Clarifies that MHSA funds, except for the No Place Like Home program funds, are permitted to be used to treat a person with co-occurring mental health and substance use disorders (MHD/SUD) when the person would be eligible for treatment of the MHD pursuant to the MHSA, as specified.
- 2) Requires treatment of co-occurring MHD/SUD to be identified in a county's three-year program and expenditure plan or annual update. Require SUD services pursuant to this bill to comply with applicable requirements of the MHSA.

- 3) Requires a county to, in a timely manner, refer a person to SUD treatment services when that person is being treated for co-occurring conditions and it is later determined that the person does not need the mental health services that are eligible for MHSA funding.
- 4) Permits specified MHSA funds to be used to assess whether a person has co-occurring MHD/SUDs and to treat a person who is preliminarily assessed to have the co-occurring conditions, even when the person is later determined not eligible for MHSA-funded services.
- 5) Requires a county to report to DHCS both of the following:
 - a) The number of people assessed for co-occurring MHD/SUDs; and,
 - b) The number of people assessed for those co-occurring disorders who were ultimately determined to have only an SUD without a MHD.
- 6) Requires DHCS, by January 1, 2022, and each January 1 thereafter, to publish on its website a report summarizing county activities pursuant to the provisions of this bill. Requires data to be reported statewide and by county or groupings of counties, as specified.
- 7) Permits DHCS to implement, interpret, or make specific the provisions of this bill through letters, notices, bulletins, or other similar instructions, as specified. Requires DHCS to adopt regulations by July 1, 2025, to implement the provisions of this bill.

Comments

- 1) *Author's statement.* According to the author, some people living with serious mental illness simultaneously experience SUDs, complicating diagnosis and treatment. A third of adults who receive county mental health services for serious mental illnesses have a co-occurring SUD. The stakes for these individuals are especially high. People with SUDs are almost six times more likely to attempt suicide than those without. COVID-19 has only exacerbated the need for mental health services. This bill will provide much needed clarity to existing statute so that those who are experiencing co-occurring mental illness and SUDs get the care they need.
- 2) *MHSA.* The MHSA requires each county mental health program to prepare and submit a three-year plan to DHCS that must be updated each year and approved by DHCS after review and comment by the MHSAOAC. DHCS is required to provide guidelines to counties related to each component of the MHSA. In the three-year plans, counties are required to include a list of all programs for

which MHSA funding is being requested and that identifies how the funds will be spent and which populations will be served. The MHSA makes explicit reference to those with co-occurring conditions and permits use of funds to treat those with a co-occurring SUD, as long as an individual has a primary mental health condition. Counties also must submit their plans for approval to the MHSA before they can spend innovation program funds. The MHSA provides funding for programs within five components:

- a) *Community Services and Supports (CSS)*: Provides direct mental health services to the severely and seriously mentally ill, such as mental health treatment, cost of health care treatment, and housing supports. Regulations require counties to direct the majority of its CSS funds to Full-Service Partnerships (FSPs). FSPs are county coordinated plans, in collaboration with the client and the family, to provide the full spectrum of community services. These services consist of mental health services and supports, such as peer support and crisis intervention services; and non-mental health services and supports, such as food, clothing, housing, and the cost of medical treatment;
- b) *Prevention and Early Intervention*: Provides services to mental health clients in order to help prevent mental illness from becoming severe and disabling;
- c) *Innovation*: Provides services and approaches that are creative in an effort to address mental health clients' persistent issues, such as improving services for underserved or unserved populations within the community;
- d) *Capital Facilities and Technological Needs*: Creates additional county infrastructure such as additional clinics and facilities and/or development of a technological infrastructure for the mental health system, such as electronic health records for mental health services; and,
- e) *Workforce Education and Training*: Provides training for existing county mental health employees, outreach and recruitment to increase employment in the mental health system, and financial incentives to recruit or retain employees within the public mental health system.

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

SUPPORT: (Verified 8/17/20)

California Alliance of Child and Family Services
California Pan-Ethnic Health Network
City of Santa Monica

County Behavioral Health Directors Association of California
County of Orange
Disability Rights California
Drug Policy Alliance
Humanidad Therapy and Education Services
Jewish Public Affairs Committee of California
Mental Health Services Oversight and Accountability Commission
NAMI California
National Association of Social Workers, California Chapter
Racial and Ethnic Mental Health Disparities Coalition
SEIU California

OPPOSITION: (Verified 8/17/20)

None received

ARGUMENTS IN SUPPORT: Supporters of this bill state that individuals living with serious mental illness often simultaneously experience SUDs, which complicate diagnosis and treatment. One-third of adults who receive county mental health services for serious mental illnesses have a co-occurring SUD. Removing programmatic barriers to serving these individuals with MHSA funded services is particularly important in California's effort to end homelessness and combat the crisis of suicide, particularly among young people. Supporters argue that individuals living with SUDs are almost six times more likely to attempt suicide than those without these conditions, and believe this bill preserves the MHSA's focus on meeting the state's large unmet mental health needs with a more comprehensive approach. Supporters state that while existing law permits county behavioral health programs to serve individuals with co-occurring SUDs and MHDs using MHSA funds, those funds cannot be used for individuals with only a primary SUD diagnosis. Supporters state some confusion may exist, which this bill helps to clarify.

ASSEMBLY FLOOR: 76-0, 6/8/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Diep, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Limón, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Nazarian, Obernolte, O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas,

Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone,
Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Reyes Diaz / HEALTH / (916) 651-4111
8/19/20 10:55:05

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

CONSENT

Bill No: AB 2275
Author: Nazarian (D), et al.
Amended: 7/14/20 in Senate
Vote: 27 - Urgency

SENATE GOVERNANCE & FIN. COMMITTEE: 7-0, 7/29/20
AYES: McGuire, Moorlach, Beall, Hertzberg, Hurtado, Nielsen, Wiener

ASSEMBLY FLOOR: 75-0, 5/26/20 (Consent) - See last page for vote

SUBJECT: State armories: homeless shelters: security

SOURCE: Los Angeles Homeless Service Authority

DIGEST: This bill requires cities and counties to notify and request law enforcement visits to armories used as shelters rather than ensure those visits occur.

ANALYSIS:

Existing law:

- 1) Requires that armories in specified counties be made available for use as homeless shelters by the counties and cities in those counties between October 15 and April 15, each year.
- 2) Grants the Adjutant General the sole discretion to use alternate armories to meet the operational needs of the Military Department, and permits any city or county to use any armory within its jurisdiction as a shelter for the homeless, subject to the Adjutant General's approval.
- 3) Grants the Adjutant General the sole discretion to make any armory deemed vacant by the Military Department available through the year to the county or city in which that armory is located for the purposes of providing temporary shelter.

- 4) Allows, subject to the Budget Act, the Adjutant General to increase or decrease the number of days of operation of all the armories funded in any year to best meet cold weather demands as they develop, and requires the Adjutant General to report to the counties authorized to receive funds on the ongoing availability of remaining funded shelter days.
- 5) Requires a city or county to agree to specified conditions in order to obtain a license from the Military Department to use an armory as a homeless shelter.

This bill:

- 1) Strikes the requirement that, prior to obtaining a license to use an armory as a shelter for the homeless, cities and counties must ensure that law enforcement visit the armory each night it is used a shelter.
- 2) Requires that, prior to obtaining a license to use an armory as a shelter for the homeless, cities and counties must notify local law enforcement and request that officers visit the armory each night it is used as a shelter.

Background

The California Military Department (CMD) operates approximately 99 active armory sites in California. Armories (or “readiness centers”) are the primary sites for unit training, staging areas, and for equipment storage. Since the 1990s, the Legislature enacted several measures to allow cities and counties to utilize armories for purposes of providing temporary shelters for individuals experiencing homelessness during specific months during cold weather. Per CMD, five armories were licensed for use which sheltered 64,604 individuals experiencing homelessness in the 2019 – 2020 winter season.

Comments

- 1) *Purpose of the bill.* According to the author, “This bill is needed to remove a state statutory barrier to sheltering California’s most vulnerable residents. In previous years, uncertainty around this piece of statute has delayed the opening of needed shelter beds, including during times of inclement weather, which puts unsheltered individuals at serious risk of hypothermia. If AB 2275 were to pass, it would help enable local jurisdictions to better leverage state-owned property to address homelessness.”
- 2) *Indirect and direct costs.* Supporters of AB 2275 argue that existing law enforcement requirement has delayed the opening of armory sites which can contribute to the indirect and direct costs associated with homelessness. Not

providing shelters to individuals experiencing homelessness creates significant economic and health problems. Unsheltered individuals experiencing homelessness face harsher living conditions, putting them at higher risk of using alcohol and other substances to cope, which may result in disrupting relationships, loss or prevented employment, or inability to locate housing. Additionally, increases in unsheltered homelessness have significant indirect costs, especially in the winter when increased risk of hypothermia and other health issues lead to more emergency response visits and more calls to law enforcement. However, by having law enforcement visit when requested, it may help reduce the cost incurred from calls to law enforcement. The CMD also experiences a direct cost as the reduction in days of shelter operation lead to decreased leasing revenue paid out by local jurisdictions to the state. AB 2275 could reduce these potential costs by updating the law enforcement requirement and make it easier for cities and counties to utilize armories as shelters for individuals experiencing homelessness.

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

SUPPORT: (Verified 7/31/20)

Los Angeles Homeless Service Authority (source)
County of Los Angeles Board of Supervisors
Downtown Women's Center
Hathaway-Sycamores Child and Family Services
Mental Health of America Los Angeles

OPPOSITION: (Verified 7/31/20)

None received

ASSEMBLY FLOOR: 75-0, 5/26/20

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

NO VOTE RECORDED: Diep, Maienschein, Quirk, Wicks

Prepared by: Gustavo Medrano / GOV. & F. / (916) 651-4119
7/31/20 17:56:00

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

CONSENT

Bill No: AB 2300
Author: Cooper (D)
Amended: 5/18/20 in Assembly
Vote: 21

SENATE HEALTH COMMITTEE: 8-0, 8/1/20
AYES: Pan, Lena Gonzalez, Grove, Hurtado, Leyva, Mitchell, Monning, Rubio
NO VOTE RECORDED: Melendez

ASSEMBLY FLOOR: 77-0, 6/8/20 - See last page for vote

SUBJECT: California Youth Football Act

SOURCE: Author

DIGEST: This bill revises the California Youth Football Act to delete the ability of an emergency medical technician or paramedic to “evaluate” youth tackle football participants, and instead specifies that an emergency medical technician or paramedic has the authority to provide prehospital emergency medical care or rescue services consistent with their certification or license.

ANALYSIS:

Existing law:

- 1) Defines "Emergency Medical Technician" or "EMT" as an individual trained in all facets of basic life support, as specified. Defines "Emergency Medical Technician-Paramedic" as an individual whose scope of practice includes the ability to provide advanced life support, as specified, including administering specified medications. [HSC §1787.80, §1797.84]
- 2) Enacts the California Youth Football Act (CYF Act), which among other provisions, establishes limits on the number and length of time of full-contact practices. All provisions of the CYF Act take effect on and after January 1, 2021. [HSC §124241, et seq.]

- 3) Requires, as part of the CYF Act, each youth tackle football administrator, coach, and referee to annually complete concussion and head injury education, as specified, and training in the basic understanding of the signs, symptoms, and appropriate responses to heat-related illness. [HSC §124241(e)]
- 4) Requires, as part of the CYF Act, at least one independent nonrostered individual, appointed by the youth sports organization, to be present at all practice locations. Requires this individual to hold current and active certification in first aid, cardiopulmonary resuscitation, automated external defibrillator, and concussion protocols. Requires this individual to have the authority to evaluate and remove any youth tackle football participant from practice who exhibits an injury, including, but not limited to, symptoms of a concussion or other head injury. [HSC §124241(j)]
- 5) Requires, as part of the CYF Act, a minimum of one state-licensed EMT, paramedic, or higher-level licensed medical professional to be present during all preseason, regular season, and postseason games. Requires the EMT, paramedic, or higher-level licensed medical professional to have the authority to evaluate and remove any participant from the game who exhibits an injury, including, but not necessarily limited to, symptoms of a concussion or other head injury. [HSC §124241(h)]

This bill revises the California Youth Football Act to delete the ability of an emergency medical technician or paramedic to “evaluate” youth tackle football participants, and instead specifies that an emergency medical technician or paramedic has the authority to provide prehospital emergency medical care or rescue services consistent with their certification or license.

Comments

- 1) *Author’s statement.* According to the author, legislation enacted last year established safety standards for youth tackle football consistent with safety standards at the high school football level. This bill is a clean-up measure to resolve the issue of EMTs practicing outside the scope of practice by clarifying their authority to provide prehospital emergency medical care or rescue services consistent with their certification or license. This bill maintains the authorization for EMTs, along with higher-level licensed medical professionals, to remove any player who exhibits an injury, including symptoms of a concussion or other head injuries.

- 2) *Policy statement on youth tackling by the American Academy of Pediatrics (AAP).* In November of 2015, the AAP published a policy statement, entitled Tackling in Youth Football. According to the AAP, there are approximately 250,000 youth football players five to 15 years of age in Pop Warner leagues alone, and that the injuries sustained during football, especially to the head and neck, have been a topic of intense interest. More recently, AAP states that the cumulative effects of concussions and the potential for a cumulative effect of subconcussive blows to the head, have been hypothesized as a causative risk factor for chronic traumatic encephalopathy (CTE). The recognition of these injuries and the potential for long term consequences have led some physicians to call for a reduction in the number of contact practices, a postponement of tackling until a certain age, and even a ban on high school football. According to AAP, the most commonly injured body parts in football at all ages are the knee, ankle, hand, and back. The head and neck sustain a relatively small proportion of overall injuries, ranging from 5% to 13%. AAP states that available data suggest that both the overall incidence and the severity of injuries sustained by younger football players are lower than those sustained by older players, though this finding is not universally consistent. Tackling is the most common player activity at the time of injury, and at the time of severe injury. AAP points at that delaying the age at which tackling is introduced to the game would likely decrease the risk of injuries for the age levels at which tackling would be prohibited. Once tackling is introduced, however, AAP states that athletes who have no previous experience with tackling would be exposed to collisions for the first time at an age at which speeds are faster, collision forces are greater, and injury risk is higher. AAP states that removing tackling from football altogether would likely lead to a decrease in the incidence of overall injuries, but it recognizes that the removal of tackling from football would lead to a fundamental change in the way the game is played. According to AAP, participants in football must decide whether the potential health risks of sustaining these injuries are outweighed by the recreational benefits associated with proper tackling.
- 3) *Concussions and brain injuries in youth sports.* One study published in December 2015 in the Rhode Island Medical Journal, provided by the author, indicates that about 1.6-3.8 million sports-related concussions occur every year. Symptoms may appear mild but the injury can lead to life-long problems with physical function, concentration, memory, behavior, and emotional issues. Most concussions resolve within seven to ten days but the recovery process can be longer and more complicated in children and adolescents. Athletes with concussions are vulnerable to the second-impact syndrome where ongoing

symptoms lead to another injury. Young athletes experience a complex recovery process after concussions. Recurrent concussions are especially destructive to the brain and are more likely during the first ten days after a concussion. It is recommended waiting at least seven days until returning to play. The article indicates that education does reduce injuries. Among three groupings of coaches with none to varying levels of education about concussions, concussions in youth football players were lower in the group with the highest level injury prevention education compared to the non-educated cohort.

Related/Prior Legislation

AB 1 (Cooper, Chapter 158, Statutes of 2019) enacted the CYF Act, which established certain requirements on youth football, including limiting full-contact practices to 30 minutes per day, and no more than two days per week, and requires an EMT or higher-level medical professional to be present during all games, and one independent non-rostered individual to be present at all practice locations with the authority to evaluate and remove any youth tackle football participant from practice who exhibits an injury.

AB 2108 (McCarty of 2018) would have prohibited anyone under the age of 12 from playing tackle football with a youth sports organization. *AB 2108 was not heard in the Assembly Arts, Entertainment, Sports, Tourism, and Internet Media Committee.*

AB 2007 (McCarty, Chapter 516, Statutes of 2016) established requirements for youth sports organizations to remove an athlete who is suspected of sustaining a concussion or other head injury until he or she is evaluated and cleared by a licensed health care provider.

AB 2127 (Cooley, Chapter 165, Statutes of 2014) limited full-contact football practices and requires a student-athlete who has suffered a concussion or head injury to complete a graduated return-to-play protocol of at least seven days, as specified.

AB 1451 (Hayashi, Chapter 173, Statutes of 2012) included a basic understanding of the signs and symptoms of concussions and the appropriate response to concussions within the High School Coaching Education and Training Program, administered by school districts.

AB 25 (Hayashi, Chapter 465, Statutes of 2011) required a school district that elects to offer athletic programs to immediately remove an athlete who is suspected of sustaining a concussion or head injury during that activity; prohibited the return of the athlete to that activity until he or she is evaluated by, and receives written clearance from, a licensed health care provider; and required, on a yearly basis, a concussion and head injury information sheet to be signed and returned by the athlete and the athlete's parent or guardian before the athlete's initiating practice or competition.

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

SUPPORT: (Verified 8/3/20)

California Professional Firefighters

OPPOSITION: (Verified 8/3/20)

None received

ARGUMENTS IN SUPPORT: This bill is supported by the California Professional Firefighters (CPF), which states that it clarifies that an EMT or paramedic can only perform services consistent with their certification or license and not be tasked with "evaluating" a player for fitness to return to play. Asking EMTs and paramedics to operate outside of their scope of practice for such injuries puts them and the athletes at risk, and this bill provides an important clarification that protects both the athletes and the professionals treating them.

ASSEMBLY FLOOR: 77-0, 6/8/20

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

NO VOTE RECORDED: Muratsuchi, Quirk

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
8/5/20 12:01:41

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

CONSENT

Bill No: AB 2311
Author: Low (D)
Amended: 7/8/20 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 8/5/20
AYES: Hill, Morrell, Jackson, Mitchell, Pan

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Public contracts: skilled and trained workforce requirement: notice

SOURCE: National Electrical Contractors Association
State Building and Construction Trades Council, AFL-CIO

DIGEST: This bill requires a public entity, when the use of a skilled and trained workforce to complete a contract or project is required pursuant to existing law, to include in all bid documents and construction contracts a notice that the project is subject to the skilled and trained workforce requirement. This bill additionally provides, if a public entity fails to provide the notice, that the public entity shall not be excused from the requirement to obtain the enforceable commitment and that a bidder, contractor, or other entity is not excused from the obligation to use a skilled or trained workforce, as specified.

ANALYSIS:

Existing law:

- 1) Authorizes a public entity to require a bidder, contractor, or other entity to use a skilled and trained workforce to complete a contract or project regardless of whether the public entity is required to do so by a statute or regulation. Specific requirements apply when a public entity is required by statute or regulation to

obtain an enforceable commitment that a bidder, contractor, or other entity will use a skilled and trained workforce to complete a contract. (Public Contract Code §2600)

- 2) Defines “skilled and trained workforce” to mean, among other requirements, a workforce where all the workers performing work in an apprenticeable occupation, as defined, in the building and construction trades are either skilled journeypersons or apprentices registered in an apprenticeship program approved by the chief of the Division of Apprenticeship Standards. (Public Contract Code §2601)
- 3) Defines “public entity” as the state, county, city, city and county, district, public authority, public agency, municipal corporation, or any other political subdivision or public corporation in the state. (Public Contract Code §1100)
- 4) Requires that by January 1, 2020, at least 60 percent of the skilled journeypersons employed to perform work on a contract or project by every contractor and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation. This requirement shall not apply to work performed in specified exempted occupations. (Public Contract Code §2601)
- 5) Requires a contractor, bidder, or other entity to provide to the public entity or other awarding body, on a monthly basis while the project or contract is being performed, a report demonstrating compliance with skilled and trained workforce requirements. (Public Contract Code §2602)
- 6) Requires a contractor or subcontractor to pay a civil penalty of not more than \$5,000 per month of work performed in violation of the skilled and trained workforce requirements, as determined by the Labor Commissioner. A contractor or subcontractor that commits a second or subsequent violation within a three-year period shall forfeit as a civil penalty to the state the sum of not more than ten thousand dollars (\$10,000) per month of work performed in violation of these requirements. (Public Contract Code §2603)

This bill:

- 1) Requires a public entity, when the use of a skilled and trained workforce to complete a contract or project is required, to include in all bid documents and

construction contracts a notice that the project is subject to the skilled and trained workforce requirement.

- 2) Specifies that the failure of a public entity to provide a notice pursuant to the above provision shall not excuse either of the following:
 - a) A public entity from the requirement to obtain an enforceable commitment that a bidder, contractor, or other entity will use a skilled and trained workforce to complete a contract or project.
 - b) A bidder, contractor, or other entity from the obligation to use a skilled and trained workforce if such a requirement is imposed by a statute or regulation.

Background

Need for this bill? According to the author, “some public agencies have failed to inform contractors, who in turn cannot inform subcontractors, that projects are subject to the skilled and trained workforce requirements found in Public Contract Code §2600 until after work has already commenced. This has resulted in significant confusion and difficulty in complying with the requirement. This has also created industry disruption as contractors are forced to hastily move crews from other jobs to comply with the thresholds and prepare reports that they were otherwise unaware that they had to provide. The negative results have been delays in project delivery and interruptions in contractor payment which places serious financial stress on contractors.” AB 2311 will ensure that all parties to a construction contract, including subcontractors, are aware of the skilled and trained workforce requirement prior to bidding on a project.

Related/Prior Legislation

AB 3018 (Low, Chapter 882, Statutes of 2018) addressed compliance with skilled and trained workforce rules by strengthening public agency reporting requirements, creating penalties for noncompliance, and providing the Labor Commissioner with the authority to issue a civil wage and penalty assessment against a contractor or subcontractor found in violation of state law.

SB 418 (Hernandez, Chapter 393, Statutes of 2017) revised the definition of “skilled and trained workforce” to specify that on or after January 1, 2018, the 40, 50 and 60 percentage graduation rate of skilled journeypersons required for work in specified contracts shall not apply to work performed in specified occupations.

SB 693 (Hueso, Chapter 774, Statutes of 2016), among other provisions, consolidated the skilled and trained workforce requirements of various provisions of existing law, related to alternative construction delivery methods, and defined the terms of these requirements.

AB 566 (O'Donnell, Chapter 214, Statutes of 2015) required school districts entering into specified school building lease contracts to use a skilled and trained workforce.

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

SUPPORT: (Verified 8/13/20)

National Electrical Contractors Association (co-source)
State Building and Construction Trades Council, AFL-CIO (co-source)
California Labor Federation, AFL-CIO
California Legislative Conference of the Plumbing, Heating and Piping Industry
California State Association of Electrical Workers
California State Pipe Trades Council
International Union of Elevator Constructors
Northern California Allied Trades
Southern California Glass Management Association
United Contractors
Wall and Ceiling Alliance
Western States Council of Sheet Metal Workers
Western Wall & Ceiling Contractors Association

OPPOSITION: (Verified 8/13/20)

None received

ARGUMENTS IN SUPPORT: According to proponents, the skilled and trained workforce requirement is a way to make sure workers doing dangerous construction work are highly skilled and trained which ensures both project quality and public safety. They note that the proposed change to Public Contract Code §2600 in AB 2311 will ensure all parties to a construction contract, including subcontractors, are aware of the skilled and trained workforce requirement prior to bidding on a project. Proper and clear notice that a project is subject to the skilled and trained workforce requirement will increase compliance with the policy and will alleviate current issues created when contractors are notified after they have already commenced work that the project is subject to the requirement. According to proponents, proper notice will help contractors and subcontractors prepare and

comply with the requirement and will benefit the public works construction industry overall.

ASSEMBLY FLOOR: 76-0, 6/8/20

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

NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
8/14/20 12:34:02

**** END ****

CONSENT

Bill No: AB 2314
Author: Ramos (D), et al.
Amended: 7/27/20 in Senate
Vote: 21

SENATE ELECTIONS & C.A. COMMITTEE: 5-0, 8/4/20
AYES: Umberg, Nielsen, Hertzberg, Leyva, Stern

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 75-0, 6/10/20 - See last page for vote

SUBJECT: Native American Voting Accessibility Advisory Committee

SOURCE: Secretary of State Alex Padilla

DIGEST: This bill requires the Secretary of State (SOS) to establish a Native American Voting Accessibility Advisory Committee (Committee) and to consult with the Committee to consider the Committee's recommendations related to improving the accessibility of elections for Native American voters, as specified.

ANALYSIS:

Existing law:

- 1) Requires, pursuant to federal law, a state or a political subdivision of a state to provide voting materials in the language of a minority group when that group within the jurisdiction has an illiteracy rate that is higher than the national illiteracy rate, and the number of the US citizens of voting age in that single language group within the jurisdiction meets at least one of the following:
 - a) Numbers more than 10,000;
 - b) Makes up more than five percent of all voting age citizens; or,

- c) On an Indian reservation, exceeds five percent of all reservation residents.
- 2) Defines language minorities or language minority groups, for the purposes of the above provisions, to mean persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage.
- 3) Declares the intent of the Legislature that non-English-speaking citizens, like other citizens, should be encouraged to vote and that appropriate efforts should be made to minimize obstacles to voting by citizens who lack sufficient skill in English to vote without assistance.
- 4) Requires the SOS, by January 1 of each year in which the Governor is elected, to determine the precincts where three percent or more of the voting age residents are members of a single language minority and lack sufficient skills in English to vote without assistance. For each specified precinct in their county, elections officials are required to do the following:
 - a) Translate a facsimile ballot and related instructions into the specified language(s); and,
 - b) Post the translation(s) in a conspicuous location in the appropriate polling place.
- 5) Requires elections officials to make reasonable efforts to recruit election officials who are fluent in a language if three percent or more of the voting age residents in any precinct are fluent in that language and lack sufficient skill in English to vote without assistance.
- 6) Requires the SOS to establish the Language Accessibility Advisory Committee (LAAC) and requires the SOS to consult with and consider the recommendations of the committee, as specified.
- 7) Requires the SOS to establish the Voting Accessibility Advisory Committee (VAAC) to make recommendations for improving access to voting and election materials and make recommendations related to improving the accessibility of elections for voters with disabilities, as specified.

This bill:

- 1) Requires the SOS to establish a Native American Voting Accessibility Advisory Committee. Requires the SOS to consult with the Committee to consider its recommendations related to improving the accessibility of elections

for Native American voters. Permits the SOS to implement the Committee's recommendations as appropriate.

- 2) Requires the Committee to consist of the SOS, the SOS's designees, and additional members appointed by the SOS. Requires the appointees to have demonstrated experience with voting rights or be a county elections official.
- 3) Requires the Committee to serve in an advisory capacity to the SOS and to do all of the following:
 - a) Establish guidelines for reaching as many Native American voters as practical.
 - b) Make recommendations for improving the availability and accessibility of election materials, including, but not limited to, state voter information guides, county voter information guides, and vote by mail ballots, and their delivery in print or alternative formats to Native American voters.
 - c) Make recommendations for the distribution of public service announcements identifying the availability of election materials for Native American voters at least 45 days before any federal, state, and local election.
 - d) Promote to Native American voters the SOS's toll-free voter registration telephone line for citizens needing voter registration information.
 - e) Make recommendations for providing Native American voters with information regarding voter registration and voting processes, and voting rights.
 - f) Make recommendations to improve the recruitment of Native American poll workers.
 - g) Establish subcommittees to further the scope and purposes of the committee as they relate to improving voter services and access for Native American voters.
 - h) Make recommendations for providing information and services to Native American voters regarding language assistance.
 - i) Promote the use of plain language and alternative formats for election materials distributed to Native American voters.
 - j) Make recommendations for materials to train poll workers on issues related to serving Native American voters.

- 4) Provides that members of the Committee shall not receive compensation for their service on the Committee, but requires each member to be reimbursed for the member's reasonable and necessary expenses in connection with service on the Committee.

Background

Voting Rights Act of 1965. The 15th Amendment to the US Constitution provides, in part, "[t]he right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude." Additionally, the 15th Amendment authorizes Congress to enact legislation to enforce its provisions.

Congress determined that the existing federal anti-discrimination laws were not sufficient to overcome the resistance by state officials to enforce the 15th Amendment. As a result, Congress passed and President Johnson signed the Voting Rights Act of 1965 (VRA). The VRA provides, among other provisions, that "[n]o voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge that right of any citizen of the United States to vote on account of race or color."

Census. Article I, Section 2 of the US Constitution mandates that the US Census Bureau conduct a survey of everyone living in the country every ten years. The data collected by the decennial census are used to determine the number of seats each state has in the US House of Representatives, to guide redistricting, and to distribute billions of dollars in federal funding for healthcare, education, and infrastructure. Moreover, the census provides a social, demographic, and economic profile of the country's residents, informing decisions by policymakers and businesses across the country.

According to the National Congress of American Indians, native people especially on reservations and in Alaska Native villages historically have been underrepresented in the census. In the 2010 Census, the Census Bureau estimated that American Indians and Alaska Natives living on reservations or in Native villages were under documented by approximately 4.9 percent, more than double the undercount rate of the next closest population group. California has one of the largest Native American populations in the country. According to the 2010 US Census, in California there are approximately 720,000 individuals that identify themselves as Native American.

Brennan Center for Justice. According to a 2019 Brennan Center for Justice analysis, Native American communities still face many roadblocks and challenges to the electoral process. The analysis discusses how many Native Americans, especially those that live on reservations, do not have traditional street addresses, which can result in rejected voter registrations, and states with strict voter identification laws often do not accept tribal identifications as valid forms of identification. Moreover, the article points out that Native American communities lack proper allocation of election resources, including a lack of polling sites, infrastructure for early voting, and election day resources. For example, limited polling sites and drop boxes tend to be unreasonably far away and require significant travel time to cast a ballot. Finally, the article discusses the 2013 US Supreme Court ruling in *Shelby County v. Holder*, which held that the coverage formula in Section 4(b) of the VRA is unconstitutional and jurisdictions no longer need to seek preclearance from the US Attorney General or US District Court before implementing new voting changes. The article contends that the removal of this federal protection led to many previously covered jurisdictions enacting new voting restrictions.

Other Advisory Committees. AB 1443 (Chau, Chapter 347, Statutes of 2015) established the LAAC to advise the SOS on issues related to language accessibility of elections and election materials. The mission of the LAAC is to advise and assist the SOS with implementation of federal and state laws relating to access of the electoral process by limited English proficiency voters, so that all voters can understand the voting process. Current law requires the LAAC to be comprised of appointees that demonstrate language accessibility experience, have knowledge of presenting election materials to voters using plain language methods or another method that is easy for voters to access and understand, or be a county elections official or their designee. Additionally, the LAAC provides recommendations identifying and prioritizing activities, programs, and policies to ensure every voter has equal access to the ballot.

The responsibilities of the committee include: (1) providing expertise on language accessibility issues; (2) promoting language accessibility initiatives; and (3) responding to the SOS's questions regarding language. Additionally, local elections officials are encouraged to develop local language advisory groups or local LAACs.

AB 683 (Low, Chapter 334, Statutes of 2015) required the SOS to establish the VAAC to make recommendations regarding access to voting and election materials to improve the accessibility of elections for voters with disabilities. Appointees to

the VAAC must have demonstrated experience with accessibility requirements for voters with disabilities or be a county elections official.

The responsibilities of the VAAC include: (1) establishing guidelines for reaching voters with disabilities; (2) making recommendations for improving the availability and accessibility of election materials; (3) increasing distribution of public service announcements; (4) making recommendations about web accessibility; (5) promoting voter hotlines; (6) promoting state and local library services for voters with disabilities; (7) making recommendations for improving access and participation; (8) promoting the use of plain language and alternative formats for election materials; and (9) making recommendations for poll worker training. Similar to the LAAC, local elections officials are encouraged to develop local voting accessibility advisory groups or local VAACs.

Comments

- 1) According to the author, like other disenfranchised ethnic groups in the United States, the history of Native American voter rights and accessibility to those rights is shameful. According to the Native American Voting Rights Coalition, when the Fourteenth Amendment was passed in 1866, making all persons born in the United States citizens, Indians on reservations were specifically excluded. Michigan Senator Jacob Howard expressed a prevalent attitude: “I am not yet prepared to pass a sweeping act of naturalization by which all the Indian savages, wild or tame, belonging to a tribal relation, are to become my fellow-citizens and go to the polls and vote with me.” (Congressional Globe. May 30, 1866)
- 2) Rights of citizenship for Native Americans could not be exercised without renouncing their tribal membership until 1924 with passage of the Snyder Act. Yet even then, voter suppression tactics such as those practiced against other groups were employed. Poll taxes, literacy tests, intimidation, along with more pragmatic issues such as high poverty rates, non-traditional mailing addresses, voter identification, language, and threshold requirements for polling locations posed and continue to pose obstacles to Native American participation in the electoral process. As a result, voter turnout among Natives is 5 to 14 percentage points lower than that of other racial groups.
- 3) AB 2314 proposes that the SOS form an advisory committee tasked with establishing guidelines and recommendations for increasing Native American voter turnout by removing as many barriers to electoral participation as possible. The committee shall consist of the SOS, his or her designees and

additional members appointed by the SOS. All members shall have demonstrated experience with voting rights or be a county elections official.

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

SUPPORT: (Verified 8/13/20)

Secretary of State Alex Padilla (source)
Advancement Project California
American Civil Liberties Union of California
California Native Vote Project
California Teachers Association
Habematolel Pomo of Upper Lake
Yocha Dehe Wintun Nation
Yurok Tribe

OPPOSITION: (Verified 8/13/20)

None received

ARGUMENTS IN SUPPORT: In a letter supporting AB 2314, the American Civil Liberties Union of California stated the following, in part:

Enfranchisement of Native Americans has had a fraught history in this country. While Native Americans were not legally considered United States citizens until 1924, their right to vote in state and federal elections was not recognized until 1948 with the landmark cases *Harrison v. Laveen* and *Trujillo v. Garley*. Yet it took until 1962 for this right to be realized in every state, when Utah became the last state to remove formal barriers. The preclearance requirement of the federal Voting Rights Act provided protections to many Native American communities, but these were eliminated in 2013 through the *Shelby County v. Holder* decision.

California is home to the largest Native American/Alaska Native population in the country, with around 800,000 residents. As voters, this community faces a variety of obstacles that can create electoral barriers, including non-traditional mailing addresses and remote location of some tribes make voting-by-mail difficult and complicated; long-standing mistrust among many Indigenous people of non-tribal governmental bodies; and historically low voter registration and participation rates compared to other communities. AB 2314's establishment of dedicated committee focused on addressing and remedying these barriers will benefit the electoral process by increasing engagement and participation from California's Native American community.

ASSEMBLY FLOOR: 75-0, 6/10/20

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

NO VOTE RECORDED: Choi, Frazier, Patterson, Quirk

Prepared by: Darren Chesin / E. & C.A. / (916) 651-4106
8/14/20 12:34:03

**** END ****

CONSENT

Bill No: AB 2321
Author: Jones-Sawyer (D)
Amended: 5/21/20 in Assembly
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 7-0, 7/31/20
AYES: Skinner, Moorlach, Bradford, Jackson, Mitchell, Morrell, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Juvenile court records: access

SOURCE: Los Angeles County District Attorney's Office

DIGEST: This bill authorizes a judge or prosecutor to access specified sealed juvenile records for the limited purpose of certifying victim helpfulness on specified forms required in order to apply for a U- or T-Visa.

ANALYSIS:

Existing federal law:

- 1) Establishes the U-Visa. Provides that a person who has been the victim of a crime is eligible to receive a U-Visa if the Secretary of Homeland Security determines the following:
 - a) The petitioner has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity, as described;
 - b) The petitioner, or if the petitioner is under 16 years of age, the petitioner's parent, possesses information concerning the criminal activity;

- c) The petitioner, or if the petitioner is under 16 years of age, the petitioner's parent, has been helpful, is being helpful, or is likely to be helpful to a federal, state, or local law enforcement official, to a federal, state, or local prosecutor, to a federal or state judge, or to other federal, state, or local authorities investigating or prosecuting criminal activity, as described;
 - d) The criminal activity violated the laws of the U.S. or occurred in the U.S. (including in Indian country and military installations) or the territories and possessions of the U.S.; and,
 - e) The criminal activity is that involving one or more of the following or any similar activity in violation of federal, state, or local criminal law: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; stalking; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; fraud in foreign labor contracting; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes. (8 U.S.C. § 1011(a)(15)(U).)
- 2) Establishes the T-Visa. Provides that a person is eligible to receive a T-Visa if the Secretary of Homeland Security determines the following:
- a) The person is or was a victim of a severe form of trafficking in persons, as defined by federal law;
 - b) The person is physically present in the U.S., American Samoa, the Commonwealth of the Northern Mariana Islands or at a U.S. port of entry due to trafficking;
 - c) The person has complied with any reasonable request from a law enforcement agency for assistance in the investigation or prosecution of human trafficking; and,
 - d) The person would suffer extreme hardship involving unusual and severe harm if removed from the U.S. (8 U.S.C. § 1101 (a)(15)(T).)

Existing state law:

- 1) Requires a certifying entity, upon the request of a victim of crime, victim's family member, or licensed attorney representing the victim, to certify victim helpfulness on the applicable form when the victim was a victim of a qualifying criminal activity and has been helpful, is being helpful, or is likely to be helpful

to the detection or investigation or prosecution of that qualifying criminal activity. (Pen. Code, § 679.10, subd. (g).)

- 2) Defines “certifying entity” as a state or local law enforcement agency, a prosecutor, a judge, any other authority that has responsibility for the detection or investigation or prosecution of a qualifying crime or criminal activity. (Pen. Code, § 679.10, subd. (a).)
- 3) Defines “qualifying criminal activity” as qualifying criminal activity pursuant to federal law, as specified, which includes, but is not limited to, the following crimes: rape, torture, human trafficking, incest, domestic violence, sexual assault, abusive sexual conduct, prostitution, sexual exploitation, female genital mutilation, being held hostage, peonage, perjury, involuntary servitude, slavery, kidnapping, abduction, unlawful criminal restraint, false imprisonment, blackmail, extortion, manslaughter, murder, felonious assault, witness tampering, obstruction of justice, fraud in foreign labor contracting, and stalking. Provides that “qualifying crime” includes criminal offenses for which the nature and elements of the offense are substantially similar to the criminal activity described above, and the attempt, conspiracy, or solicitation to commit any of those offenses. (Pen. Code, § 679.10, subds. (c) & (d).)
- 4) Establishes a rebuttable presumption that a victim is helpful, has been helpful, or is likely to be helpful to the detection, investigation, or prosecution of that qualifying criminal activity, if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement. (Pen. Code, § 679.10, subd. (h).)
- 5) Requires the certifying official to complete and sign the specified form and, regarding victim helpfulness, include specific details about the nature of the crime investigated or prosecuted and a detailed description of the victim’s helpfulness or likely helpfulness to the detection or investigation or prosecution of the criminal activity. (Pen. Code, § 679.10, subd. (i).)
- 6) Requires certifying entities to complete the certification within 30 days of the request, unless the noncitizen is in removal proceedings, in which case the certification must be completed within 7 days of the request. (Pen. Code, § 679.10, subd. (j).)
- 7) Requires a certifying entity, upon the request of a human trafficking victim, the victim’s family member, or licensed attorney representing the victim, to certify

victim cooperation on the applicable form, when the victim was a victim of human trafficking and has been cooperative, or is likely to be cooperative to the investigation or prosecution of human trafficking so that they may apply for a T-Visa. (Pen. Code, § 679.11, subd. (f).)

- 8) Defines “certifying entity” as a state or local law enforcement agency, a prosecutor, a judge, the Department of Industrial Relations, or any other state or local government agencies that have criminal, civil, or administrative investigative or prosecutorial authority related to human trafficking. (Pen. Code, § 679.11, subd. (a).)
- 9) Defines “human trafficking” as “severe forms of trafficking in persons” pursuant to federal law, as specified, and includes either of the following: sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. (Pen. Code, § 679.11, subd. (c).)
- 10) Provides that human trafficking includes criminal offenses for which the nature and elements of the offense are substantially similar to the criminal activity described above, and the attempt, conspiracy, or solicitation to commit any of those offenses. (Pen. Code, § 679.11, subd. (d).)
- 11) Establishes a rebuttable presumption that a human trafficking victim is cooperative, has been cooperative, or is likely to be cooperative to the investigation or prosecution of human trafficking, if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement. (Pen. Code, § 679.11, subd. (g).)
- 12) Requires certifying entities to complete the certification within 30 days of the request, unless the noncitizen is in removal proceedings, in which case the certification must be completed within 7 days of the request. (Pen. Code, § 679.11, subd. (i).)
- 13) Provides that five years or more after the jurisdiction of the juvenile court has terminated over a person adjudged a ward of the court or after a minor appeared before a probation officer, or, in any case, at any time after the person has reached the age of 18, the person or county probation officer, with specified

exceptions, may petition the juvenile court for sealing of the records, including arrest records, relating to the person's case, in the custody of the juvenile court, the probation officer, or any other agency or public official. (Welf. & Inst. Code, § 781, subd. (a)(1)(A).)

- 14) Permits a person to petition the juvenile court to seal the person's record relating to specified serious or violent felonies that were committed after attaining 14 years of age only in specified circumstances. (Welf. & Inst. Code, § 781, subd. (a)(1)(D)(i).)
- 15) Specifies the circumstances under which a sealed juvenile record relating to a serious or violent felony that was committed after the person attained 14 years of age may be accessed, inspected, or utilized in a subsequent proceeding against the person. (Welf. & Inst. Code, § 781, subd. (a)(1)(D)(ii).)
- 16) Authorizes a prosecutor to access, inspect, or utilize a sealed juvenile record relating to a serious or violent felony that was committed after the person attained 14 years of age in order to meet a statutory or constitutional obligation to disclose favorable or exculpatory evidence to a defendant in a criminal case in which the prosecutor has reason to believe that access to the record is necessary to meet the disclosure obligation. (Welf. & Inst. Code, § 781, subd. (a)(1)(D)(iii).)
- 17) Provides that if a person who has been alleged or found to be a ward of the juvenile court satisfactorily completes an informal program of supervision, non-wardship probation, or a term of probation, then the court shall order the petition dismissed and shall order sealed all records pertaining to the dismissed petition in the custody of the juvenile court, and in the custody of law enforcement agencies, the probation department, or the Department of Justice. (Welf. & Inst. Code, § 786, subd. (a).)
- 18) Specifies the circumstances under which a juvenile record that was sealed by the court-initiated sealing process may be accessed, inspected, or utilized. (Welf. & Inst. Code, § 786, subd. (g).)
- 19) Authorizes a prosecutor to access, inspect, or utilize a sealed juvenile record in order to meet a statutory or constitutional obligation to disclose favorable or exculpatory evidence to a defendant in a criminal case in which the prosecutor has reason to believe that access to the record is necessary to meet the disclosure obligation. (Welf. & Inst. Code, § 786, subd. (g)(1)(K).)

This bill:

- 1) Authorizes a judge or prosecutor to access a sealed juvenile record for the limited purpose of processing the request of a victim or victim's family member to certify victim helpfulness on specified federal forms in order to apply for a U- or T-Visa, when that record was generated in connection with the investigation, prosecution, or adjudication of a qualifying offense.
- 2) Prohibits the dissemination of the information obtained to other agencies or individuals, except as necessary to certify victim helpfulness on the appropriate federal forms, and under no circumstances shall it be used to support the imposition of penalties, detention, or other sanctions upon an individual.

Background

U-Visa

In 2000, as part of the reauthorization of the Violence Against Women Act, Congress created the U-Visa. The U-Visa provides undocumented crime victims with a way to obtain lawful immigration status, encouraging their cooperation with law enforcement. In order to qualify for a U-Visa, the applicant must have suffered substantial physical or mental abuse as a result of having been a victim of certain qualifying criminal activity, must possess information concerning such criminal activity, must be helpful, have been helpful, or likely to be helpful in the investigation or prosecution of a crime, and the criminal activity must have occurred in the U.S. or violated the state or federal law of the U.S.

In order to apply for a U-Visa, the crime victim must obtain a certification of helpfulness—the Form I-918—from a law enforcement official, prosecutor, judge, or federal or state agency authorized to detect investigate or prosecute any of the criminal activities listed in the U-Visa statute.

T-Visa

In 2000, Congress enacted the Victims of Trafficking and Violence Prevention Act. The legislation created the T-Visa which offers victims of human trafficking various protections without the immediate threat of removal from the country. Similar to the U-Visa, the T-Visa was created out of recognition that victims

without legal status may otherwise be reluctant to aid the investigation or prosecution of the criminal activity of which they are a victim.

To be eligible for a T-Visa, the victim must meet four statutory requirements: the person is or was a victim of a severe form of trafficking in person, as defined by federal law; the person is in the U.S. or at a port of entry due to trafficking; the person has complied with any reasonable request from law enforcement for assistance in the investigation or prosecution of the crime; and the person would suffer extreme hardship if removed from the U.S.

Although certification of helpfulness or cooperation is not required for the T-Visa application, the U.S. Citizenship and Immigration Services gives significant weight to the declaration when considering the application.

Juvenile Record Sealing

Existing law provides two mechanisms for an individual to seal his or her juvenile records related to an offense for which a petition was sustained. (Welf. & Inst. Code §§ 781, 786.) If a minor has been found to have satisfactorily completed an informal program of supervision or probation, the juvenile court will dismiss the petition and order sealed all records. (Welf. & Inst. Code, § 786.) Welfare and Institutions Code section 707(b) offenses—serious and violent felonies—are excluded from sealing unless the finding has been dismissed or reduced to a lesser included offenses not on the 707(b) list.

Juvenile records that are ineligible for automatic record sealing via Welfare and Institutions Code section 786, may be sealed via Welfare and Institutions Code section 781. Under section 781, a person may petition the court to seal records related to a non-707(b) offense if the person is at least 18 years old, or it has been at least 5 years since the case was closed or there person's last contact with probation, and the court finds that the person has been rehabilitated. (Welf. & Inst. Code, § 781, subd. (a)(1)(A).) In the case of sealing records pertaining to a 707(b) offense, the petitioner must either be 21 years of age and have completed supervision by the Division of Juvenile Justice, or 18 years of age and have completed your probation supervision. (Welf. & Inst. Code, § 781, subd. (a)(1)(D).) Records related to a 707(b) offense that was committed after the petitioner attained 14 years of age and for which the person is required to register as a sex offender pursuant to Penal Code section 290.008 are prohibited from being sealed. (Welf. & Inst. Code, § 781, subd. (a)(1)(F).)

When the juvenile court hears a petition to seal the juvenile record for a serious or violent felony offense, it considers several factors in order to determine whether or not sealing is appropriate. Among them is whether the juvenile has subsequently been convicted of a felony or of any misdemeanor involving moral turpitude, and whether rehabilitation has been attained to the satisfaction of the court. Once a juvenile record is sealed, it may only be accessed, inspected, or utilized under specified circumstances enumerated in statute. The sponsor of this bill contends that the record sealing statutes need to be narrowly expanded to allow a judge or prosecutor to access and inspect a sealed juvenile record when a U- or T-Visa applicant was the victim of a crime perpetrated by the person with the sealed record for the limited purpose of certifying the victim's helpfulness.

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

SUPPORT: (Verified 8/12/20)

Los Angeles County District Attorney's Office (source)
 Alameda County District Attorney's Office
 California Attorneys for Criminal Justice
 California District Attorneys Association
 California Judges Association
 Juvenile Court Judges of California
 National Association of Social Workers, California Chapter
 San Diego District Attorney's Association

OPPOSITION: (Verified 8/12/20)

None received

ASSEMBLY FLOOR: 76-0, 6/8/20

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

NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Stephanie Jordan / PUB. S. /
8/14/20 12:12:01

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

THIRD READING

Bill No: AB 2338
Author: Weber (D)
Amended: 5/4/20 in Assembly
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 7-0, 8/7/20
AYES: Skinner, Moorlach, Bradford, Jackson, Mitchell, Morrell, Wiener

ASSEMBLY FLOOR: 78-0, 6/11/20 - See last page for vote

SUBJECT: Courts: contempt orders

SOURCE: Dawn M. Dell'Acqua

DIGEST: This bill clarifies that an alternative punishment of probation or a conditional sentence is available for parties found in contempt of a family law court order or judgement.

ANALYSIS:

Existing law:

- 1) Provides that a judgement or order made pursuant to the Family Code may be enforced by the court by execution, the appointment of a receiver, or contempt, or by any other order as the court in its discretion determines from time to time to be necessary. (Family Code § 290.)
- 2) Provides that an individual may be guilty of a criminal contempt misdemeanor if, among other things, that individual willfully disobeys the terms of any process or court order lawfully issued by a court. (Penal Code § 166 (a)(4).)
- 3) Provides that an individual may be subject to a civil contempt proceeding if, among other things, that individual willfully disobeys any lawful judgment, order or process of the court. (Code of Civil Procedure (CCP) §1209 (a)(5).)

- 4) Provides that if a court or judge, upon answer and evidence taken, adjudges that a person is guilty of civil contempt, allows a fine to be imposed on that person not exceeding \$1,000 or that person may be imprisoned not exceeding five days, or both. Additionally, allows the court to order the person to pay to the party initiating the contempt proceeding the reasonable attorney's fees and costs incurred by that party in connection with the contempt proceeding. (CCP § 1218 (a).)
- 5) Provides that any party who is in contempt of a court order or judgment in a dissolution of marriage, dissolution of domestic partnership, or legal separation action is not permitted to enforce the order or judgment, other than a child or spousal support order. (CCP § 1218 (b).)
- 6) Provides that, in any court action in which a party is found in contempt of court for failure to comply with a court order pursuant to the Family Code, the court must order the following:
 - a) On a first finding of contempt, order the contemner to perform community service of up to 120 hours, or to be imprisoned up to 120 hour (5 days), for each count of contempt.
 - b) On the second finding of contempt, order the contemner to perform community service of up to 120 hours, in addition to ordering imprisonment of the contemner up to 120 hours, for each count of contempt.
 - c) On the third or any subsequent finding of contempt, order both of the following: the contemner must (i) serve a term of imprisonment of up to 240 hours and perform community service of up to 240 hours, for each count of contempt; and (ii) pay an administrative fee, not to exceed the actual cost of the contemner's administration and supervision, while assigned to the community service program. (CCP § 1218 (c).)
- 7) Defines "probation" and "conditional sentence." States that it is the intent of the Legislature that both conditional sentence and probation are authorized whenever probation is authorized in any code as a sentencing option for infractions or misdemeanors. (Penal Code § 1203.)

This bill clarifies that in lieu of an order of imprisonment, community service, or both, for a person found in contempt for failure to comply with a court order under the Family Code, the court may grant probation, as defined, or a conditional sentence, as defined, for a period not to exceed one year upon a first finding of contempt, a period not to exceed two years upon a second finding of contempt, and

a period not to exceed three years upon a third or any subsequent finding of contempt.

Background

Courts have the power of contempt in order to enforce orders. The U.S. Supreme Court declared that the “power to punish for contempts is inherent in all courts; its existence is essential to the preservation of order in judicial proceedings, and to the enforcement of the judgments, orders, and writs of the courts, and consequently to the due administration of justice.” (*Ex parte Robinson* (1874) 86 U.S. 505, 510.)

As a general rule, a criminal contempt proceeding, which requires procedural processes and due process rights like an ordinary criminal prosecution, including the right to counsel and right to a jury trial if the case carries a long enough possible sentence, is designed to punish the person found to be in contempt of court. A civil contempt proceeding, by contrast, is generally designed to seek compliance. A criminal contempt proceeding can be brought under Penal Code Section 166, while a civil contempt proceeding is governed by Code of Civil Procedure Sections 1209 – 1222.

To be found in contempt of court for failure to comply with a court order, the order must be valid and in writing (*Wilson v. Superior Court* (1987) 194 Cal.App.3d 1259, 1273; *In re Marcus* (2006) 138 Cal.App.4th 1009, 1015). In addition, the party must have knowledge of the order (*Phillips v. Superior Court* (1943) 22 Cal.2d 256, 258), the ability to comply with it (*Anderson v. Superior Court* (1998) 68 Cal.App.4th 1240, 1245), and have willfully failed to comply (*Coursey v. Superior Court* (1987) 194 Cal.App.3d 147, 156).

Once the court finds that an individual is in contempt for failure to comply with a court order under the Family Code, the court must order the punishment listed as follows:

- On a first finding of contempt, the person held in contempt must perform community service of up to 120 hours *or* be imprisoned up to 120 hours, for each count of contempt.
- On the second finding of contempt, the person held in contempt must perform community service of up to 120 hours *and* be imprisoned up to 120 hours, for each count of contempt. On the third or any subsequent finding of contempt, that the person held in contempt must serve a term of imprisonment of up to 240 hours, perform community service of up to 240 hours, for each count of

contempt, and pay an administrative fee, not to exceed the actual cost of the contemner's administration and supervision, while assigned to the community service program.

While many counties allow the imposition of probation for contempt in the Family Code, in an unpublished opinion, the Court of Appeal for the Fourth District overturned a trial court's attempt to find a parent in contempt for failure to comply with a child custody order by placing the parent on probation. The court found, in dicta, that the family court did not have jurisdiction to place the parent on probation:

The punishment for contempt is statutory; it may be punished by a fine not exceeding \$1000 or imprisonment not exceeding five days, or both (Code Civ. Proc., § 1218) or, in the case of an omission to perform an act, the sentence may be punishment by imprisonment until the act is performed (Code Civ. Proc., § 1219). The statutory punishment for contempt does not allow for probation. (*Bunyard v. Superior Court* (2012) 2012 Cal. App. Unpub. LEXIS 8783, 27.)

This bill leaves the existing mandatory punishments for failure to comply with a family court order under CCP Section 1218 (c) in place: community service and imprisonment. However, it clarifies that an alternative punishment that may be used in lieu of the existing punishment: probation or a conditional sentence for a period not to exceed one year upon a first finding of contempt, a period not to exceed two years upon a second finding of contempt, and a period not to exceed three years upon a third or any subsequent finding of contempt. This bill defines "probation" and "conditional sentence" as they are under Section 1203 (a) of the Penal Code:

- "Probation" is defined to mean "the suspension of the imposition or execution of a sentence and the order of conditional and revocable release in the community under the supervision of a probation officer."
- "Conditional sentence" is defined to mean "the suspension of the imposition or execution of a sentence and the order of revocable release in the community subject to conditions established by the court without the supervision of a probation officer."

The intent is that probation or a conditional sentence will increase compliance with the order. The punishment is suspended as long as the party found in contempt complies with the court order. This bill does not prevent imposition of the existing punishment of imprisonment, community service, or both.

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

SUPPORT: (Verified 8/11/20)

Dawn M. Dell'Acqua (source)
California Attorneys for Criminal Justice
Center for Employment Opportunities
San Francisco Financial Justice Project
Western Center on Law & Poverty, INC.

OPPOSITION: (Verified 8/11/20)

None received

ASSEMBLY FLOOR: 78-0, 6/11/20

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

NO VOTE RECORDED: Quirk

Prepared by: Mary Kennedy / PUB. S. /
8/12/20 15:40:15

**** END ****

THIRD READING

Bill No: AB 2387
Author: Grayson (D)
Amended: 8/11/20 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 7-0, 8/10/20
AYES: Hurtado, Jones, Beall, Jackson, Melendez, Pan, Wiener

ASSEMBLY FLOOR: 75-0, 6/11/20 - See last page for vote

SUBJECT: In-home supportive services: needs assessment

SOURCE: Contra Costa County

DIGEST: This bill authorizes counties to perform the In-Home Supportive Services (IHSS) reassessment using telehealth, including video conference or telephone, if certain conditions are met, including that the recipient has had at least one in-person assessment since the initial program intake and has had at least one in-person assessment in the past 12 months. This bill also provides the recipient the option to have an in-person assessment.

ANALYSIS:

Existing law:

- 1) Establishes the IHSS program to provide supportive services, including domestic, protective supervision, personal care, and paramedical services as specified, to individuals who are aged, blind, or living with disabilities, and who are unable to perform the services themselves or remain safely in their homes without receiving these services. (*WIC 12300 et seq.*)
- 2) Requires the California Department of Social Services (CDSS) to adopt regulations establishing a uniform range of services available to all eligible IHSS recipients based on individual needs. (*WIC 12301.1(a)*)

- 3) Requires the county welfare department to assess each recipient's continuing monthly need for services at varying intervals as necessary, but at least once every 12 months, except as specified. (*WIC 12301.1(b)*)
- 4) Permits the county to extend the annual assessment, on a case-by-case basis, for up to six months beyond the regular 12-month period, provided that the county documents that all of the following conditions exist:
 - a) The recipient has had at least one reassessment since the initial program intake assessment;
 - b) The recipient's living arrangement has not changed since the last annual reassessment and the recipient lives with others, or has regular meaningful contact with persons other than his or her service provider;
 - c) The recipient or, if the recipient is a minor, his or her parent or legal guardian, or if incompetent, his or her conservator, is able to satisfactorily direct the recipient's care;
 - d) There has not been a known change in the recipient's supportive service needs within the previous 24 months;
 - e) A report has not been made to, and there has been no involvement of, an adult protective services agency or agencies since the county last assessed the recipient;
 - f) The recipient has not had a change in provider or providers for at least six months;
 - g) The recipient has not reported a change in his or her need for supportive services that requires a reassessment; and
 - h) The recipient has not been hospitalized within the last three months. (*WIC 12301.1(c)(1)*)
- 5) Permits the county to consider additional factors in determining whether an extended assessment interval is appropriate, including, but not limited to, involvement in the recipient's care of a social worker, case manager, or other similar representative from another human services agency, such as a regional center or county mental health program, or communications, or other instructions from a physician or other licensed health care professional that the recipient's medical condition is unlikely to change. (*WIC 12301.1(c)(2)*)

- 6) Authorizes a county to reassess a recipient's need for services at a time interval of less than 12 months from a recipient's initial intake or last reassessment if the county social worker has information indicating that the recipient's need for services is expected to decrease in under 12 months. (*WIC 12301.1 (c)(3)(A)*)
- 7) Permits IHSS reassessments to be conducted remotely using telehealth, including by video conference or telephone, subject to continuing federal approval, through December 31, 2020. (*WIC 10004 (b)*)
- 8) Requires, to ensure that IHSS is delivered in all counties in a consistent manner, each needs assessment is conducted using a uniform tool, as specified. (*WIC 12309*)

This bill:

- 1) Permits re-assessments of IHSS recipients to be conducted remotely using telehealth, including by video conference or telephone, subject to continuing federal approval, if all of the following conditions are met:
 - a) The recipient has had at least one in-person assessment since the initial program intake for determination of eligibility and scope of services;
 - b) The recipient has had at least one in-person assessment in the past 12 months;
 - c) The recipient's living arrangement has not changed since the last annual reassessment and the recipient lives with others, or has regular meaningful contact with persons other than their service provider;
 - d) The recipient or, if the recipient is a minor, their parent or legal guardian, or if incompetent, their conservator, is able to satisfactorily direct the recipient's care;
 - e) There has not been a known change in the recipient's supportive service needs within the previous 24 months;
 - f) A report has not been made to, and there has been no involvement of, an adult protective services agency or agencies since the county last assessed the recipient;
 - g) The recipient has not had a change in provider or providers for at least six months;

- h) The recipient has not reported a change in their need for supportive services that requires a reassessment; and
 - i) The recipient has not been hospitalized within the last three months.
- 2) Requires the county to address the same issues in an assessment conducted by telephone that would be addressed in an in-person assessment. Also requires the county to notify recipients within 30 days of a proposed assessment by telephone, and provide the recipient with the option to have an in-person assessment.

Background

This bill will allow county social workers to conduct reassessments of existing IHSS clients that meet specified criteria via the telephone or video conference, instead of in person. According to the author, “AB 2387 will provide greater flexibility and efficiency for IHSS clients and county social workers alike,” which will “reduce delays and difficulties in scheduling” of reassessments. “With the increasing demand for IHSS and with the current situation revolving around COVID-19, the introduction of telephonic assessments will be able to ensure efficient access to services while also protecting vulnerable IHSS clients and essential county social workers,” the author states.

In-Home Supportive Services

IHSS is a Medi-Cal based program that is funded by county, state, and federal dollars. The IHSS program provides in-home services for qualified low-income Californians who are at least 65 years of age, blind or living with a disability with assistance in performing activities of daily living to enable them to live in their own homes. IHSS is administered at the state level by CDSS and at the local level by counties. About 570,000 Californians receive in-home care through IHSS, 98.5 percent of whom receive it as a Medi-Cal benefit.

The program pays care providers to assist with personal care services (such as bathing, toileting, and grooming), domestic and related services (meal preparation, housecleaning, and the like), paramedical services, and protective supervision. IHSS services may also include accompaniment to medical appointments, protective supervision for recipients who have a mental impairment and may place themselves at risk of injury, hazard or accident and paramedical services, when directed by a physician.

Applicants for IHSS services must undergo a needs assessment, which includes a home visit. During this visit, the county social worker takes into consideration the mental and physical health of the applicant, their current living situation, and the time it takes to complete daily tasks. The applicant is also required to submit a Health Care Certification form completed by a physician or other licensed health care professional. The eligibility of the applicant is determined using a combination of the face-to-face assessment and medical certification. Upon determining that an individual is eligible for IHSS services, the county social worker will notify the recipient of the monthly maximum authorized hours of care.

Continuing eligibility for IHSS services must be reassessed every 12 months, which requires face-to-face home visits. Counties have the ability to extend this reassessment to 18 months if the recipient meets specific criteria. Additionally, IHSS recipients may request reassessment of their needs at any time, based on their changing needs. County social workers may also reassess recipients in an interval less than every 12 months, if they receive information that the need for services is expected to decrease in the next year. During states of emergency or at other times deemed necessary by CDSS, such as during the COVID-19 pandemic in early 2020, CDSS has released All County Letters (ACL) to provide counties temporary flexibility in regards to conducting these assessments.

Growing Need for IHSS

IHSS is one of the fastest growing social services programs in the state. According to the Legislative Analyst's Office (LAO) report on the Fiscal Year (FY) 2020-21 budget dated February 24, 2020, the average monthly caseload for IHSS increased 30 percent over the past ten years, from about 430,000 in FY 2009-10 to an estimated 560,000 in FY 2019-20. The FY 2020-21 budget projects that IHSS caseload will increase to 586,000—4.5 percent above 2019-20 caseload estimates. According to the LAO, the reasons for the steady caseload growth in recent years are not completely understood, but could be related to the growth in California's senior population (adults aged 65 and older). The Department of Aging projects the population over age 60 to increase by 166 percent between 2010 and 2060. With the increasing numbers of older adults, it is anticipated that demand for IHSS will also continue to increase.

In-Home Assessments

The purpose of in-home assessments under the IHSS program is to determine initial and ongoing program eligibility. This includes making a determination whether recipients would be able to remain safely in their own homes without

IHSS services and whether the recipients' performance of those services would constitute such a threat to their health and safety that they would be unable to remain in their own home. The in-person assessments also allow county social workers to engage with the recipient and observe the living conditions of the recipient. The in-person visit also allows the social worker to observe the recipient interacting with other members of the household. This personal interaction is a valuable tool for determining the level of ongoing need for IHSS and, in some cases, potential abuse or neglect of the recipient that might go unnoticed during a phone call or video conference.

In light of the COVID-19 pandemic, and resulting efforts to limit exposure to the virus, CDSS permitted counties to conduct reassessment of IHSS recipients via telephone (see ACL 20-26) through June 30, 2020. That authority was extended in the FY 2020-21 human services budget bill (*AB 79, Committee on Budget, Chapter 11, Statutes of 2020*), which authorized counties to conduct IHSS reassessments remotely using telehealth, including by video conference or telephone, subject to continuing federal approval, through December 31, 2020. This assures recipients will continue to receive services without potential exposure to the COVID-19 virus during visits from county social workers.

Current law also permits the county to extend the reassessment period from 12 to 18 months under specified circumstances that would indicate the recipient's living situation is stable. The circumstances under which a telephone or video conferencing reassessment would be permitted under this bill mirror those in existing law. For example, the recipient must live with others, or have regular meaningful contact with persons other than their service provider. This and other criteria are in place to assure a recipient who might be in a vulnerable situation will benefit from a visit from a county social worker.

Related/Prior Legislation

AB 79 (Committee on Budget, Chapter 11, Statutes of 2020), which was the human services budget bill, permitted reassessments for IHSS recipients to be conducted remotely using telehealth, including by video conference or telephone, subject to continuing federal approval, through December 31, 2020.

AB 426 (Maienschein, Chapter 424, Statutes of 2019) prohibited licensed health care professionals from charging a fee for the completion of the Health Care Certification form required as part of the IHSS recipient application.

AB 1021 (Baker, Chapter 146, Statutes of 2017) required each county to accept applications for IHSS benefits by telephone, through facsimile, in-person, or by other electronic means if the county is capable of accepting online applications or applications via email for benefits.

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

SUPPORT: (Verified 8/11/20)

Contra Costa County (source)

Association of Regional Center Agencies

California Association of Public Authorities for In-Home Supportive Services

State Council on Developmental Disabilities

OPPOSITION: (Verified 8/11/20)

California Commission on Aging

ARGUMENTS IN SUPPORT: Contra Costa County, sponsor of this bill, writes the following support, “Allowing telephonic IHSS reassessments for certain clients would have minimal fiscal effects, as the technology already exists in many counties. Minor savings may be realized in counties with a large number of overdue assessments, as social workers would have less travel needs and may be able to assess more clients each day. Additionally, the option of telephonic reassessments will allow counties to improve its response and better focus its limited and scarce resources. It will allow county agencies to improve its quality of engagement on IHSS recipients who have greater needs.”

ARGUMENTS IN OPPOSITION: The California Commission on Aging writes the following in opposition, “The undeniable issues around IHSS caseloads are that the program needs more funding so additional staff are available to share the load and even with additional staff, annual in-person visits are insufficient to monitor changes in a client’s health or cognitive abilities. While we fully appreciate the sponsor’s interest in facilitating worker access to clients, we believe the solutions provided in AB 2387 will do little to protect the vulnerable individuals they serve.”

ASSEMBLY FLOOR: 75-0, 6/11/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Chu, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Diep, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia,

Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin,
Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Limón, Low,
Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian,
O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas,
Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone,
Ting, Waldron, Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Choi, Obernolte, Quirk, Voepel

Prepared by: Taryn Smith / HUMAN S. /
8/12/20 14:15:02

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

CONSENT

Bill No: AB 2399
Author: Committee on Insurance
Introduced: 2/18/20
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 8/5/20
AYES: Hill, Morrell, Jackson, Mitchell, Pan

ASSEMBLY FLOOR: 75-0, 5/26/20 (Consent) - See last page for vote

SUBJECT: Paid family leave: qualifying exigency

SOURCE: Author

DIGEST: This bill makes clarifications to definitions in existing law necessary for the proper implementation of the expansion in use of the Paid Family Leave for a qualifying exigency related to the covered active duty or call to covered active duty of an individual's specified family members in the Armed Forces of the United States, which is set to begin January 1, 2021.

ANALYSIS:

Existing law:

- 1) Establishes the State Disability Insurance (SDI) program as a partial wage-replacement plan funded through employee payroll deductions that is available [through the Disability Insurance and Paid Family Leave (PFL) programs] to eligible individuals who are unable to work due to sickness or injury of the employee (including pregnancy), the sickness or injury of a family member, or the birth, adoption, or foster care placement of a new child. (Unemployment Insurance Codes §2601-3306)
- 2) Establishes the family temporary disability insurance program – Paid Family Leave – to provide eligible employees with up to 8 weeks of wage replacement benefits to take time off work for the following reasons:

- a) To care for a seriously ill child, spouse, parent, grandparent, grandchild, sibling, or domestic partner;
- b) To bond with a minor child within one year of the birth or placement of the child in connection with foster care or adoption; or
- c) Beginning on January 1, 2021, to participate in a qualifying exigency related to the covered active duty or call to covered active duty of the individual's spouse, domestic partner, child, or parent in the Armed Forces of the United States. (Unemployment Insurance Code §3301)

This bill:

- 1) Clarifies the definitions used for the military exigency leave that will be available through the Paid Family Leave program.
- 2) Expands on the definition of “care recipient,” under PFL, to specify that the term includes the military member, or child or parent of the military member, who is receiving assistance, or the employee who is participating in a qualifying exigency.
- 3) Clarifies that “care provider,” also includes the employee who is participating in a qualifying exigency.
- 4) Specifies that “family care leave” includes participating in a qualifying exigency.
- 5) Defines “military member” as a child, spouse, domestic partner, or parent of the employee, where the military member is on covered active duty or call to active duty in the Armed Forces of the United States, as defined.

Background

Need for this bill? According to the Assembly Insurance Committee, “PFL was enacted in 2002 to extend disability compensation to individuals who take time off work to care for a seriously ill child, spouse, parent, domestic partner, or to bond with a new minor child. California was the first state in the nation to implement a paid family leave benefit with benefit payments beginning on July 1, 2004. Senate Bill 1123 was enacted in 2018 to expand the PFL program to include covered leave for family members of military members who are deployed. This bill is proposed by EDD to make technical and clarifying changes to support its efforts to implement Senate Bill 1123 (Statutes of 2018, Chapter 849).”

Related/Prior Legislation

SB 1123 (Jackson, Chapter 849, Statutes of 2018) expanded the PFL program to authorize leave for families who must take time off from work to attend to situations arising out of a family member's status as a covered active duty member of the US Armed Forces.

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

SUPPORT: (Verified 8/7/20)

United Public Employees

OPPOSITION: (Verified 8/7/20)

None received

ARGUMENTS IN SUPPORT: According to the United Public Employees, "Existing law defines terms for paid family leave purposes: "care recipient," "care provider," and "family care leave." AB 2399 would revise those definitions for the purpose of the qualifying exigency provisions. It is sometimes difficult for our active duty members to see their family when deployed. AB 2399 is mindful of the fact that reuniting our soldiers and families is important. So, enabling workers to receive paid family leave to be able to reconnect with their family members is very admirable."

ASSEMBLY FLOOR: 75-0, 5/26/20

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

NO VOTE RECORDED: Diep, Maienschein, Quirk, Wicks

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
8/7/20 19:06:14

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

THIRD READING

Bill No: AB 2400
Author: Quirk (D)
Amended: 6/3/20 in Assembly
Vote: 27 - Urgency

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

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 6/10/20 (Consent) - See last page for vote

SUBJECT: Election results: risk-limiting audits

SOURCE: Author

DIGEST: This bill extends a risk-limiting audit pilot program that permits an elections official to conduct a risk-limiting audit in place of the post-election 1% manual tally, as specified.

ANALYSIS:

Existing law:

- 1) Creates a risk-limiting audit pilot program under which an elections official may conduct a risk-limiting audit in place of the 1% manual tally required under current law during the official canvass of any election, as specified. Provides for the pilot program to commence with the statewide primary election held on March 3, 2020, and to sunset on January 1, 2021.
 - a) Requires participating counties to conduct a risk-limiting audit on each contest fully contained within the county's borders, and partial risk-limiting audits for each cross-jurisdictional contest.

- b) Requires the Secretary of State (SOS), in consultation with recognized statistical experts, election verification and integrity stakeholders, voting system manufacturers, and local elections officials, to adopt regulations to implement and administer the risk-limiting audit pilot program, as specified.
 - c) Requires an official conducting a risk-limiting audit to include a report on the results of the risk-limiting audit in the certification of the official canvass of the vote.
- 2) Requires an elections official to prepare a certified statement of the results of the election and submit it to the governing body within 30 days of the election.
- 3) Requires an elections official, during the official canvass of every election in which a voting system is used, to conduct a public manual tally of the ballots tabulated by those devices, including vote by mail (VBM) ballots, using either of the following methods:
- a) A public manual tally of the ballots canvassed in the semifinal official canvass, including VBM ballots but not including provisional ballots, cast in 1% of the precincts chosen at random by the elections official, as specified; or,
 - b) A two-part public manual tally, which includes both of the following:
 - i) A public manual tally of the ballots canvassed in the semifinal official canvass, not including VBM or provisional ballots, cast in 1% of the precincts chosen at random by the elections official, as specified; and,
 - ii) A public manual tally of not less than 1% of the VBM ballots canvassed in the semifinal official canvass, as specified.
- 4) Requires an elections official conducting the election to include a report on the results of the 1% manual tally in the certification of the official canvass of the vote. Requires the report to identify any discrepancies between the machine count and the manual tally and a description of how each of these discrepancies was resolved, as specified.
- 5) Prohibits the SOS from certifying or conditionally approving a voting system that cannot facilitate the conduct of a ballot level comparison risk-limiting audit, as defined. Provides that a voting system that is "noncompliant" is a voting system that cannot facilitate the conduct of a ballot level comparison

risk-limiting audit. Authorizes the SOS, until January 1, 2021, to approve a proposed change or modification to a noncompliant voting system even if the voting system will remain noncompliant after the change or modification.

This bill:

- 1) Extends, from the March 2020 statewide primary election to the November 2020 statewide general election, the start of an existing risk-limiting audit pilot program. That program permits an elections official to conduct a risk-limiting audit in place of conducting the 1% manual tally of ballots that is otherwise required to occur during the official canvass of the election under existing law.
- 2) Deletes provisions of law that require a county that participates in the pilot program to conduct risk-limiting audits for all contests held in the county, and instead permits a county to conduct a risk-limiting audit on one or more contests fully contained in the county.
- 3) Deletes provisions of law that require a county that participates in the pilot program to conduct partial risk-limiting audits for each cross-jurisdictional contest within its jurisdiction's borders and makes other conforming changes to eliminate the use of partial risk-limiting audits from the scope of the pilot program.
- 4) Clarifies that a participating county may exclude any contest that has been subject to a risk-limiting audit from the 1% manual tally required under current law.
- 5) Extends the sunset date of the pilot program from January 1, 2021 to January 1, 2023.
- 6) Makes other conforming changes.
- 7) Contains an urgency clause.

Background

One Percent Manual Tally. Election officials are required to complete the official canvass no later than 30 days after an election. As part of the official canvass, existing law requires elections officials to conduct a public manual tally of ballots cast in 1% of the precincts chosen at random in order to ensure that vote tabulation equipment is operating correctly before the final official canvass is completed. The Legislature established this process, commonly described as the 1% manual

tally, in 1965. In California, in order to overturn official election results, existing law requires a recount of the ballots cast in the contest.

What is a Risk-Limiting Audit? According to risk-limiting audit experts, a risk-limiting audit is a method to ensure that at the end of the canvass, the hardware, software, and procedures used to tally votes found the real winners. Specifically, a risk-limiting audit involves a manual tally of randomly selected ballots that stops as soon as it is implausible that a full recount would alter the result. As long as it is statistically plausible that a full recount would overturn the result, the risk-limiting audit continues to examine more ballots. Risk-limiting audits determine precisely how much hand counting is necessary to confirm election results to a given level of confidence. The closer the contest, the more ballots one must examine to have strong evidence, because fewer errors can change the outcome. The higher the desired confidence, the more ballots one must examine, because higher confidence requires more evidence. Risk-limiting audits, however, do not guarantee that the electoral outcome is right, but they have a large chance of correcting the outcome if it is wrong.

Risk-limiting audits are highly adaptable. Experts state that risk-limiting audits can check simple plurality contests, multi-winner contests, measures requiring a super-majority, among others, and can be conducted for any number of contests in a single election, often using a single sample for greater efficiency. Additionally, risk-limiting audits can begin very soon after the election or later in the process, as long as time remains to correct any incorrect outcomes.

Risk-Limiting Audit Pilot Program and Previous Legislation. Last session, the Legislature approved and Governor Brown signed AB 2125 (Quirk, Chapter 913, Statutes of 2018), which created a risk-limiting audit pilot program and permitted an elections official to conduct risk-limiting audits in lieu of conducting a 1% manual tally beginning with the statewide primary elections held on March 3, 2020. Specifically, AB 2125 requires a participating county to conduct a risk-limiting audit on each contest fully contained within the county's borders, and partial risk-limiting audits for each cross-jurisdictional contest, as specified. Additionally, AB 2125 required the SOS, in consultation with recognized statistical experts, election verification and integrity stakeholders, voting system manufacturers, and local elections officials, to adopt regulations to implement and administer the risk-limiting audit pilot program, as specified.

In January 2019, the SOS began the process of developing risk-limiting audit regulations, as required by AB 2125. Those regulations were adopted and in place by January of this year. As required by AB 2125, the regulations state that an

elections official who elects to conduct a risk-limiting audit in accordance with current law is required to do so on each contest fully contained within its jurisdiction's borders, and a partial risk-limiting audit on each cross-jurisdictional contest partially contained within its jurisdiction's borders.

As mentioned above, risk-limiting audits are audits that can require a full manual recount in certain close elections. During the development of the regulations by the SOS's working group, it was determined that if a jurisdiction is required to audit *all* contests during an election cycle, the chances that one of the election contests might be close is statistically high, increasing the chances that a jurisdiction participating in the pilot program would have to conduct a full manual recount for *all* races in the county. Consequently, the working group determined it would likely not be feasible for a county to participate in the risk-limiting pilot program, because conducting a full manual tally of an entire election would be too costly and burdensome to complete within the canvass period and under existing resources. Additionally, the working group determined that a partial risk-limiting audit would offer weaker confirmation of the election results than a standard risk-limiting audit, and thus would not be useful in determining whether an election outcome is accurate.

To address these issues, this bill requires a pilot program participating county to conduct a risk-limiting audit on one or more contests fully contained within the county's borders, instead of conducting a risk-limiting audit on each contest fully contained within the county's border and a partial risk-limiting audit for each cross-jurisdictional contest.

Stakeholder Letter. Last December, toward the end of the public comment period for the risk-limiting audit regulation process, a letter was submitted from a coalition of stakeholders that participated in the SOS's working group to develop the regulations. The letter included various recommendations regarding the risk-limiting audit regulations. The letter also recommended that the Legislature pass emergency legislation that postpones the implementation of AB 2125 (Quirk) until the November 2020 general election, and permits counties, as part of the pilot program, to conduct a minimum of three risk-limiting audits of contests wholly contained within the county, with a 1% manual tally being performed for the remaining contests. In addition, the letter recommended that the SOS clarify how a partial risk-limiting audit would work. Specifically, the letter stated that while AB 2125 (Quirk) defines a partial risk-limiting audit, it does not fully describe the process by which a county should conduct a partial risk-limiting audit and that a partial risk-limiting audit conducted in only some of the counties involved in a cross-jurisdictional race is not equivalent to a full risk-limiting audit. The

stakeholder letter also suggested that the regulations require the SOS to disclose the source code of the risk-limiting audit software tool and urged the SOS to ensure that cast vote records are made publicly available online sufficient to allow the public to verify that the risk-limiting audit is being conducted appropriately.

Comments

According to the author, as new voting systems develop and the voting process modernizes, the election audit process must also modernize. Risk-limiting audits enable this by providing a highly efficient way of verifying election outcomes, as they use statistics to determine how many ballots need to be recounted in order to confirm election results.

In 2018, California established a pilot program for counties to conduct risk-limiting audits to verify election outcomes. Since its establishment, a working group consisting of statistical experts, elections officials, and the Secretary of State's office, found that statute actually requires counties to apply audits to every single election contest. This oversight undermines the efficiency and purpose of this pilot program by increasing the probability that a time-consuming, full manual recount of the entire election will be needed to properly verify outcomes.

AB 2400 clarifies the intent of risk-limit audits by allowing counties to decide the races on which they will conduct a risk-limiting audit. This flexibility will reduce the chances of needing a full manual recount of the whole election. AB 2400 further eliminates the requirement for "partial RLAs," which have been found to be inaccurate, and this bill's urgency statute will ensure that counties can conduct this innovative, efficient type of audit during the November 2020 general election.

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

SUPPORT: (Verified 8/13/20)

California Association of Clerks and Election Officials
California Voter Foundation
Verified Voting
One individual

OPPOSITION: (Verified 8/13/20)

Citizens' Oversight Projects

ARGUMENTS IN SUPPORT: In a letter supporting AB 2400, the California Association of Clerks and Election Officials stated, in part, the following:

During the regulation process several items were discovered that needed to [be] addressed, such as the number of items to be included in the [risk-limiting audit (RLA)], how to handle contests that cross jurisdictions, and whether or not a county can do both an RLA and the 1% manual tally.

Building from the lessons learned during the regulation process, [AB 2400] would clarify that an RLA may be conducted in addition to the 1% manual tally, that contests that cross jurisdictions are not part of the process, that county elections officials may conduct an RLA on any contest of its choosing that resides wholly within its borders and that that contest can be excluded from the 1% manual tally. With these changes the pilot program becomes more workable for counties and makes joining the pilot program more attractive.

ARGUMENTS IN OPPOSITION: The Citizens' Oversight Projects organization, which has an "oppose, unless amended" position on this bill, sent a letter containing various comments for consideration and suggested recommendations regarding risk-limiting audits. In summary, Citizens' Oversight Projects requests the following points of consideration: 1) require any risk-limiting audit to include nearly all ballots; 2) require the 1% manual tally to also incorporate nearly all ballots; 3) allow a county to include cross-jurisdictional contests in the risk-limiting audit; 4) allow a county to conduct a batch comparison audit; 5) use hand-marked uniform tally sheets to provide more transparency; 6) create a uniform audit report; and, 7) make clarifications to ballot manifest requirements.

Additionally, Citizens' Oversight Projects recommends the following: 1) a comprehensive independent automated "ballot image audit" that will consider all contests down to the single ballot, combined with 2) a limited risk-limiting audit that will focus on the most consequential contests using a weighed selection process.

ASSEMBLY FLOOR: 77-0, 6/10/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Megan Dahle, Daly,

Diep, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Limón, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Obernolte, O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Eggman, Quirk

Prepared by: Darren Chesin / E. & C.A. / (916) 651-4106
8/15/20 12:17:37

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

THIRD READING

Bill No: AB 2416
Author: Gabriel (D)
Amended: 5/18/20 in Assembly
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 7/29/20
AYES: Leyva, Wilk, Chang, Durazo, Glazer, McGuire, Pan

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 78-0, 6/10/20 - See last page for vote

SUBJECT: Postsecondary education: student financial aid: satisfactory
academic progress

SOURCE: Author

DIGEST: This bill requires institutions of higher education to allow students to appeal their loss of certain student financial aid if they fail to meet "satisfactory academic progress" (SAP) due to homelessness.

ANALYSIS: Existing federal regulations require that an institution of higher education establish a reasonable SAP policy, with specified criteria, for determining whether otherwise eligible students are making SAP in their educational program and may receive federal student financial aid programs. (Title 34 Code of Federal Regulations (CFR) § 668.34, et seq.).

Existing state law:

- 1) Establishes the Donahoe Higher Education Act, setting forth the mission of the University of California, the California State University, and the California Community Colleges; 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 § 66010, et seq.).

- 2) Defines SAP as those criteria required by applicable federal standards published in Title 34 CFR. Authorizes the California Student Aid Commission (CSAC) to adopt regulations defining SAP in a manner that is consistent with those in federal standards (EC § 69432.7(m)). (34 CFR § 668.34)
- 3) Establishes the CSAC for administering specified student financial aid programs (EC § 69510, et seq.).
- 4) Establishes the Community Colleges Student Success Completion Grant, which supplements the Cal Grant B access award by up to \$1,298 annually for students enrolled in 12, 13, or 14 units per semester, and up to \$4,000 annually for students taking 15 or more units per semester (EC § 88930).
- 5) Establishes the federal John H. Chafee Foster Care Independence Program to provide, among other benefits, education and training vouchers to qualifying current and former foster youth. (United States Code, Title 42, § 677)
- 6) Requires the CSAC, through an interagency agreement with the Department of Social Services, to operate a federally-funded scholarship program that provides grant aid to California's current and former foster youth. Existing law requires funds to be used to assist students who are current and former foster youth, for career and technical training or traditional college courses. (EC § 69519)

This bill requires that determinations of SAP by the institutions of higher education participating in specified student financial aid programs, including Cal Grant and Chafee, consider "homelessness" as defined as a homeless individual or youth within the meaning of the federal McKinney-Vento Homeless Assistance Act, as an extenuating circumstance for students who are otherwise unable to meet the requirements deemed to constitute SAP at the institutions, and that extenuating circumstance may be considered by the institutions to alter or excuse compliance with those progress requirements.

Comments

- 1) *Need for the bill.* According to the author, "When a student experiences homelessness, the instability of this experience frequently causes grades to drop, however homelessness is not universally defined by colleges as an 'special circumstance' that would warrant a student being given the opportunity to maintain financial aid in order to remain enrolled and regain academic standing. Campuses that do not currently take the experience of homelessness

into consideration when evaluating financial aid appeals are doing a disservice to these students and increasing the likelihood that the most vulnerable students are unable to succeed in their academic careers.

“This lack of consistency across campuses is also an equity issue. While 19% of students in community colleges overall have experienced homelessness, the likelihood is even greater among specific student subpopulations, already at greater risk of not succeeding college. African Americans and Native Americans attending both community colleges and CSUs are significantly more likely to experience homelessness than other ethnic groups. Students who identify as gay/lesbian are 50% more likely to experience homelessness than those who identify as heterosexual. A full 43% of foster youth experience homelessness, more than double the rate of other students.”

The author further states that, “With 148 public colleges and universities in the State of California, each defining its own policy regarding SAP appeals, there is a tremendous lack of consistency in these policies. Simultaneously, the issue of homelessness among college students has reached crisis proportions. While resources to address homelessness remain scarce, continued access to financial aid is an important tool to allow these students to remain enrolled and get back on track academically. State action is necessary to ensure that all students who experience homelessness are treated equitably across the state and that for these students, an episode of homelessness does not mean that they lose their opportunity to pursue their post-secondary goals.”

2) *Satisfactory Academic Progress (SAP)*. SAP is a standard that students must meet to receive state and federal financial aid. Federal aid regulations require that all institutions receiving federal aid have a SAP policy that specifies what is required of students to maintain financial aid eligibility. The policy must include the following three elements:

- Grade point average (GPA) requirement: Students must maintain a minimum GPA per the policy of the individual institution, to be set at no lower than 2.0.
- Progress requirement: Students must make progress towards their degree by completing a minimum percentage of attempted course units. The minimum percentage of units attempted must be successfully completed both cumulatively and by the end of each academic year. It is commonly set to 67 percent.

- Maximum number of attempted units: Students must complete their degree within a maximum specified amount of attempted course units. It is commonly set at 150 percent of the total unit requirements for the program in which the student is enrolled.

Federal regulations already offer a great deal of flexibility to higher education institutions regarding what factors they deem to be a special circumstance for student that would trigger the appeal process. Flexibility allows a campus to respond to the unique needs of their student population. As such, under current law a campus *may* regard homelessness as a special circumstance without the need for legislation. This bill *requires* that homelessness be a determining factor for appealing the loss of aid.

- 3) *What happens when a student fails to meet SAP?* A student who fails to meet SAP standards could lose eligibility for state or federal financial aid. However, the determination made by the institution may be appealed on the basis of: injury or illness, death or other special circumstances per the institution's appeals policy. A student may remain on aid despite not meeting standards with a successful appeal. In response to COVID-19 crisis, the federal CARES Act added greater flexibility for students unable to make SAP due to disruptions caused by the COVID crisis. An institution of higher education, without requiring an appeal from a student, may now exclude from an SAP calculation credits that were attempted but not completed.

In addition to mentioned federal allowances, this bill offers a narrow but permanent approach in state statute to keep students on financial aid who are struggling academically. Although, the consideration proposed by this bill is limited to homelessness, a campus may continue to consider other hardships faced by students as condition for appeal.

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

SUPPORT: (Verified 8/13/20)

Advanced Consulting, LLC

Beyond Emancipation

Bill Wilson Center

Butte College Inspiring Scholars

Butte Glenn Community College Inspiring Scholars

California Alliance of Child and Family Services

California Coalition for Youth

California Faculty Association

California Federation of Teachers
California Youth Connection
Campaign for College Opportunity
Casa De Amparo
Children Now
Children's Advocacy Institute
Children's Law Center of California
City College of San Francisco
College of Marin EOPS
College of the Desert
Community Coalition
Crafton Hills College
Doing Good Works
Ea Family Services
East Los Angeles College
Empowering Pacific Islander Communities
Excite Credit Union
Faculty Association of California Community Colleges
Foster Care Counts
Fullerton College
Glide
Grace Institute - End Child Poverty in California
Imperial Valley College EOPS
Imperial Valley College Resilient Scholars
Imperial Valley Regional Occupational Program
Irvine Valley College Heart Scholars
John Burton Advocates for Youth
Latino Coalition for a Healthy California
Los Angeles Harbor College EOPS
Los Angeles LGBT Center
Los Angeles Southwest College
Los Medanos College
Merced College
Miracosta College
Mission College
Mt. San Antonio College Reach
National Association of Social Workers, California Chapter
National Center for Youth Law
Norco College
One Day, Inc.

Orange Coast College
Porterville College
Public Counsel
Riverside City College
San Bernardino Valley College
San Diego City College
San Diego Mesa College
San Jose-Evergreen Community College District
Santa Monica College Guardian Scholars
Santiago Canyon College, Orange, California
Schoolhouse Connection
Sierra College
St Anthony Foundation
Swipe Out Hunger
The Children's Partnership
UC Irvine - Foster Youth Resilience in Education
Unite-la, Inc.
Unity Care
University of California
Victor Valley College Nextup
Villines Group, LLC
Walden Family Services
West LA College
Woodland Community College
Youth Law Center

OPPOSITION: (Verified 8/13/20)

None received

ASSEMBLY FLOOR: 78-0, 6/10/20

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

NO VOTE RECORDED: Quirk

Prepared by: Olgalilia Ramirez / ED. /
8/14/20 12:36:33

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

THIRD READING

Bill No: AB 2421
Author: Quirk (D), et al.
Amended: 7/31/20 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 7-0, 7/29/20
AYES: McGuire, Moorlach, Beall, Hertzberg, Hurtado, Nielsen, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/10/20 - See last page for vote

SUBJECT: Land use: permitting: wireless communications: emergency
standby generators

SOURCE: Author

DIGEST: This bill requires, until January 1, 2024, a local agency to administratively review an application to install an emergency standby generator at an existing macro cell tower site.

ANALYSIS:

Existing law:

- 1) Establishes that every county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.
- 2) Requires public agencies to act fairly and promptly on applications for development permits, including wireless facilities.
- 3) Requires public agencies to compile lists of information that applicants must provide and explain the criteria they will use to review permit applications.

- 4) Provides that public agencies have 30 days to determine whether applications for development projects are complete; failure to act results in an application being "deemed complete."
- 5) Provides that a state or local government may not deny, and shall approve, any request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such a tower or base station. Under the Federal Communications Commission (FCC) rules governing such requests, the approval must be issued within 60 days or the request shall be deemed granted.
- 6) Requires, once a complete application for a wireless facility has been submitted, local officials to act within a specific time period after completing any environmental review documents required under the California Environmental Quality Act (CEQA). Specifically, local governments must act within (a) 60 days after completing a negative declaration or determining that a project is exempt from review, or (b) 180 days after certifying an environmental impact report. If the local government fails to approve or disapprove the application in the applicable time period, the application is deemed granted, and the applicant may file suit in state court to order the local government to issue the permit.
- 7) Requires a completed permit application for a collocation or siting permit for a wireless telecommunications facility to be deemed approved if a county or city fails to approve or disapprove the application within a reasonable period of time in accordance with the time periods and procedures established by applicable FCC decisions.
- 8) Provides that the placement or installation of certain wireless facilities, including antennas and related equipment, on or immediately adjacent to a wireless telecommunications facility, is a permitted use not subject to a county or city discretionary permit.
- 9) Requires the state to reimburse local agencies for their costs when the state imposes new programs or additional duties on them, unless they meet specified exceptions.

This bill:

- 1) Establishes an emergency standby generator that serves a macro cell site as a permitted use and requires a local agency to review a permit request to install

an emergency standby generator on an administrative, nondiscretionary basis if it meets all of the following requirements:

- a) The generator is proposed to be installed to serve an existing macro cell tower site that was permitted by the applicable local agency.
 - b) The generator is rated below 50 horsepower, compliant with applicable air quality regulations, has a double-wall storage tank of no more than 300 gallon capacity, and is mounted on a concrete pad.
 - c) The generator complies with all applicable state and local laws and regulations, including building and fire safety codes.
 - d) The physical dimensions of the generator and storage tank are cumulatively no more than 250 cubic feet.
 - e) The generator is located within 100 feet of the physical structure of the macro cell tower or base station.
- 2) Requires a local agency that receives a permit application to install a generator to approve or deny the application within 60 days of application submittal if the application meets the above requirements.
 - 3) Requires the local agency, if it determines the application is incomplete, to notify the applicant in writing within 10 days of receipt and indicate (a) what parts of the application are incomplete and (b) the specific information required to complete the application. AB 2421 suspends the 60-day review period during the time the applicant is responding to the local agency. Once the application is resubmitted, a new 60-day review period begins. If a local agency receives multiple applications concurrently, all applications must be reviewed within the same 60-day period.
 - 4) Prevents local agencies from requiring new information that was not identified as missing in the initial comments to the applicant, nor can it require any new or different information for the permit applications than it routinely requires for applications for other emergency standby generators.
 - 5) Prohibits a local agency from requiring the applicant to demonstrate that the property owner has consented to the installation of the generator as part of the application, but an applicant cannot install the generator until the property owner's consent has been documented.

- 6) Allows a local agency to revoke a permit or approval status for a generator that is found to violate an applicable state or local law and can enforce state and local laws regarding the generator.
- 7) Allows a local agency to charge a reasonable permit fee to cover costs associated with this bill, but prohibits charging fees for general revenue purposes.
- 8) Includes findings and declarations, including that it does not apply to the deployment of 5G technologies.
- 9) Provides that its statutory provisions apply to charter cities. To support this assertion, this bill includes a legislative finding that installation of emergency standby generators has a significant public safety impact in California and is a matter of statewide concern.
- 10) Disclaims this bill is a reimbursable state mandate by saying that no reimbursement is required by this act because local agencies can levy fees to pay for the program.
- 11) Repeals the provisions of this bill on January 1, 2024.

Background

Land use regulation. Local governments use their police power to enact zoning ordinances that shape development, such as setting maximum heights and densities for housing units, minimum numbers of required parking spaces, setbacks to preserve privacy, lot coverage ratios to increase open space, and others. These ordinances can also include conditions on development to address aesthetics, community impacts, or other particular site-specific considerations. Zoning ordinances also identify the types of land uses that are permitted as of right and without special conditions—sometimes known as a “permitted use,” as well as others that may be permitted only if certain conditions are satisfied or some uses that may be prohibited in an area altogether.

Providers of wireless telecommunications services (“carriers”) must apply to cities and counties for permits to build structures or other wireless facilities that support wireless telecommunications equipment, like antennae and related devices. Similarly, wireless carriers must seek local approval to place additional telecommunications equipment on structures where that equipment already exists, known as “collocations.” Current wireless communication technology is largely dependent on wireless facilities that have required a network of large, “macro” cell towers that are often over 200 feet tall.

Federal requirements for local decisions on wireless facilities. Local governments generally have discretion when establishing a process for permitting wireless facilities and other land uses. However, two federal laws, the Telecommunications Act of 1996 and the Spectrum Act of 2012, require local governments to act within a “reasonable period of time” on permits for siting wireless facilities. The FCC is responsible for administering these laws and implementing this requirement. These regulations provide that a state or local government may not deny, and must approve, any request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such a tower or base station. Under the FCC regulations governing such requests, the approval must be issued within 60 days or the request is deemed granted.

Public Safety Power Shutoffs. Public Safety Power Shutoffs (PSPS) events disrupt power that is provided to cell tower sites. In order to sustain power to this communications infrastructure, wireless carriers must install emergency backup generators to provide a temporary power source. These generators are typically diesel-powered and have run-times that vary based on the size of the tank, but carriers estimate that generators of approximately to 300 gallons can provide power for three days (72 hours). Some wireless carriers report some delays (from five to 30 months) in local jurisdictions that have required—as part of the permitting process for back-up generators.

Comments

- 1) *Purpose of the bill.* According to the author, “In order to facilitate wireless network upgrades, needed to mitigate the impacts of Public Safety Power Shutoffs, AB 2421 will help enable the rapid deployment of emergency standby generators at macro cell sites. These generators are vital for public safety and welfare, thus helping to ensure consumers maintain access to 911 services, wireless emergency alerts, and other public safety communications. AB 2421 is a critical component in supporting the efforts of wireless service providers to install emergency standby generators before catastrophic events threaten Californians’ ability to stay connected to emergency services when needed most. Without the short term, narrowly crafted process prescribed in this legislation, widely differing and lengthy permitting requirements across the state could delay these public safety efforts by many months. AB 2421 is focused on improving public safety through power-resilient wireless communications networks.”
- 2) *Where’s the beef?* While local agencies can adopt, and some already have adopted, permitting processes similar to AB 2421, some agencies still require a

more elaborate review process to provide opportunities to address community concerns. In those communities, AB 2421 imposes a simplified process that may remove opportunities for the public to raise concerns and have local officials address them. Additionally, this bill applies across the entire state regardless of wildfire risk or other circumstances. On the other hand, AB 2421 includes various provisions to ensure that the impacts of these generators remain reasonable, allows local governments to rescind permits that were deemed approved if the generator violates state and local laws, and includes a sunset to ensure that this bill's terms only apply during the relatively intensive generator construction effort to respond to current PSPS challenges.

- 3) *Environmental quality concerns.* While many local agencies have opted to apply an administrative approval to emergency standby generators at cell towers, this bill mandates it statewide; which also removes CEQA's application. While air districts will continue to require and enforce permits, and generators will be individually certified to California standards, local governments will not be able to consider the cumulative impacts of those generators. Public participation and transparency in a local government's approval of a project is a cornerstone of CEQA. While these generators will have lesser air quality impact than their counterparts that are rated with more than 50 horsepower, statewide administrative review for generators at cell towers could lead to a desire to apply administrative review in other locations.

Related/Prior Legislation

SB 649 (Hueso, 2018) would have streamlined permitting and capped local fees for small cell wireless facilities by requiring administrative, non-discretionary review of those facilities. SB 649 was vetoed by the Governor

AB 57 (Quirk, Chapter 685, Statutes of 2015), which the Governor signed into law, provided that a collocation or siting application for a wireless telecommunications facility is deemed approved if the city or county fails to approve or disapprove the application within the reasonable time periods specified in applicable decisions of the FCC, all required public notices have been provided regarding application, and the applicant has provided a notice to the city or county that the reasonable time period has lapsed.

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

SUPPORT: (Verified 8/14/20)

100 Black Men of Long Beach, Inc.

African American Male Education Network and Development
American Indian Chamber of Commerce of California
Anaheim Fire & Rescue
APAPA Solano County
Apple Valley Chamber of Commerce
Apple Valley Fire Protection District
Arc
Arc of San Francisco
Asian Business Association
Asian Business Association of San Diego
Asian Pacific Islander American Public Affairs Association
Asian Pacific Islander American Public Affairs Association Community Education
Foundation
Association of California Water Agencies
AT&T Central Valley Veterans
AT&T Inc. and its Affiliates
Beaumont Chamber of Commerce
Beverly Oncology & Imaging
Big Bear Fire Authority
Black Business Association
Black Chamber of Orange County
Bodega Bay Fire Protection District
Boys & Girls Club North Valley
Boys and Girls Club of El Dorado County
Brotherhood Crusade
Burbank Chamber of Commerce
Cal Asian Pacific Islander Chamber of Commerce
Calaveras County Sheriff's Office
California Asian Pacific Chamber of Commerce
California Association of Highway Patrolmen
California Black Chamber of Commerce
California Chapter National Emergency Number Association
California Fire Chiefs Association
California Hispanic Chamber of Commerce
California Hospital Association/California Association of Hospitals and Health
Systems
California Police Chiefs Association
California State Conference of the National Association for the Advancement of
Colored People
California State Firefighters' Association

Carlsbad Chamber of Commerce
Carmel Valley Chamber of Commerce
Center for Fathers and Families
Chambers of Commerce along the Highway 78 Corridor
Chicano Federation of San Diego County
Chino Valley Chamber of Commerce
City of Hayward
City of Hayward Fire Department
City of Montecito Fire Department
City of Palm Springs Fire Department
City of Santa Rosa Fire Department
City of Seaside
Coalition for Responsible Community Development
Community Women Vital Voices
Concerned Citizens Community Involvement
Congress of California Seniors
Contra Costa County Fire Protection District
Corona Chamber Of Commerce
Corona Fire Department
Cosumnes Fire Department
County of Riverside
County of San Bernardino
CTIA
Disability Action Center
Dr. Rhuenette Alums
East Bay Leadership Council
East Bay Municipal Utility District
El Dorado County Chamber of Commerce
El Dorado County Sheriff's Office
Escondido Chamber of Commerce
Filipina Women's Network
Fire Districts Association of California
Fire Safe Council of San Diego County
Fontana Chamber of Commerce
Fresno Police Officers Association
Frontier Senior Center – AAASCO
Glendale Chamber of Commerce
Greater Coachella Valley Chamber of Commerce
Greater Los Angeles African American Chamber of Commerce
Greater Riverside Chamber of Commerce

Greater Sacramento Urban League
Hemet San Jacinto Valley Chamber of Commerce
Hesperia Chamber of Commerce
Highland Chamber of Commerce
Hispanic 100
Inland Empire Chamber Legislative Alliance
Inland Empire Economic Partnership
Inland Empire Regional Broadband Consortium
Janet Goeske Foundation
Kern County Fire Department and Office of Emergency Services
Kheir Clinic
Kings/Tulare Homeless Alliance
Korean American Seniors Association of Orange County
La Cañada Flintridge Chamber of Commerce and Community Association
LAAAWPPI
Lakeside Chamber of Commerce
Latino Education and Advocacy Days
Lead Cal State San Bernardino
Lighthouse Counseling & Family Resource Center
Long Beach Area Chamber of Commerce
Los Angeles African American Women's Public Policy Institute
Los Angeles County Fire Department
Madera County Sheriff's Office
Mariposa County Sheriff's Office
Meeks Bay Fire Protection District
Mission of the 100 Black Men of Long Beach, Inc.
Montecito Fire Department
Monterey County Business Council
Monterey County Hospitality Association
Monterey County Sheriff's Department
Moreno Valley Chamber of Commerce
Mother Lode Rehabilitation Enterprises Inc.
Murrieta Wildomar Chamber of Commerce
NAACP
NAACP LA
NAACP Ventura County
Napa Valley Support Services
Newcastle Fire Protection District
North County Fire Protection District
North Sonoma Coast Fire Protection District

North Tahoe Fire Protection District
Novato Fire Protection District
Oasis San Diego
Oceanside Chamber of Commerce
Office of the Sheriff, Calaveras County
Orange County Business Council
Orange County Hispanic Chamber Of Commerce
Organization of Chinese Americans
Organization of Chinese Americans, Greater Sacramento Chapter
Oroville Rescue Mission
Pacific Grove Chamber of Commerce
Parent Institute for Quality Education
Pasadena Chamber of Commerce and Civic Association
Pasadena/Altadena Ivy Foundation
Peace Officers Research Association of California
Perris Valley Chamber of Commerce
Pomona Chamber of Commerce
Rancho Cucamonga Chamber of Commerce
Recknagel Enterprises
Redlands Chamber of Commerce
Resource Conservation District of Greater San Diego County
Rincon Fire Department
Riverside Sheriffs' Association
Rural County Representatives of California
Sacramento Asian Pacific Chamber of Commerce
Sacramento Black Chamber of Commerce
Sacramento Hispanic Chamber of Commerce
Sacramento Metropolitan Fire District
San Bernardino County Fire Chiefs Association
San Diego County Sheriff's Department
San Diego Fire-Rescue
San Diego North County Chambers
San Diego Oasis
San Francisco Chamber of Commerce
San Gabriel Valley Economic Partnership
San Marcos Chamber Of Commerce
Santa Barbara County Fire Department
Santa Clara County Fire Chiefs Association
Seaside Fire Department
Self-Help for the Elderly

sf.citi
Sierra College
Sierra College Foundation
Slavic-American Chamber of Commerce
Society for the Blind
South Placer Fire Protection District
Southeast Community Development Corporation
Southern Border Broadband Consortium
Southern Marin Emergency Medical Paramedic System
Southern Marin Fire Protection District
Sutter Creek Fire Protection District
Tahoe Prosperity Center
TechNet-Technology Network
The Arc and United Cerebral Palsy California Collaboration
The Arc of Butte County
The Arc of California
The Arc San Francisco
The Village Project
Thinkwatts Foundation
Tiburon Fire Protection District
UFCW Local 648
Upland Chamber of Commerce
Urban Corps of San Diego County
Urban League - Greater Sacramento
Veterans Association
Veterans Association of North County
Victor Valley Chamber of Commerce
Vista Chamber Of Commerce
Western Fire Chiefs Association
World Institute on Disability
Young Visionaries Youth Leadership Academy
Zephyr Real Estate

OPPOSITION: (Verified 8/14/20)

Communications Workers of America, District 9

ASSEMBLY FLOOR: 76-0, 6/10/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom,
Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau,
Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Megan Dahle, Daly,

Diep, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Limón, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Obernolte, O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Mayes, Quirk, Reyes

Prepared by: Jonathan Peterson / GOV. & F. / (916) 651-4119
8/15/20 12:26:28

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

THIRD READING

Bill No: AB 2426
Author: Reyes (D)
Amended: 5/4/20 in Assembly
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-1, 7/31/20
AYES: Skinner, Bradford, Jackson, Mitchell, Wiener
NOES: Morrell
NO VOTE RECORDED: Moorlach

ASSEMBLY FLOOR: 70-0, 6/8/20 - See last page for vote

SUBJECT: Victims of crime

SOURCE: Coalition for Humane Immigrant Rights

DIGEST: This bill clarifies the law enforcement agencies that are required to process a victim certification for an immigrant victim of a crime for the purposes of obtaining U-Visas and T-Visas include law enforcement at the University of California, California State Universities, California Community Colleges or public school police departments.

ANALYSIS:

Existing federal law:

- 1) Allows an immigrant who has been a victim of a crime to receive a U-visa if the Secretary of Homeland Security determines the following:
 - a) The petitioner has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity as described;
 - b) The petitioner, of if the petitioner is under 16 years of age, the petitioner's parent, possesses information concerning the criminal activity;

- c) The petitioner, or if the petitioner is under 16 years of age, the petitioner's parent, has been helpful, is being helpful, or is likely to be helpful to a federal, state, or local law enforcement official, to a federal, state, or local prosecutor, to a Federal or State judge, to the Service, or to other federal, state, or local authorities investigating or prosecuting criminal activity as described;
 - d) The criminal activity violated the laws of the United States or occurred in the United States (including in Indian country and military installations) or the territories and possessions of the United States; and,
 - e) The criminal activity is that involving one or more of the following or any similar activity in violation of federal, state, or local criminal law: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; stalking; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; fraud in foreign labor contracting; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes. (8 U.S.C. § 1011(a)(15)(U).)
- 2) Allows an immigrant to receive a T-visa if the Secretary of Homeland Security determines the following:
- a) The person is or was a victim of a severe form of trafficking in persons (which may include sex or labor trafficking), as defined by federal law;
 - b) The person is in the United States, American Samoa, the Commonwealth of the Northern Mariana Islands or at a U.S. port of entry due to trafficking;
 - c) The person has complied with any reasonable request from a law enforcement agency for assistance in the investigation or prosecution of human trafficking; and,
 - d) The person would suffer extreme hardship involving unusual and severe harm if removed from the United States. (8 U.S.C. § 1101 (a)(15)(T).)

Existing state law:

- 1) Requires certifying agencies, upon the request of an immigrant victim of crime or his or her family member, to certify victim helpfulness on the applicable form so that he or she may apply for a U-visa. (Penal Code § 679.10 (e).)

- 2) Creates a rebuttable presumption that an immigrant victim is helpful, has been helpful, or is likely to be helpful, if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement. (Penal Code § 679.10 (f).)
- 3) Mandates certifying entities to complete the certification within 90 days of the request, except in cases where the applicant is in immigration removal proceedings, in which case the certification must be completed within 14 days of the request. (Penal Code § 679.10 (h).)
- 4) Requires certifying agencies, upon the request of an immigrant human-trafficking victim or his or her family member, to certify victim helpfulness on the applicable form so that he or she may apply for a T-visa. (Penal Code § 679.11 (e).)
- 5) Creates a rebuttable presumption that an immigrant human-trafficking victim is helpful, has been helpful, or is likely to be helpful, if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement. (Penal Code § 679.11 (f).)
- 6) Mandates certifying entities to complete the certification within 90 days of the request, except in cases where the applicant is in immigration removal proceedings, in which case the certification must be completed within 14 days of the request. (Penal Code § 679.11 (h).)

This bill:

- 1) Defines a state or local law enforcement agency to include the police department of the University of California, a California State University campus or a California Community College, or the police department of a school district.
- 2) Provides that a certifying official shall not refuse to complete the Form I-918 Supplement B certification or to certify helpfulness because a case has already been prosecuted or otherwise closed, or because the time for commencing a criminal action has expired.
- 3) Provides that a certifying official shall not refuse to complete the Form I-914 Supplement B certification or to certify helpfulness because a case has already been prosecuted or otherwise closed, or because the time for commencing a criminal action has expired.

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

SUPPORT: (Verified 7/31/20)

Coalition for Humane Immigrant Rights (source)
California Attorneys for Criminal Justice
California Immigrant Policy Center
California Public Defenders Association
Coalition for Humane Immigrant Rights of Los Angeles
Los Angeles County District Attorney's Office
San Francisco Public Defender's Office

OPPOSITION: (Verified 7/31/20)

California State Sheriffs' Association

ARGUMENT IN SUPPORT: The Coalition for Humane Immigrant Rights, the sponsor of this bill states:

AB 2426 enhances the overall public safety of Californians to ensure that undocumented immigrants who are victims of crimes and cooperate with local law enforcement in good faith are provided the needed protection from deportation. It is crucial that local jurisdictions keep the promises that had been made by congress. Furthermore, as a state we must do everything within our means to assist in those efforts and mitigate federal policies that seek to hinder that promise. In the enactment of the Victims of Trafficking and Violence Protection Act in 2000 congress explicitly stated that the intent of the law was to ensure immigrants were protected from deportation if they cooperated with law enforcement and to build trust with the immigrant community and law enforcement.

Specifically, AB 2426 further clarifies the role of police departments governed by local school boards, police departments at public universities, and that a certifying agency must determine if a victim meets all eligibility.

ARGUMENT IN OPPOSITION: The California State Sheriffs' Association opposes this bill stating:

On behalf of the California State Sheriffs' Association (CSSA), I regret to inform you that we remain respectfully opposed to your measure, Assembly Bill 2426, which would prohibit a certifying official from refusing to complete the Form I-918 Supplement B certification or to certify helpfulness for the purposes of considering a T- or U-Visa because a case has already been prosecuted or otherwise closed, or because the time for commencing a criminal action has expired.

Victim cooperation can be extremely valuable when investigating criminal offenses. That said, existing law on this matter requires specified officials to sign these requests and contains a rebuttable presumption that effectively states that a victim is being cooperative or is likely to be cooperative unless and until he or she is not cooperative, limiting law enforcement discretion. If the case is closed or the statute of limitations has run, the need for an official to make a certification about victim cooperation seems moot.

ASSEMBLY FLOOR: 70-0, 6/8/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Boerner
Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chen,
Chiu, Chu, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Diep, Eggman,
Flora, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson,
Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra,
Kamlager, Kiley, Lackey, Levine, Limón, Low, Maienschein, Mathis, Mayes,
McCarty, Medina, Mullin, Nazarian, O'Donnell, Petrie-Norris, Quirk-Silva,
Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas,
Santiago, Smith, Mark Stone, Ting, Voepel, Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Choi, Fong, Gallagher, Muratsuchi, Obernolte,
Patterson, Quirk, Waldron

Prepared by: Mary Kennedy / PUB. S. /
8/5/20 15:38:30

**** END ****

THIRD READING

Bill No: AB 2445
Author: Reyes (D)
Amended: 7/7/20 in Senate
Vote: 27 - Urgency

SENATE JUDICIARY COMMITTEE: 8-0, 7/30/20
AYES: Jackson, Borgeas, Durazo, Lena Gonzalez, Monning, Stern, Umberg,
Wieckowski
NO VOTE RECORDED: Melendez

ASSEMBLY FLOOR: 77-0, 6/8/20 - See last page for vote

SUBJECT: Civil actions: wrongful death

SOURCE: Author

DIGEST: This bill affords the legal guardians of a decedent the right to bring a wrongful death claim as if they were the decedent's parents, as specified.

ANALYSIS:

Existing law:

- 1) Establishes a cause of action for the death of a person caused by the wrongful act or neglect of another ("wrongful death action") that may be asserted by any of the following persons or by the decedent's personal representative on their behalf:
 - a) the decedent's surviving spouse;
 - b) domestic partner;
 - c) children, and issue of deceased children;
 - d) if there is no surviving issue of the decedent, the persons, including the surviving spouse or domestic partner, who would be entitled to the property of the decedent by intestate succession;

- e) the putative spouse, children of the putative spouse, stepchildren, or parents, if they were dependent on the decedent; and
 - f) a minor, whether or not otherwise qualified, if, at the time of the decedent's death, the minor resided for the previous 180 days in the decedent's household and was dependent on the decedent for one-half or more of the minor's support. (Code Civ. Proc. § 377.60.)
- 2) Provides that any part of the estate of a decedent not effectively disposed of by will passes to the decedent's heirs as prescribed in the Probate Code. (Prob. Code § 6400 et seq.)
- 3) Provides that a cause of action that survives the death of the person entitled to commence an action or proceeding passes to the decedent's successor in interest, as provided, and an action may be commenced by the decedent's personal representative or, if none, by the decedent's successor in interest. (Code Civ. Proc. § 377.30.) Similarly, an action commenced by a decedent and still pending may be continued by the decedent's personal representative or, if none, by the decedent's successor in interest. (Code Civ. Proc. § 377.31.)

This bill:

- 1) Authorizes the legal guardians of the decedent, if any, to bring a wrongful death action as if they were the decedent's parents, if the deceased parents of the decedent would be entitled to bring an action.
- 2) Provides that the legal guardians of the decedent may bring a wrongful death action if they were dependent on the decedent and the decedent's parents are deceased.
- 3) Declares that it is an urgency measure going into immediate effect in order to ensure legal guardians have standing within pending statutes of limitations periods.

Background

California law establishes a cause of action for the death of a person caused by the wrongful act or neglect of another that may be brought by certain relatives and heirs of the decedent. The decedent's parents are authorized to bring such actions under certain circumstances, such as where they would be entitled to the property of the decedent through intestate succession or if they were dependent on the decedent before death. However, legal guardians are not afforded these same rights. This is despite the fact that California law generally affords legal guardians rights equal to those of parents.

This bill authorizes legal guardians to assert wrongful death claims as if they were the decedent's parents, where the deceased parents of the decedent would be entitled to bring such an action. It further provides that the legal guardians are eligible to bring such a claim, whether or not otherwise qualified, if they were dependent on the decedent.

This bill is author sponsored. It is supported by a number of consumer-focused groups and other interested stakeholders. The CSAC Excess Insurance Authority is in opposition to the bill. This bill includes an urgency clause.

Comments

According to the author:

AB 2445 aims to eliminate the antiquated requirement that the "parent" of a minor who passes away due to the wrongful conduct of others must be the biological parent or have adopted the minor in order to be able to bring a lawsuit on their child's behalf. In cases where the minor is raised by legal guardians and not biological or legally adoptive parents, such legal guardians should have the right to bring a lawsuit in connection with the death of the minor. The realities of family are not limited to biology or legal adoption, and it is important that the legislature modernize the wrongful death statute to reflect this so that the proper justice can be sought and found after the wrongful death of a child whose legal parents are also deceased. This bill will allow legal guardians to seek justice for their child with a wrongful death claim when the child's legal parents are also deceased.

Expanding the right to bring a wrongful death claim

When the death of a person is caused by the wrongful act or neglect of another, the law provides a cause of action to certain relatives and heirs of the decedent. Those authorized to bring such an action include the decedent's partner or children and others that were dependent on the decedent. The decedent's parents are authorized to bring such actions under certain circumstances, such as where they would be entitled to the property of the decedent through intestate succession or where they were dependent on the decedent. However, legal guardians are not afforded these same rights, despite the fact that California law generally affords legal guardians rights equal to those of parents.

This bill rectifies this incongruence in the wrongful death statute by providing that legal guardians are authorized to bring suit as if they were the decedent's parents,

where the parents would be entitled to bring such an action and where the parents are deceased. It further provides that the legal guardians are eligible to bring such a claim, whether or not otherwise qualified, if they were dependent on the decedent.

Section 377.60, the wrongful death statute, has been amended in the past to reflect an evolving understanding of familial relationships and units. For instance, AB 25 (Migden, Chapter 893, Statutes of 2001) updated the statute to include domestic partners as qualified plaintiffs in such actions. Often, the relationship between legal guardians and their wards is no different than that between parents and their children. This change in law reflects that reality.

Despite some arguments from the opposition to the contrary, legal guardians will still need to prove their cases as any parent currently would. The economic and noneconomic damages must be proven up in order to be awarded damages. The Judicial Council of California Civil Jury Instruction (CACI) 3922 lays out the available damages to a parent for the wrongful death of a minor child, including funeral and burial expenses and the loss of love, companionship, and comfort. The amount of such damages is determined by the fact finder based on the evidence provided by the parties.

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

SUPPORT: (Verified 7/31/20)

Children's Advocacy Institute
Children's Law Center of California
Consumer Attorneys of California
Consumer Federation of California
Dependency Legal Services
John Burton Advocates for Youth
National Center for Lesbian Rights

OPPOSITION: (Verified 7/31/20)

CSAC Excess Insurance Authority

ARGUMENTS IN SUPPORT: The Children's Advocacy Institute writes in support: "Just as the law has adapted to recognize that, in the real-world, there are many ways to establish the bonds that qualify for legal parentage so, too, should it conform when it comes to who may be considered a parent to maintain a lawsuit when tragedy befalls a child."

ARGUMENTS IN OPPOSITION: In opposition, the CSAC Excess Insurance Authority write: “The enactment of AB 2445 would expand the number of individuals who could bring a lawsuit for the wrongful death of a decedent without any conditions or requirements, including evidence that a legal guardian was dependent on the decedent or had any kind of parental relationship with the decedent. Indeed, the provisions of AB 2445 could effectively provide a legal guardian with the right to bring a wrongful death lawsuit when he or she was a parent in name only.”

ASSEMBLY FLOOR: 77-0, 6/8/20

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

NO VOTE RECORDED: Muratsuchi, Quirk

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
7/31/20 17:56:55

**** END ****

THIRD READING

Bill No: AB 2471
Author: Maienschein (D)
Amended: 5/21/20 in Assembly
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-0, 7/30/20
AYES: Jackson, Borgeas, Durazo, Lena Gonzalez, Melendez, Monning, Stern,
Umberg, Wieckowski

ASSEMBLY FLOOR: 78-0, 6/10/20 - See last page for vote

SUBJECT: Senior citizens: rescission of contracts

SOURCE: California District Attorneys Association
San Diego County District Attorney

DIGEST: This bill provides senior citizens with a five-day right to cancel various contracts and agreements.

ANALYSIS:

Existing law:

- 1) Defines a “home improvement contract” to include an agreement between a contractor and an owner or between a contractor and a tenant for the performance of a home improvement, or an agreement between a salesperson and an owner or a tenant, which provides for the sale, installation, or furnishing of home improvement goods or services, as specified. (Bus. & Prof. Code § 7159(b).)
- 2) Identifies the projects for which a home improvement contract is required, outlines the contract requirements, and lists the items that shall be included in or attached to the contract. (Bus. & Prof. Code § 7159.)

- 3) Affords consumers the right to cancel home improvement contracts within three days, as specified. (Bus. & Prof. Code § 7159.)
- 4) Governs the use and contents of “service and repair contracts,” which are defined as agreements between contractors or salespeople for contractors, as specified, and homeowners or tenants, for the performance of home improvements, as defined. (Bus. & Prof. Code § 7159.10.)
- 5) Requires, except as provided, contractors or their salespeople to include contractual terms that afford consumers the right to cancel service and repair contracts any time before a signed contract is received by the consumer or before works begins, or within three days of signing a normal service and repair contract or within seven days in the event of certain emergency conditions, where the following conditions are met:
 - a) the contract price is above \$750;
 - b) the consumer did not initiate the contract with the contractor;
 - c) the contractor sold the consumer goods or services beyond those reasonably necessary to take care of the underlying problem; or
 - d) the payment was due or the contractor accepted any money before the work was complete. (Bus. & Prof. Code § 7159.10(e)(12).)
- 6) Regulates a “home solicitation contract or offer,” defined to mean any contract for the sale, lease, or rental of goods or services or both, made at other than appropriate trade premises in an amount of \$25 or more, including any interest or service charges. It does not include any contract under which the buyer is afforded certain federal rights to rescind. (Civ. Code § 1689.5(a).)
“Appropriate trade premises” means premises where either the owner or seller normally carries on a business, or where goods are normally offered or exposed for sale in the course of a business carried on at those premises. (Civ. Code § 1689.5(b).)
- 7) Provides a buyer, except as provided, and in addition to any other right to revoke, the right to cancel a home solicitation contract or offer until midnight of the third business day after the buyer signs a compliant agreement or offer to purchase or after the buyer receives a signed and dated copy of the contract or offer to purchase, as specified. (Civ. Code § 1689.6(a).) The right to rescind the contract must be clearly disclosed in the underlying contract or offer. (Civ. Code § 1689.7.)
- 8) Provides the terms under which a seminar sales solicitation contract can be entered into. (Civ. Code § 1689.20 et seq.) “Seminar sales solicitation contract

or offer” means any contract for the sale, lease, or rental of goods or services or both, made using selling techniques on premises other than the residence of the buyer in an amount of \$25 or more, including any interest or service charges. “Seminar sales solicitation contract” does not include any contract under which the buyer has certain federal rights to rescission.

- 9) Provides the buyer, in addition to any other right to revoke an offer, the right to cancel a seminar sales solicitation contract or offer until midnight of the third “business day” after the day on which the buyer signs a compliant agreement or offer to purchase. (Civ. Code § 1689.20(a).)
- 10) Regulates contractual assessments, including Property Assessed Clean Energy (PACE) financing, as specified. (Streets & Highways Code § 5898.10 et seq.) As a requirement of the financing agreements, property owners must be given the right to cancel the contractual assessments within three days of specified events, including the signing of the assessment, the date the required Financing Estimate and Disclosure is received, or the date notice of the right to cancel was received by the property owner.

This bill:

- 1) Defines a “senior citizen” as an individual who is 65 years of age or older for purposes of the above statutes.
- 2) Extends the three-day right to cancel provisions in the above statutes to five years for customers, buyers, or property owners who are senior citizens and provides the requisite forms and disclosures.
- 3) Makes conforming changes.

Background

Executive Summary

Given the dynamics that are often involved in the formation of certain contracts and the stakes that may be involved, California law affords consumers a number of protections in connection with them. Relevant examples are home improvement contracts, service and repair contracts, home solicitation contracts or offers, seminar sales solicitation contracts or offers, and contractual assessment program agreements. Many of the protections afforded in connection with these contracts are triggered where the contract is not initiated by the consumer or takes place in certain premises that might lead to high-pressure situations. The statutory schemes

regulating these contractual arrangements all include a three-day right to cancel the underlying agreement.

This bill amends the above statutes to extend the period to cancel from three days to five days for senior citizens. The new right to cancel afforded in these statutes only applies prospectively to contracts entered into on or after January 1, 2021.

This bill is sponsored by the California District Attorneys Association and the San Diego County District Attorney. There is no known opposition.

Comments

According to the author:

AB 2471 extends the right to cancel certain contracts for persons 65 years of age or older from three (3) business days to five (5) business days. Specifically, AB 2471 grants senior citizens an extended right to cancel: 1) home solicitation contracts; 2) home improvement contracts; 3) Property Assessed Clean Energy (“PACE”) assessment contracts; 4) service or repair contracts; and 5) seminar sales contracts. This modest extension of time will help alleviate some of the pressure felt during sales presentations and allow for a more measured and informed choice, while protecting the ability of individuals and companies to negotiate and enter into mutually beneficial contracts. These five specific types of contracts were selected for an extended right to cancel because: 1) they can involve high-pressure or intimidating sales tactics -- often taking place in the senior citizen’s home; and/or 2) they involve a large financial commitment which senior citizens are ill equipped to recover from should the financial obligation prove to be too much.

Elderly consumers are at great financial risk when they enter contracts in which they do not fully understand according to National Association of Area Agencies on Aging and the San Diego County District Attorney’s Office of Economic Crimes Division/Consumer Protection Unit. Many times, seniors sign contracts due to high-pressure sales tactics or they sign despite not fully comprehending the difference between the verbal presentation and the actual terms of the written contract. These contracts can have dire consequences, not only financially, but also psychologically for seniors who unknowingly place their home – their largest financial asset – at risk to foreclosure due to assessments or liens.

Three-day right to cancel: protecting consumers and property owners

California law meticulously lays out the parameters for the formation of various consumer contracts and provides a number of important protections in connection with these contracts, agreements, and offers. One right afforded consumers in connection with many of these consumer agreements is a statutorily mandated three-day right of rescission. This period provides customers who may have felt pressured during sales pitches or discovered additional information in the wake of purchases or contracting for certain services the right to cancel the agreement without penalty or obligation. The following statutes govern various contractual arrangements, include this three-day right to cancel, and are amended by this bill.

First, Business and Professions Code Section 7159 regulates “home improvement contracts,” which include agreements between contractors and homeowners or between contractors and tenants for the performance of a home improvement. It also includes agreements between salespeople and owners or tenants, which provides for the sale, installation, or furnishing of home improvement goods or services. The law specifically identifies the projects for which a home improvement contract is required, outlines the contract requirements, and lists the items that shall be included in the contract, or may be provided as an attachment. One right afforded customers, with certain exceptions, is the ability to cancel a qualifying home improvement contract within three business days by the methods specified; contractors must notify customers of this right.

Second, Business and Professions Code Section 7159.10 regulates “service and repair contracts,” which are defined as agreements between contractors or salespeople for contractors, as specified, and homeowners or tenants, for the performance of home improvements, as defined. There are clear guidelines for the costs of such contracts and the specific elements that must be included in these contracts. Relevant here, Section 7159.10 provides that service and repair contracts must make clear that consumers can cancel them at any time before a signed and dated contract is received by the consumer or before the work has begun. Additionally, the consumer can cancel within three days of signing the contract (seven days under certain emergency conditions) where certain conditions are met, including where the costs rise above a certain level or the consumer is sold unnecessary good or services or where the consumer did not initiate the contract.

Third, Civil Code Section 1689.5 et seq. regulates “home solicitation contracts or offers,” defined to mean any contract for the sale, lease, or rental of goods or services or both, made at other than appropriate trade premises in an amount of \$25 or more, including any interest or service charges. “Appropriate trade premises” means premises where either the owner or seller normally carries on a business, or where goods are normally offered or exposed for sale in the course of a business

carried on at those premises. (Civ. Code § 1689.5(b).) Similar to above, buyers are afforded the right to cancel home solicitation contracts or offers within three days, as specified, in addition to any other right to revoke.

Fourth, Civil Code Section 1689.20 et seq. provides the terms under which a seminar sales solicitation contract can be entered into. “Seminar sales solicitation contract or offer” means any contract for the sale, lease, or rental of goods or services or both, made using selling techniques on premises other than the residence of the buyer in an amount of \$25 or more. Again, buyers are afforded the right to cancel a seminar sales solicitation contract or offer until midnight of the third “business day” after the day on which the buyer signs a compliant agreement or offer to purchase. (Civ. Code § 1689.20(a).)

Finally, Streets and Highways Code Section 5898.10 et seq. regulates contractual assessments, including PACE financing, as specified. As a requirement of the program, property owners must be given the three-day right to cancel the contractual assessments, including the signing of the assessment.

Extending existing protections for senior citizens

This bill amends the above statutes to provide stronger protections to senior citizens, defined as persons who are 65 years of age or older. The bill extends the three-day right to cancel home improvement contracts, service and repair contracts, home solicitation contracts or offers, seminar sales solicitation contracts or offers, and contractual assessment program agreements to five days for senior citizens. This bill provides for conforming contractual terms and conditions. This extension of the law further protects these older consumers from the inherent pitfalls and consequences of these particular contractual arrangements.

The new five-day right to cancel afforded in these statutes only applies prospectively to contracts entered into on or after January 1, 2021. Therefore, no previously existing contracts should be impacted by the bill.

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

SUPPORT: (Verified 7/31/20)

California District Attorneys Association (co-source)
San Diego County District Attorney (co-source)
AFSCME, AFL-CIO
Ageless Alliance
Alzheimer’s Association - San Diego
Association of California Caregiver Resource Centers

California Association of Realtors
California Commission on Aging
California Low-Income Consumer Coalition
California Retired Teachers Association
Center for Public Interest Law, University of San Diego School of Law
Consumer Attorneys of California
Contra Costa Senior Legal Services
Contractors State License Board
County of San Diego
Housing and Economic Rights Advocates
Institute on Aging
International Network for the Prevention of Elder Abuse
Los Angeles City Attorney Michael Feuer

OPPOSITION: (Verified 7/31/20)

None received

ARGUMENTS IN SUPPORT: The co-sponsor of this bill, the California District Attorneys Association writes: “Home improvement and PACE assessment contracts, in particular, involve the largest financial asset many seniors have – their home – which can be significantly encumbered or even lost to foreclosure as a result of contracts which were either misrepresented or not fully understood by the senior. Extending by two days the opportunity to cancel these specified contracts will alleviate some of the pressure sometimes felt during a sales presentation and allow for a more thoughtful and informed choice while working very little hardship on the companies seeking to enter into these contracts.”

ASSEMBLY FLOOR: 78-0, 6/10/20

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

NO VOTE RECORDED: Quirk

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
8/5/20 14:50:53

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

CONSENT

Bill No: AB 2479
Author: Gipson (D)
Amended: 3/4/20 in Assembly
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 8/5/20
AYES: Hill, Morrell, Jackson, Mitchell, Pan

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Rest periods: petroleum facilities: safety-sensitive positions

SOURCE: Author

DIGEST: This bill extends the sunset of an existing exemption from rest period requirements for employees who hold safety-sensitive positions at petroleum facilities to January 1, 2026.

ANALYSIS:

Existing law:

- 1) Requires, with certain exemptions, that all employees be provided a meal break of 30 minutes before the start of the fifth hour of work, unless the work period is no more than six hours and both the employer and the employee choose to waive the meal period by mutual consent. (Labor Code §512)
- 2) Provides that, if an employer fails to provide a rest or meal period as required by an Industrial Welfare Commission (IWC) wage order, the employer must give the employee one hour of premium wages at the employee's regular rate of compensation for each workday that a rest or meal period was not provided. (Labor Code §226.7)

- 3) Provides that every employee must be authorized to take a 10-minute break for every four hours worked, or significant fraction thereof. (IWC Wage Order 1)
- 4) Requires that, notwithstanding IWC Wage Order 1, the requirement that employees must be relieved of all duties during rest periods shall not apply if all of the following is met:
 - a) The employee is subject to IWC Wage Order 1;
 - b) The employee holds a safety-sensitive position at a petroleum facility that must respond to emergencies, stay on the premises, and carry and monitor a communication device, such as a radio, pager, or other form of instant communication;
 - c) The employee is covered by a valid collective bargaining agreement; and
 - d) The valid collective bargaining agreement expressly provides for the wages, hours of work, and working conditions of employees, and expressly provides for rest periods for those employees, final and binding arbitration of disputes concerning application of its rest period provisions, premium wage rates for all overtime hours worked, and a regular hourly rate of pay of not less than 30 percent more than the state minimum wage rate. (Labor Code §226.75)
- 5) Requires that, if an employee discussed above is affirmatively required to miss or interrupt his or her meal period to address an emergency, the employee must be authorized and permitted reasonably promptly after the circumstances that led to the interruption have passed. If circumstances do not allow for the employee to take such a rest period, the employer shall pay the employee one hour of pay at the employee's regular rate of pay for the rest period that was not provided. (Labor Code §226.75)
- 6) Requires that, if an employee does not take a rest period for the reasons described above, the total hours and pay must be included on the employee's pay stub. (Labor Code §226.75)
- 7) Provides that the above provisions will only remain in effect until January 1, 2021, and as of that date is repealed. (Labor Code §226.75)

This bill extends the sunset of the above-discussed provisions from January 1, 2021, to January 1, 2026.

Comments

Need for this bill? According to the author, “In December 2016, the CA Supreme Court ruled that state law requires that employees be completely relieved of work obligations during rest breaks and prohibits ‘on-duty’ and ‘on-call’ rest breaks. The ruling has significant impacts on facilities which rely on employees to keep radios with them during breaks to respond to emergencies. Radios have always been the primary means of communications during an emergency.

“Given the nature of the processes at petroleum facilities, the chemicals stored on-site, and the critical nature of these facilities’ infrastructure, it is essential for an immediate and effective response to any unplanned event.

“AB 2479 simply extend[s] the sunset from 2021 to 2026 to continue to exempt specified employees who hold a safety-sensitive position at a petroleum facility from the rest and recovery period requirements implemented by AB 2605 (2018).”

Related/Prior Legislation

AB 2605 (Gipson, Chapter 584, Statutes of 2018) exempted safety sensitive personnel at petroleum refineries from the “on duty” rest period requirements of a recent court case, provided that the personnel are covered by a valid collective bargaining agreement, as specified, until January 1, 2021.

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

SUPPORT: (Verified 8/14/20)

State Building and Construction Trades Council of California

United Steelworkers

Western States Petroleum Association

OPPOSITION: (Verified 8/14/20)

None received

ARGUMENTS IN SUPPORT: The State Building and Construction Trades Council of California argues the following in support:

Labor Code Section 226.75 provides a narrow exemption from the requirement that employees must be relieved of all duties during rest periods only to the extent that the employee holds a safety-sensitive position at a petroleum facility and the employee is required to carry and monitor a communication device, such as a radio, pager, or other form of instant communication, and to respond

to emergencies or is required to remain on employer premises to monitor for and respond to emergencies.

The measure also includes important employee protections and scope limitations, including the following:

- Only applying to employees subject to Industrial Welfare Commission Wage Order No. 1 and that hold a safety-sensitive position.
- That the employee is covered by a valid collective bargaining agreement.
- That if a rest period is interrupted to address an emergency another rest period shall be authorized and permitted reasonably promptly after the circumstance that generated the interruption. If circumstances do not allow the employee to take their rest period, the employer shall pay the employee one hour of pay at the employee's regular rate of pay for the rest period that was not provided.

ASSEMBLY FLOOR: 76-0, 6/8/20

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

NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Gideon L. Baum / L., P.E. & R. / (916) 651-1556
8/14/20 12:36:35

**** END ****

THIRD READING

Bill No: AB 2512
Author: Mark Stone (D), et al.
Amended: 6/8/20 in Assembly
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 7/31/20
AYES: Skinner, Bradford, Jackson, Mitchell, Wiener
NO VOTE RECORDED: Moorlach, Morrell

ASSEMBLY FLOOR: 57-0, 6/15/20 - See last page for vote

SUBJECT: Death penalty: person with an intellectual disability

SOURCE: California's Anti-Death Penalty Coalition

DIGEST: This bill authorizes a defendant in a death penalty case to apply for an order directing that a hearing to determine intellectual disability be conducted as part of a habeas corpus petition, and revises the definition of intellectual disability.

ANALYSIS:

Existing law:

- 1) Establishes court procedures during death penalty cases regarding the issue of intellectual disability. (Penal Code § 1376.)
- 2) Defines “intellectual disability” as the condition of significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested before 18 years of age. (Penal Code § 1376 (a).)
- 3) Authorizes a defendant to apply, prior to the commencement of trial, for an order directing that a hearing to determine intellectual disability be conducted when the prosecution in a criminal case seeks the death penalty. (Penal Code § 1376 (b)(1).)

- 4) Requires the court to order a hearing to determine whether the defendant has an intellectual disability upon the submission of a declaration by a qualified expert stating the expert's opinion that the defendant is a person with an intellectual disability. (Penal Code § 1376 (b)(1).)
- 5) States that the defendant's request for a court hearing prior to trial constitutes a waiver of jury hearing on the issue of intellectual disability. (Penal Code § 1376 (b)(1).)
- 6) Provides that if the defendant does not request a court hearing, the court shall order a jury hearing to determine if the defendant is a person with an intellectual disability. (Penal Code § 1376 (b)(1).)
- 7) Specifies that the jury hearing on intellectual disability shall occur at the conclusion of the guilt phase of the trial in which the jury has found the defendant guilty with a finding that one or more special circumstances, as specified, are true, making the penalty death or life imprisonment without possibility of parole (LWOP). (Penal Code §§ 190.2; 1376 . (b)(1).)
- 8) Provides that the jury or court shall decide only the question of the defendant's intellectual disability. The defendant shall present evidence in support of the claim that they are a person with an intellectual disability. The prosecution shall present its case regarding the issue of whether the defendant is a person with an intellectual disability. Each party may offer rebuttal evidence. The court, for good cause in furtherance of justice, may permit either party to reopen its case to present evidence in support of or opposition to the claim of intellectual disability. The court may make orders reasonably necessary to ensure the production of evidence sufficient to determine whether or not the defendant is a person with an intellectual disability, including, but not limited to, the appointment of, and examination of the defendant by, qualified experts. A statement made by the defendant during an examination ordered by the court shall not be admissible in the trial on the defendant's guilt. (Penal Code § 1376 (b)(2).)
- 9) Provides that the burden of proof shall be on the defendant to prove by a preponderance of the evidence that they are a person with an intellectual disability. The jury verdict must be unanimous. (Penal Code § 1376 (b)(3).)
- 10) Provides that where the hearing is conducted before trial, the following shall apply:

- a) If the court finds that the defendant is a person with an intellectual disability, the court shall preclude the death penalty and the criminal trial shall proceed as in any other case in which a sentence of death is not sought by the prosecution. If the defendant is found guilty of first degree murder, with a true finding of one or more special circumstances, the court shall sentence the defendant to confinement in the state prison for LWOP. The jury shall not be informed of the prior proceedings or the finding concerning the defendant's claim of intellectual disability. (Penal Code § 1376 (c)(1).)
 - b) If the court finds that the defendant is not a person with an intellectual disability, the trial court shall proceed as in any other case in which a sentence of death is sought by the prosecution. The jury shall not be informed of the prior proceedings or the finding concerning the defendant's claim of intellectual disability. (Penal Code § 1376 (c)(2).)
- 11) Provides that when the hearing is conducted before the jury after the defendant is found guilty with a finding that one or more special circumstances is true, the following shall apply (Penal Code § 1376 (d)):
- a) If the jury finds that the defendant is a person with an intellectual disability, the court shall preclude the death penalty and sentence the defendant to confinement in the state prison for LWOP; or
 - b) If the jury finds that the defendant does not have an intellectual disability, the trial shall proceed as in any other case in which the death penalty is sought by the prosecution.
- 12) States that in any case in which the defendant has not requested a court hearing prior to trial, and has entered a plea of not guilty by reason of insanity, as specified, the hearing on intellectual disability shall occur at the conclusion of the sanity trial if the defendant is found sane. (Penal Code § 1376 (e).)
- 13) Allows a person who is unlawfully imprisoned or restrained of his or her liberty to prosecute a writ of habeas corpus to inquire into the cause of his or her imprisonment or restraint. (Penal Code § 1473 (a).)
- 14) States that a writ of habeas corpus may be prosecuted for, but not limited to, the following reasons. (Penal Code § 1473 (b)):
- a) False evidence that is substantially material or probative on the issue of guilt, or punishment was introduced against a person at any hearing or trial relating to his incarceration; or

- b) False physical evidence believed by a person to be factual, material or probative on the issue of guilt, which was known by the person at the time of entering a plea of guilty and which was a material factor directly related to the plea of guilty by the person; or
 - c) New evidence 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. Specifies that “new evidence” means evidence that has been discovered after trial, that could not have been discovered prior to trial by the exercise of due diligence, and is admissible and not merely cumulative, corroborative, collateral, or impeaching.
- 15) Provides that a writ of habeas corpus may also be prosecuted on the basis that evidence relating to intimate partner battering and its effects, as defined, was not introduced at the trial relating to the prisoner's incarceration for a conviction of a violent felony, as defined, and had such substantial and competent expert evidence been introduced, there is a reasonable probability, sufficient to undermine confidence in the judgment of conviction or sentence, that the result of the proceedings would have been different. (Penal Code § 1473.5 (a), (b), (c).)
- 16) Specifies that habeas corpus is the exclusive procedure for collateral attack on a judgment of death. (Penal Code § 1509.)

This bill:

- 1) States, in uncodified language, that the United States Supreme Court has recognized that it is unconstitutional to execute a person with an intellectual disability and that it is the intent of the Legislature that California adopt the professional medical community's definition and understanding of intellectual disability. It is the further intent of the Legislature that individuals with intellectual disabilities be accurately and quickly identified to avoid protracted and unnecessary litigation.
- 2) Revises the definition of “intellectual disability”, for the purposes of a case in which the death penalty is charged, to mean the condition of significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested before the end of the developmental period, as defined by clinical standards.
- 3) Defines “prima facie showing of intellectual disability” to mean that the defendant's allegation of intellectual disability is based on the type of evidence

typically relied on by a qualified expert in diagnosing intellectual disability, as defined in current clinical standards, or when an expert provides a declaration diagnosing the defendant as intellectually disabled.

- 4) Requires the court to order a hearing to determine whether the defendant is a person with an intellectual disability upon a prima facie showing, as defined.
- 5) Authorizes a defendant to apply for an order directing that a hearing to determine intellectual disability be conducted as part of a petition for a writ of habeas corpus.
- 6) Provides that when the claim of intellectual disability is raised in a petition for habeas corpus, and a petitioner makes a prima facie showing of intellectual disability, the reviewing court shall issue an order to show cause if the defendant has met the prima facie standard.
- 7) Specifies that the petitioner bears the burden of proving by a preponderance of the evidence that the petitioner is a person with an intellectual disability.
- 8) Provides that the respondent may present the case regarding the issue of whether the defendant is a person with an intellectual disability. Each party may offer rebuttal evidence.
- 9) Provides that during an evidentiary hearing under the habeas corpus provisions, an expert may testify about the contents of out-of-court statements, including documentary evidence and statements from witnesses when those types of statements are accepted by the medical community as relevant to a diagnosis of intellectual disability if the expert relied upon these statements as the basis for their opinion.
- 10) Prohibits changing or adjusting the results of a test measuring intellectual functioning based on race, ethnicity, national origin, or socioeconomic status.

Background

In *Atkins v. Virginia* (2002) 536 U.S. 304, 321 (*Atkins*), the United States Supreme Court held that the Eighth Amendment forbids the execution of an intellectually disabled defendant. It is cruel and unusual punishment to impose the death penalty on a defendant with intellectual disability, then referred to as “mentally retarded.” (*Atkins, supra*, 536 U.S. at p. 321; *Hall v. Florida* (2014) 572 U.S. 701.) “No legitimate penological purpose is served by executing the intellectually disabled.” (*Hall v. Florida, supra*, 572 U.S. at p. 708, citing *Atkins, supra*, 536 U.S. at p. 320.)

In defining intellectual disability, the *Atkins* court referenced two clinical definitions:

The American Association on Mental Retardation (AAMR) [now the American Association of Intellectual and Developmental Disabilities (AAIDD)] defines mental retardation as follows: ‘Mental retardation refers to substantial limitations in present functioning. It is characterized by significantly subaverage intellectual functioning, existing concurrently with related limitations in two or more of the following applicable adaptive skill areas: communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure, and work. Mental retardation manifests before age 18.’ [Citation.] [¶] The American Psychiatric Association's definition is similar: ‘The essential feature of Mental Retardation is significantly subaverage general intellectual functioning (Criterion A) that is accompanied by significant limitations in adaptive functioning in at least two of the following skill areas: communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, and safety (Criterion B). The onset must occur before age 18 years (Criterion C). Mental Retardation has many different etiologies and may be seen as a final common pathway of various pathological processes that affect the functioning of the central nervous system.’ [Citation.] ‘Mild’ mental retardation is typically used to describe people with an IQ level of 50–55 to approximately 70. [Citation.] (*Atkins*, *supra*, 536 U.S. at p. 308, fn. 3.) *Atkins* left it up to the states to “develop[] appropriate ways” to ensure that intellectually disabled defendants are not sentenced to death. (*Id.* at p. 317.)

In response to *Atkins*, the California Legislature enacted Penal Code Section 1376. (*In re Hawthorne* (2005) 35 Cal.4th 40, 44.) Section 1376 defines intellectual disability, formerly “mental retardation,” as “the condition of significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested before 18 years of age.” (Pen. Code, § 1376, subd. (a); see Stats. 2012, Chapter 448 [the Shriver “R-Word” Act, which revised various statutes to replace references to “mental retardation” with the term “intellectual disability”], 457 [similarly replacing references to “mental retardation”].).)

Intellectual disability, prohibiting capital punishment, is defined in Penal Code Section 1376 as manifesting before age 18. (Pen. Code § 1376, subd. (a).) The statute contains no provision for any intellectual disability of a defendant that did not manifest before age 18. (Pen. Code § 1376.)

The Legislature derived this standard from the two clinical definitions referenced by the high court in *Atkins, supra*, 536 U.S. at page 309, footnote 3. (*In re Hawthorne* (2005) 35 Cal.4th 40, 47-48.) However, one of the standards has since changed:

Intellectual disability has long been categorized as a developmental condition with an onset prior to the end of the developmental period. Although U.S. federal law (Developmental Disabilities Act of 2000; PL 106-402) has defined the end of the developmental period to be age 22 years for developmental disabilities, the end of the developmental period for intellectual disability had historically been set at age 18 years (see: Schalock et al., 2010; American Psychiatric Association, 2000). In its most recent revision of the Diagnostic and Statistical Manual for Mental Disorders, the American Psychiatric Association has left the chronological age of cut-off defining the “developmental period” up to the clinician and their clinical judgement (see: American Psychiatric Association, 2013).

<<https://www.apa.org/pi/disability/resources/publications/newsletter/2016/09/intellectual-disability> [as of March 31, 2020].)

This bill updates the definition of “intellectual disability” to include conditions that manifest before the end of the developmental period, as defined by clinical standards.

In addition, it clarifies that the question of intellectual disability can be brought through a habeas corpus petition.

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

SUPPORT: (Verified 7/31/20)

California’s Anti-Death Penalty Coalition (source)

8th Amendment Project

Alameda County Public Defender's Office

American Civil Liberties Union of California

Asian Americans Advancing Justice – California

California Attorneys for Criminal Justice

California Catholic Conference

California Coalition for Women Prisoners

California Pan-Ethnic Health Network

California Public Defenders Association

Californians for Safety and Justice

Californians United for A Responsible Budget
Disability Rights California
Drug Policy Alliance
Ella Baker Center for Human Right
Equal Justice USA
Friends Committee on Legislation of California
Initiate Justice
John M. Langston Bar Association
League of Women Voters of California
National Association of Social Workers, California Chapter
Nextgen California
Restore Justice
San Francisco Public Defender
Showing Up for Racial Justice Bay Area
State Council on Developmental Disabilities
The Arc and United Cerebral Palsy California Collaboration

OPPOSITION: (Verified 7/31/20)

California District Attorneys Association

ARGUMENTS IN SUPPORT: According to the sponsor, the California's Anti-Death Penalty Coalition:

The US Supreme Court ruled that it is unconstitutional to execute someone with an intellectual disability in 2002.¹ The following year, the California Legislature added Penal Code section 1376 to implement this decision.² Since it was enacted, this code section has only been amended once, in 2012, to change the term “mental retardation” to “intellectual disability.”³ The statute is now out-of-date and as a result, people with intellectual disabilities continue to face death sentences and remain on death row for decades.

ARGUMENTS IN OPPOSITION: According to the California District Attorneys Association (CDAA):

On behalf of the California District Attorneys Association I regret to inform you that we are opposed to your Assembly Bill 2512 which would change the definition of intellectual disability from the current definition which requires the condition to manifest itself before the age of 18 to a condition which manifests itself before the end of the developmental period as defined by clinical standards.

AB 2512 was reviewed by the Capital Litigation Committee of CDAA which noted that the bill is unnecessary as current law protects all capital defendants under *Atkins* (*Atkins v. Virginia* 56 U.S. 304). Moreover, the bill would create a vague and prejudicial loophole that would result in a miscarriage of justice for all murder victims and their loved ones. When a person is born with an intellectual disability, it is clear and unambiguous. Reputable mental health experts and clinicians agree that this intellectual disability manifests itself well before the age of 18.

ASSEMBLY FLOOR: 57-0, 6/15/20

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

NO VOTE RECORDED: Bigelow, Brough, Cervantes, Chen, Choi, Cooper, Cunningham, Megan Dahle, Diep, Flora, Fong, Gallagher, Gray, Kiley, Mathis, Mayes, Obernolte, Patterson, Ramos, Rodriguez, Voepel, Waldron

Prepared by: Mary Kennedy / PUB. S. /
8/5/20 12:01:43

**** END ****

CONSENT

Bill No: AB 2517
Author: Gloria (D)
Amended: 6/8/20 in Assembly
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-0, 7/30/20
AYES: Jackson, Borgeas, Durazo, Lena Gonzalez, Melendez, Monning, Stern,
Umberg, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 79-0, 6/15/20 - See last page for vote

SUBJECT: Domestic violence: personal property and liens

SOURCE: California Partnership to End Domestic Violence

DIGEST: This bill authorizes courts, beginning January 1, 2022, to make a finding in a domestic violence restraining order issued after notice and a hearing that specific debts were incurred as a result of domestic violence.

ANALYSIS:

Existing law:

- 1) Provides for the issuance of a “temporary restraining order” (TRO). (Fam. Code § 240 et seq.)¹
 - a) Provides that, with specified exceptions, a TRO may be granted without notice to the respondent if it is alleged that irreparable injury would result to the petitioner before the matter can be heard on notice. (§ 241.)

¹ All further statutory references are to the Family Code, unless otherwise specified.

- b) If the TRO is granted without notice, requires a hearing to be held on the petition within 21 days of the date the TRO is granted, or 25 days if the court finds good cause. (§ 242(a).)
 - c) If the hearing is heard after that timeframe, provides that the TRO is unenforceable, unless the court grants a continuance for a reasonable period. (§§ 242(b) & 245.)
- 2) Establishes the Domestic Violence Protection Act ([DVPA] § 6200 et seq.), which sets forth procedural and substantive requirements for the issuance of a protective order to enjoin, among other things, specified acts of abuse (§§ 6318; 6320).
 - 3) Defines “protective order,” for purposes of the DVPA and 1), above, as a restraining order, whether issued ex parte, after notice and hearing, or in a judgment, that is an order enjoining specified acts of abuse, excluding a person from a dwelling, or enjoining other specified behavior. (§ 6218.)
 - 4) Defines “domestic violence” as abuse perpetrated against a spouse, cohabitant, a person the abuser dates, a person who has a child with the abuser, a child, and immediate relatives. (§ 6211.)
 - 5) Defines “abuse” as any of the following:
 - a) Intentionally or recklessly causing or attempting to cause bodily injury.
 - b) Sexual assault.
 - c) Placing a person in reasonable apprehension of imminent serious bodily injury to that person or to another.
 - d) Engaging in enumerated harmful behaviors, including disturbing the peace of the other party. (§§ 6203(a); 6320.)
 - 6) Provides that a court may issue an ex parte order determining the temporary use, possession, and control of real or personal property of the parties and the payment of liens or encumbrances coming due during the period the order is in effect. (§ 6324.)
 - 7) Makes it a crime, punishable by fine, imprisonment for up to a year, or both, for a person to willfully obtain personal identifying information of another person and use that information for any unlawful purpose, including obtaining, or attempting to obtain, credit, goods, services, real property, or medical information without the consent of that person. (Pen. Code § 530.5(a).)

This bill:

- 1) Provides that after notice and a hearing, a court may issue an order determining the use, possession, and control of real or personal property of the parties during the period the order is in effect and the payment of any liens or encumbrances coming due during that period.
- 2) Provides that such an order may include a finding that specific debts were incurred as a result of domestic violence and without the consent of the party, including identity theft. Provides that such a finding does not affect the priority of any lien or other security interest.
- 3) Requires the Judicial Council to adopt or modify forms as necessary to effectuate the bill's provisions.
- 4) Becomes operative January 1, 2022.

Background

1) *Domestic violence restraining orders*

The DVPA seeks to prevent acts of domestic violence, abuse, and sexual abuse, and to provide for a separation of persons involved in domestic violence for a period sufficient to enable them to seek a resolution. The DVPA's "protective purpose is broad both in its stated intent and its breadth of persons protected." (*Caldwell v. Coppola* (1990) 219 Cal.App.3d 859, 863.) The DVPA must be broadly construed in order to accomplish the statute's purpose. (*In re Marriage of Nadkarni* (2009) 173 Cal.App.4th 1483, 1498.) The Act enables a party to seek a "protective order," also known as a restraining order, which may be issued to protect a petitioner who presents "reasonable proof of a past act or acts of abuse." (§ 6300; see § 6218.)

Petitioners who need immediate protection may seek a TRO, which becomes effective upon receiving a judge's signature and being served on the respondent. TROs may be issued "ex parte" (Latin for "by or for one party")—that is, without formal notice to, or the presence of, the respondent. (*See* § 241.)² Because a restrained party would not have had the opportunity to defend their interests, TROs are of necessity short in duration. If a noticed hearing is not held within 21 days (or 25 if the court finds good cause), the TRO is no

² A TRO is distinct from an "emergency protective order," which is an order specifically requested by a law enforcement official and that a judicial officer finds necessary to prevent the occurrence or recurrence of domestic violence, child abuse, child abduction, or abuse of an elder or dependent adult. (§§ 6250, 6250.3, 6251.) An emergency protective order is not subject to the provisions governing TROs. (*See* § 240.)

longer enforceable, unless a court grants a continuance. (§§ 242 & 245.) After a duly noticed hearing, however, the court is authorized to extend the original TRO into a “permanent” protective order (also known as orders after hearing) that may last up to five years but are renewable. (§§ 6345, 6302.)

2) *Domestic abuse, coercive control, and financial abuse*

According to Katie Ray-Jones, the National Domestic Violence Hotline’s Chief Executive, “[d]omestic violence is rooted in power and control.”³ When abusers lose control of their intimate partners, they resort to a variety of tactics to subjugate them. The Center for Disease Control states that intimate partner violence may consist of physical violence, sexual violence, and psychological aggression, which includes expressive aggression (insulting, name calling) and coercive control (behaviors that involve monitoring, controlling, or threatening the victim).⁴ Coercive control encompasses a variety of behaviors aimed at overcoming a person’s free will and curtailing their personal liberty and sense of agency.

A pervasive form of coercive control is financial abuse, which refers to “behavior that seeks to control a person’s ability to acquire, use, or maintain economic resources, and threatens their self-sufficiency and financial autonomy.”⁵ An estimated 99 percent of domestic violence cases involve financial abuse.⁶ Examples of financial abuse include: forcing a partner to miss, leave, or be late to work; harassing a partner at work; controlling how money is spent; withholding money or basic living resources; giving a partner an ‘allowance’; stealing money, credit, property, or identity from a partner; and forcing a partner to file fraudulent legal financial documents or overspend on credit cards.⁷ The effects can devastate the victim and make them more vulnerable to further domestic abuse.

The California Partnership to End Domestic Violence, the bill’s sponsor, explains that financial abuse can include:

³ Newberry, Laura & Santa Cruz, Nicole, *Domestic abuse victims in ‘worst-case scenario’ during outbreak, providers say* (March 24, 2020) Los Angeles Times, available at <https://www.latimes.com/california/story/2020-03-24/womens-shelters-brace-for-surge-in-domestic-violence-as-coronavirus-quarantines-isolate-survivors> (as of July 16, 2020).

⁴ *The National Intimate Partner and Sexual Violence Survey: 2010-2012 State Report* (April 2017), p. 14, available at <https://www.cdc.gov/violenceprevention/pdf/NISVS-StateReportBook.pdf> (as of July 16, 2020).

⁵ National Network to End Domestic Violence, *Financial Abuse Fact Sheet*, available at https://nnedv.org/wp-content/uploads/2019/07/Library_EJ_Financial_Abuse_Fact_Sheet.pdf (as of July 16, 2020).

⁶ *Id.*

⁷ *Id.*

[S]tealing money, credit, property or identity from a partner; and/or forcing a partner to file fraudulent legal financial documents or overspend on credit cards. Abusive partners can incur debt without a survivor's consent or coerce a survivor into incurring the debt, including by threats of harm. This debt and the credit score impact can have long-term consequences for survivors and create barriers to educational, housing and employment opportunities. . . . Research shows that access to economic resources is the most likely predictor of whether a survivor will be able to permanently separate from their abusive partners. (Footnotes omitted.)

Meanwhile, changes to everyday life associated with the COVID-19 pandemic have led to increased rates of domestic violence.⁸ Shelter-in-place orders, job losses, and school closures deteriorate strained relationships and keep victims confined with abusers. Many victims find it more difficult to seek help, escape to a safe location, report abuse to law enforcement, or go to court to get a restraining order. The California Partnership to End Domestic Violence adds that the economic vulnerabilities due to the current COVID-19 national health emergency put “survivors at risk of ending up further in poverty or returning to their abusive partners. Every step we take to improve economic security of survivors will help keep them safe during this already tumultuous time.”

3) *Enables courts to declare specific debts were incurred as a result of domestic abuse*

This bill provides an important tool for victims who are subjected to domestic violence in the form of financial abuse. Existing law provides that a court may issue a TRO determining the temporary use, possession, and control of real or personal property of the parties and the payment of liens or encumbrances coming due during the period the order is in effect. (§ 6324.) This bill would, beginning January 1, 2022, provide that a court may also issue such an order in a permanent restraining order. The bill also provides that such an order may include a finding that specific debts were incurred as a result of domestic violence and without the consent of the party, including the crime of identity theft under Penal Code section 530.5.⁹ This will empower courts to declare that

⁸ Newberry, Laura & Santa Cruz, Nicole, *Domestic abuse victims in ‘worst-case scenario’ during outbreak, providers say* (March 24, 2020) Los Angeles Times, available at <https://www.latimes.com/california/story/2020-03-24/womens-shelters-brace-for-surge-in-domestic-violence-as-coronavirus-quarantines-isolate-survivors> (as of July 16, 2020).

⁹ That section makes it a crime for a person to willfully obtain personal identifying information of another person and use that information for any unlawful purpose, including obtaining, or attempting to obtain, credit, goods, services, real property, or medical information without the consent of that person.

a debt belongs to the abuser during the time the permanent restraining order is in effect.

The author writes: “AB 2517 will play a critical part in providing some protections judges can use in determining who is responsible for paying off the debt that happened. This bill is essential in helping survivors get back on track faster.”

While a finding pursuant to this bill is binding as to the parties, the victim may need to take additional action to protect themselves against claims from creditors. Civil Code section 1798.93 provides that a victim of identity theft can bring an action against a claimant and is entitled to various forms of relief, including a declaration that the claim is void and unenforceable as against the victim. Section 1798.93 also provides for a civil penalty for up to \$30,000 if the victim establishes by clear and convincing evidence that the claimant continued to pursue their claim against the victim after being presented with facts that were later held to entitle the victim to a judgement under that section. A finding under this bill that a specific debt was incurred as a result of domestic violence would be probative, if not determinative, in a proceeding under section 1798.

Finally, this bill also provides that it does not affect the priority of any lien or other security interest. This amendment was taken to allay the concerns of the California Land Title Association, which, as a result, has taken a neutral position on the bill.

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

SUPPORT: (Verified 8/13/20)

California Partnership to End Domestic Violence (source)

A Community for Peace

Alliance Against Family Violence and Sexual Assault

Asian Women’s Shelter

California Low-Income Consumer Coalition

Casa de Esperanza

Catalyst Domestic Violence Services

City and County of San Francisco, Department on the Status of Women

Community Overcoming Relationship Abuse

Community Resource Center

Disability Rights California

EndTAB

Haven Women’s Center of Stanislaus

House of Ruth
Interface Children & Family Services
Jewish Family Service of Los Angeles
Laura's House
Majarjee Mason Center
National Association of Social Workers, California Chapter
Peace Over Violence
Project: PeaceMakers, Inc.
Rainbow Services, Ltd.
StrengthUnited
Walnut Avenue Family & Women's Center
WEAVE

OPPOSITION: (Verified 8/13/20)

None received

ASSEMBLY FLOOR: 79-0, 6/15/20

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

Prepared by: Josh Tosney / JUD. / (916) 651-4113
8/14/20 12:36:36

**** END ****

CONSENT

Bill No: AB 2520
Author: Chiu (D), et al.
Amended: 6/26/20 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 8-0, 8/1/20
AYES: Pan, Lena Gonzalez, Grove, Hurtado, Leyva, Mitchell, Monning, Rubio
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Access to medical records

SOURCE: Western Center on Law and Poverty

DIGEST: This bill expands the ability of a patient or a patient's representative to obtain a copy, at no charge, of the relevant portion of the patient's medical records that are needed to support a claim or appeal regarding eligibility for certain benefit programs by permitting an employee of a nonprofit legal services entity representing the patient to have access to the patient's records, adding additional benefit programs, and prohibiting a health care provider from charging a fee to a patient for filling out forms or providing information responsive to forms that support a claim or appeal for a public benefit program.

ANALYSIS:

Existing law:

- 1) Requires, under the Patient Access to Health Records (PAHR) law, any adult patient of a health care provider, any minor patient authorized by law to consent to medical treatment, and any patient's personal representative, to be entitled to inspect patient records upon presenting a health care provider with a written

request for those records and upon payment of reasonable clerical costs incurred in locating and making the records available. [HSC §123110(a)]

- 2) Requires, under PAHR, any patient or patient's representative to be entitled to a paper or electronic copy of all or any portion of the patient records that he or she has a right to inspect, upon presenting a written request of the health care provider specifying the records to be copied, together with a fee to defray the cost of copying, that does not exceed \$.25 per page of \$.50 per page for records that are copied from microfilm and any additional reasonable clerical costs incurred in making the records available. [HSC §123110(b)]
- 3) Requires, under PAHR, a patient or the representative of a patient to be entitled to a copy, at no charge, of the relevant portion of the patient's records, upon presenting to the provider proof that the records are needed to support an appeal regarding eligibility for a public benefit program, which is defined to include the Medi-Cal program, the In-Home Supportive Services Program, the California Work Opportunity and Responsibility to Kids program, Social Security Disability Insurance benefits, Supplemental Security Income/State Supplementary Program for the Aged, Blind and Disabled (SSI/SSP) benefits, federal veterans service-connected compensation and nonservice connected pension disability benefits, and CalFresh. For purposes of this provision, existing law also:
 - a) Excludes from this provision any patient who is represented by a private attorney, who is not employed by a nonprofit legal services entity, who is paying for the costs related to the patient's appeal, pending the outcome of that appeal; and,
 - b) Permits a health care provider to bill the patient, at the rates specified in 2) above, for the copies of the medical records previously provided free of charge if the patient's appeal regarding eligibility for a public benefit program is successful. [HSC §123110(d)]
- 4) Defines "health care provider," for purposes of PAHR, as a licensed health facility, clinic, or home health agency, or certain specified licensed health care professionals, as specified. [HSC §123105(a)]
- 5) Defines "patient's representative," "patient's personal representative," or "representative," for purposes of PAHR, as one of the following:
 - a) a parent or guardian of a minor patient;
 - b) the guardian or conservator of an adult patient;

- c) an agent granted power of attorney, as specified, to the extent necessary for the agent to fulfill their duties, as specified; or,
 - d) the beneficiary or personal representative, as specified, of a deceased patient. [HSC §123105(e)]
- 6) Makes any licensed health care professional that willfully violates PAHR guilty of unprofessional conduct. Makes any health facility, clinic, or home health agency that willfully violates PAHR guilty of an infraction punishable by a fine of not more than \$100. Requires the state agency, board, or commission that issued the provider's professional or institutional license to consider a violation as grounds for disciplinary action with respect to the licensure, including suspension or revocation of the license. [HSC §123110(i)]

This bill:

- 1) Adds the following professionals to the definition of "health care provider" for purposes of PAHR:
 - a) A licensed speech-language pathologist or audiologist;
 - b) A licensed physician assistant; and,
 - c) A licensed nurse practitioner.
- 2) Expands a provision of PAHR that entitles a patient or a patient's personal representative to a copy, at no charge, of the relevant portion of the patient's records that are needed to support a claim or an appeal regarding eligibility for certain benefit programs, by doing the following:
 - a) Specifying that an employee of a nonprofit legal services entity representing the patient is entitled to obtain the patient's records at no charge, in addition to the patient or the patient's personal representative;
 - b) Adding to the list of programs for which a patient or their representative is entitled to free records to support a claim or appeal, a petition for U nonimmigrant status under the Victims of Trafficking and Violence Protection Act, and a self-petition for lawful permanent residency under the Violence Against Women Act; and,
 - c) Expanding the definition of public benefit programs, for which a patient or their representative is entitled to free records to support a claim or appeal, to include the Cash Assistance Program for Aged, Blind, and Disabled Legal Immigrants, and a government- funded housing subsidy or tenant-based housing assistance program.

- 3) Eliminates the ability for a health care provider to bill a patient for copies of medical records previously provided free of charge if the appeal for a public benefit program is successful.
- 4) Prohibits a health care provider from charging a fee to a patient for filling out forms or providing information responsive to forms that support a claim or appeal regarding eligibility for a public benefit program, as defined.
- 5) Requires a health care provider to provide information responsive to those portions of the form for which the health care provider has the information necessary to provide a medical opinion. Permits the health care provider, if the health care provider does not have the information necessary to provide a medical opinion, to inform the patient if an examination is necessary to obtain the information.
- 6) Requires a health care provider, if they conduct an examination pursuant to 5), above, to provide information responsive to those portions of the form for which the health care provider has a medical opinion.
- 7) Permits a health care provider to honor a request to disclose a patient record or complete a public benefit form that contains the written or electronic signature of the patient or the patient's personal representative.

Background

According to information provided by the sponsor of this bill, applying for a public benefit program is often a complicated process that requires the submission of medical records to prove a disability or medical condition. Applicants turn to legal aid advocates for help when their applications are denied or need additional assistance. In assisting low-income clients, legal aid advocates have reported difficulty obtaining medical records without cost and are denied access because they do not have formal authority to receive the records. For example, some health facilities require a "power of attorney" to receive records on behalf of a client. "Power of attorney," however, allows an individual to make legal, financial, and health decisions on behalf of another person, so it is not an appropriate designation for legal aid advocates who are only representing clients on a public benefits issue. When applying for public benefit program, low-income people also face barriers in completing forms to certify their disability or medical condition. Some healthcare providers refuse to complete these forms or charge a minimum of \$40 to complete them. Without medical records and completed forms from their healthcare providers, applicants may not receive public benefits.

Privacy and access to medical records. In general, patient protections of medical records fall under two main bodies of law: the federal Health Insurance Portability and Accountability Act (HIPAA), and the Confidentiality of Medical Information Act (CMIA) in California. HIPAA and CMIA generally govern the use and protection of health information by health care providers, health plans and their business associates. Separately, two bodies of state law govern patient access to those records: PAHR in the Health and Safety Code, and provisions of law in the Evidence Code governing requests for medical information made by attorneys representing patients. HIPAA also provides for patient access to medical records, and sets minimum requirements on providers, although state law can be more restrictive.

Comments

- 1) *Author's statement.* According to the author, the coronavirus pandemic has caused California's unemployment rate to skyrocket, which has increased the number of people eligible for public benefits. Even before the COVID-19 outbreak, applying for public benefit programs was a complicated process that required low-income Californians to jump through numerous bureaucratic hoops to prove a disability or medical condition. This bill will streamline access to public benefits by simplifying the application process. First, it will clarify that legal aid advocates may, on behalf of a client, receive medical records without cost when used to support eligibility for a public benefit program. Second, this bill will require health providers to complete forms that are needed to establish eligibility for public benefit programs. Moreover, it will expand access to free medical records for programs serving immigrants with disabilities, for petitions to obtain lawful status for immigrants who are survivors of crime or domestic violence, and for individuals applying for government-funded housing assistance programs. As the pandemic exacerbates income inequality, it is important that we protect vulnerable communities by expanding access to public benefits. By addressing an urgent problem that threatens the security of Californians, this bill improves access to California's social safety net when millions must rely on it.
- 2) *Senate Judiciary Committee comment.* This bill touches on various issues within the jurisdiction of the Senate Judiciary Committee, most prominently the issue of privacy. According to the author, this bill will streamline access to public health benefits by clarifying that legal advocates may, on behalf of a client, receive medical records without cost when used to support eligibility for a public benefit program, and expand access to free medical records for certain programs. According to bill supporter National Health Law Program, health

care providers frequently impose inconsistent protocols for advocates to obtain necessary medical records. While the disclosure of medical records presents a potential privacy risk, any request for records would still need to be accompanied by a HIPAA release form signed by the patient (see 45 C.F.R., §164.508, see generally 45 C.F.R. §§164.500-534). By clarifying that legal advocates are entitled to medical records without a fee, under the ambit of the HIPAA privacy regime, this bill appears to strike a fair balance between protecting patient privacy and enabling advocates to assist legal aid clients.

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

SUPPORT: (Verified 8/14/20)

Western Center on Law and Poverty (source)
 Bet Tzedek Legal Services
 California Advocates for Nursing Home Reform
 California Association for Nurse Practitioners
 California Food Policy Advocates
 California Immigrant Policy Center
 California Low-Income Consumer Coalition
 Children Now
 Community Legal Aid SoCal
 Dental Board of California
 Disability Rights California
 Justice in Aging
 Legal Aid Foundation of Los Angeles
 Legal Aid Society of San Mateo County
 Maternal and Child Health Access
 National Association of Social Workers, California Chapter
 National Health Law Program

OPPOSITION: (Verified 8/14/20)

None received

ARGUMENTS IN SUPPORT: This bill is sponsored by the Western Center on Law and Poverty (WCLP), which states that when applying for public benefit programs, low-income people face barriers in completing forms to certify their disability or medical condition. According to WCLP, some health care providers refuse to complete these forms, or charge a minimum of \$40 to complete them. WCLP points out that many of these individuals may already be enrolled in the Medi-Cal program, which pays for the completion of forms as part of providers'

overall administrative duties, but providers are not clearly prohibited from charging patients to complete forms or refusing to complete them altogether. WCLP states that this bill would expand access to free medical records for programs serving immigrants with disabilities, for petitions to obtain lawful status for immigrants who are survivors of crime or domestic violence, and for individuals applying for government-funded housing assistance. According to WCLP, new homeless housing programs, such as stays in motels, hotels, and trailers, require proof of underlying medical conditions.

Numerous organizations support this bill. Bet Tzedek Legal Services states that it represents low income seniors and disabled adults, and many of these clients receive only \$944 in monthly income. In order to receive In-Home Supportive Services, a physician must complete specific forms, and that some doctors charge patients to complete these required forms. Bet Tzedek asserts that Californians living on \$944 a month cannot afford additional expenses to qualify for and access home care services.

California Low-Income Consumer Coalition (CLICC) states that in assisting low-income clients, legal aid advocates often experience difficulty obtaining medical records without cost and may be denied because they do not have formal authority to receive the records. CLICC states that having power of attorney is not an appropriate designation for advocates who are only representing clients on a public benefit issue.

ASSEMBLY FLOOR: 76-0, 6/8/20

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

NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
8/15/20 7:35:30

**** END ****

CONSENT

Bill No: AB 2524
Author: Wicks (D)
Amended: 7/15/20 in Senate
Vote: 21

SENATE BANKING & F.I. COMMITTEE: 7-0, 8/13/20
AYES: Bradford, Chang, Caballero, Dahle, Durazo, Hueso, Portantino

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 58-16, 6/11/20 - See last page for vote

SUBJECT: Check Sellers, Bill Payers and Proraters Law: out-of-state activities

SOURCE: California Low-Income Consumer Coalition

DIGEST: This bill deletes provisions of the Check Sellers, Bill Payers and Proraters Law that require licensees under that law to be organized under California law and that prohibit those licensees from engaging in business outside California, as specified.

ANALYSIS:

Existing law:

- 1) Provides for the Check Sellers, Bill Payers and Proraters Law (Financial Code Section 12000 et seq.), administered by the Department of Business Oversight (DBO).
- 2) Defines a check seller as a person who does either of the following (Financial Code Section 12000):
 - a) For compensation, engages, in whole or in part, in the business of selling checks, drafts, money orders, or other commercial paper serving the same

purpose, or receiving money as agent of an obligor for the purpose of paying the bills, invoices, or accounts of such obligor.

- b) Without direct compensation and not as an authorized agent for a utility company, accepts money for the purpose of forwarding it to others in payment of utility bills.
- 3) Defines a prorater as a person who, for compensation, engages in whole or in part in the business of receiving money or evidences thereof for the purpose of distributing the money or evidences thereof among creditors in payment or partial payment of the obligations of the debtor (Financial Code Section 12002.1).
- 4) Provides that a license under the Check Sellers, Bill Payers and Proraters Law may only be issued to a corporation organized under the laws of California for that purpose (Financial Code Section 12200.1).
- 5) Provides that no licensee under the Check Sellers, Bill Payers and Proraters Law may engage in licensed activity at any location outside of California, nor may any licensee have agencies engaging in any such business at any location outside of California on its behalf (Financial Code Section 12200.3).

This bill deletes the two code sections described in Existing law 4) and 5), immediately above.

Background

The Check Sellers, Bill Payers and Proraters Law was added to California law in 1951 and has been infrequently updated since that time. As of the date this analysis was prepared, DBO licensed only five companies under that law, two of which are check sellers and three of which are proraters.

As it passed the Assembly, this bill amended the Check Sellers, Bill Payers and Proraters Law to more clearly apply that law to companies engaging in debt settlement services in California and to apply a comprehensive set of allowable and prohibited acts to those entities, enforced via administrative enforcement authority provided to DBO and via a private right of action. On July 15th, in recognition of the significant controversy surrounding earlier versions of the bill and in light of the compressed timeline under which the Legislature is operating in 2020 due to the global pandemic, this bill's author agreed to scale back AB 2524 to its current form.

The July 15th amendments removed outstanding opposition to the bill. However, they did not resolve the outstanding debate over whether existing law does or does not apply to debt settlement companies. This bill's sponsor and proponents believe that existing law does apply to debt settlement companies; the debt settlement industry disagrees. Both sides point to actions taken by DBO and its predecessor department (the Department of Corporations) to support their viewpoints.

Although the current version of AB 2524 fails to resolve the ongoing disagreement between the sponsors of this bill and the debt settlement industry, it does amend the law in a manner that should allow DBO to enforce it without having to defend against assertions of the law's constitutionality. It does so by deleting two code sections from the Check Sellers, Bill Payers and Proraters Law that appear, on their face, to be unconstitutional violations of the Commerce Clause. The likely unconstitutionality of one of the sections was noted by the Ninth District Court of Appeals in *Nationwide Biweekly Administration, Inc. v. Owen* (9th Cir. 2017) 873 F.3d 716, 736-738.

Related/Prior Legislation

AB 2443 (Weber, 2020) makes all of the following a violation of the Consumer Legal Remedies Act (Civil Code Section 1750 et seq.): engaging in the business of receiving or soliciting money or evidences thereof, or processing payment for the purpose of distributing the money or evidences thereof, among creditors in payment or partial payment of the obligations of the debtor, in a manner that deceives consumers, as specified; engaging in the business of a prorater in a manner that violates the Check Sellers, Bill Payers or Proraters Law, and providing payment processing service to a prorater that violates any of the two aforementioned prohibitions. AB 2443 passed the Assembly but was not taken up by the Senate Judiciary Committee.

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

SUPPORT: (Verified 8/17/20)

California Low-Income Consumer Coalition (source)
American Financial Services Association
Bet Tzedek
California Asset Building Coalition
California Financial Services Association
California Reinvestment Coalition
Californians for Economic Justice

Center for Responsible Lending
Centro Legal de la Raza
Consumer Federation of California
Housing and Economic Rights Advocates
East Bay Community Law Center
Elder Law and Advocacy
Justice and Diversity Center of The Bar Association of San Francisco
Legal Aid Society of San Bernardino
National Consumer Law Center
New Economics for Women
Public Counsel
Public Law Center
Riverside Legal Aid
University of California Irvine, Consumer Law Clinic

OPPOSITION: (Verified 8/17/20)

None received

ARGUMENTS IN SUPPORT: The California Low-Income Consumer Coalition and nearly two dozen other community groups support this bill, because it “will improve regulation of unfair and deceptive actors in the debt settlement industry...Debt settlement is a long and arduous process and is not suitable for most consumers who have debt. It is essential that California be able to regulate the players in this high-risk industry that is marketing itself to some of the most vulnerable of your constituents. The fact that debt settlement companies have changed their business model to circumvent existing law demonstrates the need to modernize that law to maintain effective oversight...AB 2524 is the first step towards modernization. Right now, the Department of Business Oversight may license only debt settlement companies that are incorporated in California. This bill will remove that limitation and will allow the Department to license *all* debt settlement companies doing business in California. That change will fix a glaring constitutional flaw in current law.”

ASSEMBLY FLOOR: 58-16, 6/11/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Boerner Horvath, Bonta, Calderon, Carrillo, Cervantes, Chau, Chiu, Chu, Cooley, Cooper, Daly, Diep, Eggman, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Levine, Limón, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk-Silva, Ramos, Reyes,

Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith,
Mark Stone, Ting, Weber, Wicks, Wood, Rendon
NOES: Bigelow, Brough, Chen, Choi, Cunningham, Megan Dahle, Flora, Fong,
Gallagher, Kiley, Lackey, Mathis, Obernolte, Patterson, Voepel, Waldron
NO VOTE RECORDED: Burke, Frazier, Gray, Mayes, Quirk

Prepared by: Eileen Newhall / B. & F.I. /
8/19/20 10:55:04

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

CONSENT

Bill No: AB 2559
Author: Bauer-Kahan (D)
Amended: 8/4/20 in Senate
Vote: 21

SENATE BANKING & F.I. COMMITTEE: 7-0, 8/13/20
AYES: Bradford, Chang, Caballero, Dahle, Durazo, Hueso, Portantino

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: California Financing Law: enforcement and penalties

SOURCE: Author

DIGEST: This bill increases the enforcement authority of the Department of Business Oversight (DBO) under the California Financing Law (CFL), as specified.

ANALYSIS: Existing law provides for the CFL (Financial Code Section 22000 et seq.), administered by the Department of Business Oversight (DBO), which regulates the making and brokering of secured and unsecured, consumer-purpose and commercial-purpose loans by non-depository institutions and the origination of Property Assessed Clean Energy assessment contracts, as specified. The CFL:

- 1) Authorizes the Commissioner of DBO (commissioner) to require the attendance of witnesses and examine under oath all persons whose testimony he or she requires related to loans, assessment contracts, or business regulated by the CFL or to the subject matter of any examination, investigation, or hearing (Financial Code Section 22706).
- 2) Authorizes the commissioner to issue a citation and assess an administrative fine not to exceed \$2500 if, upon inspection, examination, or investigation, the

commissioner has cause to believe that a licensee or other person is violating any provision of the CFL or any rule or order issued pursuant to the CFL. Clarifies that a citation issued or a fine assessed pursuant to this authority, while constituting punishment for a violation of law, is in lieu of other administrative discipline by the commissioner for the offense or offenses, and may not be reported as a disciplinary action taken by the commissioner (Financial Code Section 22707.5).

- 3) Provides that, after the exhaustion of Administrative Procedures Act (APA; Chapter 2 of Part 2 of Division 3 of Title 2 of the Government Code, commencing with Section 11500) appeal rights in connection with a citation and fine, the commissioner may apply to the appropriate superior court for a judgment in the amount of the administrative fine and an order compelling the cited person to comply with the commissioner's order. Further provides that the application to the court, which must include a certified copy of the final order of the commissioner, constitutes a sufficient showing to warrant the issuance of the judgment and order (Financial Code Section 22707.5).
- 4) Authorizes the commissioner to issue a desist and refrain order (D&R) to a licensee or a person required to be licensed under the CFL, who, in the opinion of the commissioner, violates the CFL or any rule or order issued pursuant to the CFL. Provides that persons issued a D&R are entitled to appeal rights pursuant to the APA, as specified (Financial Code Section 22712).
- 5) Provides that, whenever the commissioner believes that any person has violated or is about to violate a provision of the CFL or any order, license, decision, demand, requirement, or regulation adopted pursuant to the CFL, the commissioner may bring an action or request that the Attorney General bring an action to enjoin that person from continuing the violation. Authorizes the commissioner to include a claim for ancillary relief as part of the aforementioned action (Financial Code Section 22713).

This bill:

- 1) Makes technical changes to the provision of law authorizing the commissioner to require the attendance of witnesses and examine persons under oath by clarifying that this authority applies to all persons whose testimony relates to activities and businesses regulated by the CFL or to the subject matter of any examination investigation, or hearing.
- 2) Authorizes the commissioner to include a claim of ancillary relief as part of a citation and fine. The ancillary relief may include, but need not be limited to

refunds, restitution or disgorgement, or damages on behalf of the persons injured by the act or practice constituting the subject matter of the action.

- 3) Allows the commissioner to categorize citations and fines as disciplinary actions.
- 4) Authorizes the commissioner to include a claim of ancillary relief as part of a D&R. The ancillary relief may include, but need not be limited to refunds, restitution or disgorgement, or damages on behalf of the persons injured by the act or practice constituting the subject matter of the action.
- 5) Adds specificity to the procedures that a court must follow when the commissioner applies to a court for a judgment in the amount of the administrative fine and an order compelling the person cited to comply with the commissioner's order and places additional requirements on persons to whom a citation and fine is issued, who wish to challenge the issuance of a judgment and order by the court. Clarifies, however, that these procedures and requirements shall not be construed to limit judicial review of any order of the commissioner
 - a) Requires the court to set a date for a hearing at least 60 calendar days from the date the commissioner's application is filed, and requires the commissioner to serve a copy of the application and order along with notice of the hearing to all entities or persons cited in the order at least 15 days before the hearing.
 - b) Requires the court to consider the commissioner's filing of a certified copy of the final order and proof of service of the hearing as prima facie evidence to warrant the issuance of the civil judgment. Places the burden on a respondent to show by affirmative evidence that the order is not final or that the respondent was not served with timely notice of the hearing. Requires the court to issue a final civil judgment compelling compliance with the order if the respondent fails to meet his or her burden.

Comments

The substantive provisions of this bill have three goals: (1) make it easier for DBO to order persons found to have violated the CFL to pay restitution or provide other ancillary relief to consumers harmed as a result of the person's violation(s); (2) make it easier for DBO to obtain civil judgments and court orders in connection with citations and fines; and (3) allow citations and fines to be considered

disciplinary actions. All of these changes are designed to strengthen DBO's ability to enforce the CFL in a manner that promotes consumer protection.

Under existing law, DBO is only able to obtain ancillary relief for consumers if it files a civil action pursuant to Financial Code Section 22713 or if it enters into a settlement agreement with a person the department alleges has violated the CFL. This bill would allow DBO to include orders of ancillary relief as part of two types of administrative actions (citations and D&Rs).

Parallel Amendments May Be Warranted to the California Residential Mortgage Lending Act (CRMLA). The citation and fine authority that this bill modifies was added to both the CFL and the CRMLA in 2013 (AB 1091, Skinner, Chapter 243, Statutes of 2013). AB 2559 proposes to modify the CFL provisions to allow citations and fines to be considered discipline and to authorize DBO to order a cited entity to pay ancillary relief to wronged consumers. Although amendments to the CRMLA are beyond the scope of AB 2559, there may be value in making parallel amendments to the CRMLA in a future year to increase consumer protection under that law, as well.

Related/Prior Legislation

AB 1091 (Skinner, Chapter 243, Statutes of 2013), among its provisions, added citation and fine authority to the CFL and CRMLA.

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

SUPPORT: (Verified 8/13/20)

California Low-Income Consumer Coalition
Consumer Action
Housing and Economic Rights Advocates

OPPOSITION: (Verified 8/13/20)

None received

ARGUMENTS IN SUPPORT: The California Low-Income Consumer Coalition, Housing and Economic Rights Advocates (HERA), and Consumer Action support this bill for similar reasons. HERA writes, "this bill will increase DBO efficiency. Currently, for a consumer to be able to access restitution, there needs to be a civil lawsuit filed. The lawsuits are filed after the administrative hearing where a violation is found. The arguments made in the civil suit duplicate those in the administrative hearing. By allowing the DBO to collect restitution

after the administrative finding of a violation, consumers can be made whole sooner and without wasting DBO resources re-litigating points in a civil suit.”

ASSEMBLY FLOOR: 76-0, 6/8/20

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

NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Eileen Newhall / B. & F.I. /
8/19/20 10:57:25

**** END ****

THIRD READING

Bill No: AB 2588
Author: Kalra (D)
Introduced: 2/20/20
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 8/11/20
AYES: Hill, Jackson, Mitchell, Pan
NOES: Morrell

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/17/20
AYES: Portantino, Bradford, Hill, Leyva, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Educational programs and training: costs: employees and applicants
providing direct patient care

SOURCE: Author

DIGEST: This bill clarifies that the cost of any employer-required training incurred by a direct patient care employee or applicant for direct care employment constitutes an expenditure or loss to that employee or applicant during the discharge of their duties.

ANALYSIS:

Existing law:

- 1) Requires an employer to indemnify their employee for all necessary expenditures or losses as a direct consequence of the discharge of the employee's duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee believed them to be unlawful at the time. (Labor Code §2802)

- 2) Orders all awards made by a court or by the Division of Labor Standards Enforcement for reimbursement under this section to include carry interest at the same rate as judgments in civil actions. Interest shall accrue from the date on which the employee incurred the necessary expenditure or loss. (Labor Code §2802)
- 3) Orders that, for purposes of this section, the term “necessary expenditures or losses” includes all reasonable costs, including, but not limited to, attorney’s fees incurred by the employee enforcing the rights granted by this section. (Labor Code §2802)
- 4) Allows the commissioner, in addition to recovery of penalties under this section in a court action or other proceedings, to issue a citation against an employer who violates reimbursement obligations for an amount determined to be due to an employee under this section. (Labor Code §2802)

This bill:

- 1) Clarifies that the expense or cost of any employer-provided or employer-required educational program or training for an employee providing direct patient care or an applicant for direct patient care employment constitutes a “necessary expenditure or loss incurred by the employee in direct consequence of the discharge of the employee’s duties”, as that phrase is used in Section 2802.
- 2) Defines “employer-provided or employer-required educational program or training” to include, but not be limited to, residencies, orientations, or competency validations necessary for direct patient care employment. Further clarifies that “Employer-provided or employer-required educational program or training” does not include requirements for a license or certification necessary to legally practice in a specific employee classification to provide direct patient care.
- 3) Prohibits an employer, or any person acting on behalf of the employer, from retaliating against an applicant for employment or employee for refusing to enter into a contract or agreement that violates the above section.
- 4) Clarifies that this bill only applies to applicants for employment and employees providing direct patient care for an employer, whether public or private.
- 5) Orders a court to award a prevailing plaintiff in any action brought pursuant to this bill reasonable attorney’s fees and costs in addition to injunctive relief and any other remedies available.

- 6) States that this bill is declaratory of and clarifies existing law with respect to employees.

Comments

Need for this bill?

Existing law is clear surrounding the issue of costs incurred by an employee for employment purposes. If the expense or loss is incurred by the employee as a direct consequence of the discharge of their job duties or due to obeying the orders of their employer, that employer must reimburse the employee for that expense. This includes if the orders were illegal. There are exceptions to this, including training programs that provide benefits to the employee, such as training that results in additional certification.

Unfortunately, some hospitals are attempting to skirt this requirement of law while simultaneously trapping nurses with their employer. A small number of direct care employers are placing clauses into contracts for new hires that require the prospective employee to work with the employer for a set period of time or pay the employer for “training costs”. Legitimate relationships like this do exist; law firms and businesses routinely make agreements with employees to pay for law or business school or additional licensure programs. Hospitals themselves frequently offer trainings for fees where the employee can learn useful skills or satisfy requirements for state or federal licensure. However, the particular trainings that AB 2588 seeks to end do not confer any additional benefit to the employee and proponents report that fees threatened by employers can be as high as \$15,000. Without a discernible benefit, these trainings represent only liability to the employee and curtails their ability to seek better-suited employment.

AB 2588 seeks to clarify that existing law prohibits the practice of charging exorbitant up front training fees that do not fulfill specific licensure or certification requirements. It would also clarify that practice of requiring applicants for employment in direct patient care facilities to pay a fee if they do not complete a set term of employment is prohibited.

Related/Prior Legislation

AB 970 (Nazarian, Chapter 783, Statutes of 2015) authorized the Labor Commissioner to enforce local minimum wage laws if requested to do so by the local entity with jurisdiction to enforce these laws. Additionally, authorized the Labor Commissioner to issue a citation and penalty to employers who violate their

statutory obligation to reimburse employees for losses incurred while carrying out an employer's directions.

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

According to the Senate Appropriations Committee, "The Department of Industrial Relations (DIR) indicates that it would incur first-year costs of \$135,000, and \$123,000 annually thereafter, to implement the provisions of the bill (Labor Enforcement and Compliance Fund)."

SUPPORT: (Verified 8/18/20)

California Labor Federation, AFL-CIO
California Nurses Association

OPPOSITION: (Verified 8/18/20)

None received

ARGUMENTS IN SUPPORT: The California Nurses Association writes in support:

In the healthcare sector, nurses have seen our employers imposing costs on job applicants in order to skirt California labor law. Across all sectors, employers are responsible for the costs of on the job training they mandate. AB 2588 will simply extend this protection to job applicants as well as their current workforce.

Facilities are choosing to trap applicants in contracts, making the worker responsible for the costs of on the job training. Sometimes these contracts tie the worker to a time commitment to work at the specified facility. Employers mandate training in every industry, but it is not the employee's responsibility to pay for it, and therefore it shouldn't be the potential employees' responsibility either.

ASSEMBLY FLOOR: 76-0, 6/8/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Diep, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Limón, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Nazarian, Obernolte,

O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas,
Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone,
Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Jake Ferrera / L., P.E. & R. / (916) 651-1556
8/19/20 10:57:26

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

THIRD READING

Bill No: AB 2644
Author: Wood (D), et al.
Amended: 8/7/20 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 8-0, 8/1/20

AYES: Pan, Lena Gonzalez, Grove, Hurtado, Leyva, Mitchell, Monning, Rubio

NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 78-0, 6/10/20 - See last page for vote

SUBJECT: Skilled nursing facilities: deaths: reporting

SOURCE: Author

DIGEST: This bill requires a skilled nursing facility (SNF), during a declared emergency related to a communicable disease, to report each disease-related death within 24 hours. This bill requires SNFs to have a full-time Infection Preventionist (IP), and prohibits a long-term care facility from preventing a representative of the Long-Term Care Ombudsman Program from entering the facility in the event of a declared emergency.

ANALYSIS:

Existing law:

- 1) Provides for the licensure of health facilities, including long-term care facilities such as SNFs, intermediate care facilities, and congregate living health facilities, by the California Department of Public Health (DPH). [HSC §1250, et seq.]

- 2) Defines an “SNF” as a health facility that provides skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis. [HSC §1250(c)]
- 3) Requires DPH to establish a list of reportable diseases and conditions to be properly reported as required to DPH by local health officers (LHOs). Requires DPH 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 DPH, after consultation with the California Conference of Local Health Officers. [HSC §120130]
- 4) 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]

This bill:

- 1) Requires an SNF to have a full-time, dedicated IP, and permits this role to be filled either by one full-time IP staff member or by two staff members sharing the IP responsibilities, as long as the total time dedicated to the IP role equals at least the time of one full-time staff member.
- 2) Requires the IP to be a registered nurse or a licensed vocational nurse and prohibits the IP from being included in the calculation of three and one-half hours of direct patient care per day provided to SNF residents.
- 3) Requires an SNF to have a plan in place for infection prevention quality control, and requires an SNF to ensure all health care personnel receive infection prevention and control training on an annual basis.

- 4) Requires an SNF, in the event of a declared emergency related to a communicable disease, to report communicable disease data in a format and scheduled as required by DPH.
- 5) Requires the communicable disease data reported pursuant to 4) above to include information about each disease-related death and suspected disease-related death, which is required to be reported to DPH within 24 hours.
- 6) Requires DPH to make the total number of disease-related deaths and suspected disease-related deaths, and the location at which they occurred, available on its internet website on a weekly basis, in a manner that protects patients' medical privacy.
- 7) Requires an SNF, during a declared emergency related to a communicable disease, to notify residents and their representatives and family members about cases of the communicable disease in compliance with state and federal privacy laws, as instructed by DPH.
- 8) Permits DPH, notwithstanding any other law, to implement, interpret, or make specific the provisions described in 4) through 7) above by means of an All Facilities Letter or similar instruction.

Comments

- 1) *Author's statement.* According to the author, over half of the COVID-19 deaths in California are attributable to SNF residents and staff. There are already various requirements in existing law for how and when a death is reported, depending on the circumstance, and COVID-19 deaths are being reported, however, we need accurate, real time data to address the high numbers of deaths in SNFs. Additionally, we need SNFs to have a dedicated, full-time infection preventionist to protect residents and staff from infection.
- 2) *COVID-19 in California SNFs.* According to the SNF dashboard on the DPH website, as of July 27, 2020, there have been a total of 13,109 confirmed COVID-19 cases in SNF health care workers (HCWs), and 18,265 residents. There have been 120 HCW deaths, and 3,143 resident deaths. With respect to the data, the website notes: "COVID-19 fatalities in the dashboard include deaths that were reported by facilities to the best of their knowledge. These include deaths that occurred at nursing homes and those that occurred in other locations, such as a hospital or private home, if the death occurred within the 14-day bed hold period after the resident transferred from the SNF. Deaths that

occurred outside of this 14-day period may not be captured. Some of these deaths may include residents who had COVID-19, but died of something else. Given these complexities, fatality totals may not exactly match other data sources or, in some instances, the death may be double counted in more than one data source such as county-level fatality totals.”

- 3) *COVID-19 reporting in SNFs.* On May 8, 2020, the Centers for Medicare and Medicaid Services (CMS) published an interim final rule requiring SNFs to report COVID-19 facility data to the Centers for Disease Control and Prevention (CDC), and to notify residents, residents' representatives, and families of residents of when there are COVID-19 positive residents or HCWs in the facility. The report must include, but is not limited to, the following:
- a) Suspected and confirmed COVID-19 infections among residents and staff, including residents previously treated for COVID-19;
 - b) Total deaths and COVID-19 deaths among residents and staff;
 - c) Personal protective equipment (PPE) and hand hygiene supplies in the facility;
 - d) Ventilator capacity and supplies in the facility;
 - e) Resident beds and census;
 - f) Access to COVID-19 testing while the resident is in the facility;
 - g) Staff shortages; and,
 - h) Other information specified by the Secretary of the Health and Human Services Agency.

Beginning May 14, 2020, SNFs are required to report to DPH via the SNF COVID-19 Survey by no later than 12:00 P.M. Pacific Time.

- 4) *All Facilities Letter on SNF COVID-19 mitigation plan includes IP requirement.* On May 11, 2020, DPH sent an all facilities letter advising all SNFs of the requirement to submit a facility-specific COVID-19 mitigation plan with specified elements. An SNF's mitigation plan is required to include the following six elements:
- a) *Testing and cohorting.* Requires the SNF to develop a plan in conjunction with their LHO for regular testing of residents and staff, including how test results will be used to inform residents and health care personnel;
 - b) *Infection Prevention and Control.* Requires the SNF to have a full-time, dedicated IP. Specifies that this can be achieved by more than one staff member sharing this role, but a plan must be in place for infection

- prevention quality control. Requires the SNF to ensure health care providers receive infection prevention and control training and can work with DPH to develop a reasonable implementation timeline and plan to bring on the necessary IP staff;
- c) *PPE*. Requires the SNF to have a plan for adequate provision of PPE, including types that will be kept in stock, duration the stock is expected to last, and information on established contracts or relationships with vendors for replenishing stock;
 - d) *Staffing shortages*. Requires the SNF to have policies in place to address health care personnel shortages, including contingency and crisis capacity strategies;
 - e) *Designation of space*. Requires the SNF to have policies in place for dedicated spaces within the facility to ensure separation of infected patients and for eliminating movement of health care personnel among those spaces to minimize transmission risk; and,
 - f) *Communication*. Requires a designated staff member to be assigned responsibility for daily communications with staff, residents, and their families regarding the status and impact of COVID-19 in the facility.
- 5) *SNFs and staffing*. Minimum staffing standards for SNFs are prescribed in regulations. SNFs licensed for 59 or fewer beds are required to have at least one registered nurse or licensed vocational nurse, awake and on duty, in the facility at all times, day and night. SNFs with 60 to 99 beds have this same requirement, plus a director of nursing services, and the director of nursing services cannot have charge nurse responsibilities. SNFs with 100 or more beds do not have the option of having a licensed vocational nurse instead of the registered nurse. In addition to this base requirement, freestanding SNFs, with certain exceptions, are required to provide a minimum of 3.5 direct care service hours per patient day (combination of registered nurse, licensed vocational nurse, or certified nurse assistant), with a minimum of 2.4 certified nurse assistant hours per patient day.
- 6) *SNFs and infection control*. CMS requires LTC facilities, as a condition of participation, to have an infection prevention and control program designed to prevent the development and transmission of communicable diseases and infections. The infection prevention and control program is required to include specific elements, including a system for preventing, identifying, reporting, investigating, and controlling infections and communicable diseases for all residents, staff, volunteers, visitors, and other individuals providing services. Effective November 28, 2019, the final requirement includes specialized

training in infection prevention and control for the individual(s) responsible for the facility's program. CMS and the CDC collaborated on the development of a free on-line training course in infection prevention and control for nursing home staff, called the "Nursing Home Infection Preventionist Training Course." The course is approximately 19 hours long, and is made up of 23 modules and submodules, which can be completed at any time, in any order, and over multiple sessions.

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

SUPPORT: (Verified 8/17/20)

AARP

Association of Regional Center Agencies

California Long-Term Care Ombudsman Association

OPPOSITION: (Verified 8/17/20)

None received

ARGUMENTS IN SUPPORT: The California Long-Term Care Ombudsman Association (CLTCOA) states in support that in mid-March 2020, to reduce the potential spread of COVID-19 in LTC facilities, CMS, the Office of the State Long-Term Care Ombudsman, and many local public health agencies ordered ombudsman representatives to refrain from providing in-person visits. This bill makes it clear that the prohibition of an Ombudsman from entering into the facilities, meeting privately on a patio, or through a window with the residents remains in those agencies' authority, and is not up to the facility's preferences. CLTCOA also states that a long time industry failure is dismal infection control, and that even before COVID-19, too many SNFs failed to follow DPH guidelines, and that the third most common SNF violations since 2012 has been related to infection control. According to CLTCOA, this bill will mandate that SNFs must maintain a full time IP to resolve years of past failures.

The Association of Regional Center Agencies (ARCA) also supports this bill, stating that data from the Department of Social Services indicates that 1,063 individuals served by regional centers resided in SNFs at the end of March 2020. People with developmental disabilities are uniquely vulnerable to the effects of COVID-19. According to ARCA, this bill will significantly improve insight into what, despite out fervent hopes, looks to be a challenge for the foreseeable future.

ASSEMBLY FLOOR: 78-0, 6/10/20

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

NO VOTE RECORDED: Quirk

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
8/19/20 14:00:39

**** END ****

CONSENT

Bill No: AB 2660
Author: Burke (D)
Amended: 6/4/20 in Assembly
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 7-0, 7/29/20
AYES: McGuire, Moorlach, Beall, Hertzberg, Hurtado, Nielsen, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 78-0, 6/10/20 - See last page for vote

SUBJECT: Income taxes: administration: nonresident aliens: identifying
numbers: group filing

SOURCE: Author

DIGEST: This bill allows certain nonresident taxpayers to file a group return if they receive taxable income for services that take place in this state.

ANALYSIS:

Existing law:

- 1) Requires all income earned in or sourced to California to be reported and filed on an income tax return.
- 2) Requires all residents of California to file an individual (or joint if married or registered domestic partner) return.
- 3) Allows non-residents to file either a non-resident return, or elect to be included in a group return.

- 4) Allows nonresidents to consent to file a group return to report their California source income only if the individuals included in the group return have either a Social Security Number (SSN) or a federal individual tax identification number (ITIN).

This bill:

- 1) Allows electing nonresident taxpayers, who are not eligible for or have not been issued a federal SSN or ITIN, to be included in the group return or file an individual return to report their California source income without obtaining a SSN or ITIN beginning in the 2021 taxable year and ending after the 2025 taxable year.
- 2) Requires the agent preparing and filing the return for the electing nonresident individual to make all tax payments, additions to tax, interest, and penalties otherwise required to be paid by the electing nonresident alien.
- 3) Applies a tax rate or rates applicable to each nonresident's taxable income for their California source income for that taxpayer would consist of the highest marginal rate or rates, plus any additional mental health tax, but prohibits claiming any deductions or credits for a nonresident taxpayer electing to be included in a group return.
- 4) Directs any withholding payments made to be allowed as a credit against the tax of the nonresident taxpayer electing to file in a group return.
- 5) Allows the Franchise Tax Board (FTB) to adjust the income of an electing nonresident taxpayer included in a group return.
- 6) Allows FTB to adopt regulations as necessary or appropriate to carry out the provisions regarding nonresident alien return filing.
- 7) Defines a "nonresident alien" as an individual other than a California resident who is neither a United States (U.S.) citizen nor a U.S. resident.
- 8) Allows FTB to require the nonresident taxpayer to provide a letter or other form documenting the nonresident taxpayer's SSN or ITIN if a nonresident taxpayer who has filed a group return and subsequently becomes eligible for and is issued a SSN or ITIN.

Background

SSN/Federal ITIN. SSNs are generally issued to all to U.S. citizens, permanent residents, and some temporary residents. The Internal Revenue Service (IRS) issues federal ITINs for tax administration purposes for certain nonresident and resident individuals, 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, one document that verifies the individual's address, a document that demonstrates a connection to a country, and a valid form of identification. Generally, individuals that enter into the U.S. to work for only a short amount of time aren't eligible to receive an ITIN.

Group Returns. A group return is a way for nonresident individuals without a large presence in California to elect to submit one tax return collectively instead of each submitting an individual tax return. If individuals wish to be included in a group return, the individual must make an annual, irrevocable election for each taxable year. All group returns must include at least two nonresidents and cover one calendar year. The income included on the group return is taxed at the highest marginal tax rate (currently 12.3%), plus, if applicable, the additional mental health tax (currently 1% and only on taxable income over \$1 million), but does not allow any deductions (personal or dependent) or credits. Current law requires that each nonresident must have either a social security number (SSN) or a federal individual tax identification number (ITIN) to be included in a group return.

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

SUPPORT: (Verified 8/13/20)

Allianz of America, Inc.
California Lawyers Association, Taxation Section

OPPOSITION: (Verified 8/13/20)

None received

ARGUMENTS IN SUPPORT: According to the author, "This common sense bill gives international companies the option of filing a group return for their foreign employees who travel to California for work and incur a personal income tax liability. For foreign employees who choose to take advantage of this option, this bill would eliminate the current requirement to file tax returns individually. This bill would also eliminate the requirement for employers or

foreign employees to provide a SNN or ITIN – given that these identification methods are either not available for such employees or extremely challenging to obtain. In this manner, this bill provides a significant benefit to the business community by easing tax compliance and administrative burdens for both companies and employees alike.”

ASSEMBLY FLOOR: 78-0, 6/10/20

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

NO VOTE RECORDED: Quirk

Prepared by: Jessica Deitchman / GOV. & F. / (916) 651-4119
8/15/20 7:35:31

**** END ****

CONSENT

Bill No: AB 2717
Author: Chau (D)
Amended: 3/12/20 in Assembly
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-0, 7/30/20
AYES: Jackson, Borgeas, Durazo, Lena Gonzalez, Melendez, Monning, Stern,
Umberg, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Motor vehicles: unattended children: liability

SOURCE: Author

DIGEST: This bill exempts from civil and criminal liability a person who takes any reasonable steps that are necessary to remove a child from a motor vehicle if the person holds a reasonable belief that the child's safety is in immediate danger from heat, cold, lack of adequate ventilation, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the child, so long as the person complies with certain requirements.

ANALYSIS:

Existing law:

- 1) Provides that a person has no duty to come to the aid of another, but if a person decides to assist another then that person must act with reasonable care.
(*Artiglio v. Corning Inc.* (1998) 18 Cal.4th 604; *Williams v. State of California* (1983) 34 Cal.3d 18.)

- 2) Exempts a person from civil liability who, in good faith and not for compensation, renders emergency or non-emergency medical or nonmedical care or assistance at the scene of an emergency unless the person commits acts or omissions that constitute gross negligence or willful or wanton conduct. (Hlth. & Saf. Code § 1799.102.)
- 3) Exempts a person from civil liability for property damage or trespass to a motor vehicle if the damage or trespass occurs while the person is rescuing a confined and unattended animal from the vehicle, if the person reasonably believes that rescue is necessary to prevent the unnecessary suffering, disability, or death of the animal. (Civ.C. § 43.100.)
- 4) Makes it an infraction for a parent, legal guardian, or any other person responsible for a child six years of age or younger to leave that child inside a motor vehicle, unless the child is supervised by a person at least 12 years of age, under any circumstances that would pose a significant risk to the child's health or safety. (Veh.C. § 15620.)

This bill:

- 1) Permits a person to take any reasonable steps that are necessary to remove a child from a vehicle if the person holds a reasonable belief that the child's safety is in immediate danger from heat, cold, lack of adequate ventilation, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the child. A child is defined as a child who is six years of age or younger.
- 2) Provides that a person who removes a child under these circumstances is not criminally liable for actions taken reasonably and in good faith if the person does all of the following:
 - a) Determines the vehicle is locked or there is otherwise no reasonable manner for the child to be removed from the vehicle.
 - b) Has a good faith belief that forcible entry into the vehicle is necessary because the child is in imminent danger of suffering harm if not immediately removed from the vehicle, and, based upon the circumstances known to the person at the time, the belief is a reasonable one.
 - c) Has contacted a local law enforcement agency, the fire department, or the "911" emergency service prior to forcibly entering the vehicle.

- d) Remains with the child in a safe location, out of the elements but reasonably close to the vehicle, until a peace officer or another emergency responder arrives.
 - e) Used no more force to enter the vehicle and remove the child from the vehicle than was necessary under the circumstances.
 - f) Immediately turns the child over to a representative from law enforcement or another emergency responder who responds to the scene.
- 3) Provides that these provisions do not prevent a peace officer, firefighter, or other emergency responder from removing a child from a motor vehicle if the child's safety appears to be in immediate danger from heat, cold, lack of adequate ventilation, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the child.
 - 4) Requires a peace officer, firefighter, or other emergency responder who removes a child from a motor vehicle, or who takes possession of a child who has been removed from a motor vehicle, to take the child to a hospital for diagnosis and treatment. The parent of a child removed from a vehicle may be required to pay for charges that may accrue for the care or medical treatment of the child.
 - 5) Authorizes a peace officer, firefighter, or other emergency responder to take all steps that are reasonably necessary for the removal of a child from a motor vehicle, including, but not limited to, breaking into the motor vehicle, after a reasonable effort is made to locate the owner or other person responsible.
 - 6) Requires a peace officer, firefighter, or other emergency responder who removes a child from a motor vehicle or who receives a child rescued from a vehicle from another person to, in a secure and conspicuous location on or within the motor vehicle, leave written notice bearing their name and office and the address of the location where the child will be treated.
 - 7) Provides that a person shall not be civilly liable for property damage or trespass to a motor vehicle if the damage was caused while the person was rescuing a child in accordance with these provisions.

Comments

California generally follows the traditional principles of common law that a person has no duty to come to the aid of another except for special relationships (like a parent and child). Like many other states, California provides for so-called "Good

“Good Samaritan” laws that provide immunity from liability if a person does assist another and during that assistance an unintended injury to person or property occurs. In order to receive immunity from liability, the person offering assistance has a duty to exercise reasonable care, and if that person’s actions fall below this standard of care and causes harm, then the Good Samaritan may be held liable.

Immunity provisions are generally disfavored because they, by their nature, prevent an injured party from seeking a particular type of recovery. The Legislature has, in limited scenarios, approved limited immunity from liability (as opposed to blanket immunities) to promote other policy goals that benefit the public. For example, existing California law provides immunity from civil liability to a person who in good faith and not for compensation renders emergency or non-emergency medical or nonmedical care or assistance at the scene of an emergency unless the person commits acts or omissions that constitute gross negligence or willful or wanton conduct. In 2016, the Legislature approved AB 797 (Steinorth, Chapter 554, Statutes of 2016), which provided a person is not civilly or criminally liable for property damage or trespass to a motor vehicle, if the damage was caused while the person was rescuing an animal in accordance with certain provisions in the Penal Code.

This bill seeks to now provide Good Samaritans who act reasonably to save the life of a child who is six years of age or younger with immunity from criminal and civil liability for property damage or trespass to a motor vehicle if the property damage or trespass occurs while the person is rescuing the child. This bill also establishes procedures that apply to a peace officer or emergency responder under those circumstances, including, requiring transportation of the child to a hospital for diagnosis and treatment and requiring that they leave written notice bearing their name and office and the address of the location where the child was taken to be treated in a secure and conspicuous location on or within the motor vehicle.

This bill’s provisions create civil and criminal immunity to encourage Good Samaritans to act when it becomes clear that it is necessary to remove a child from a motor vehicle if the person holds a reasonable belief that the child’s safety is in immediate danger from heat, cold, lack of adequate ventilation, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the child. Existing law already makes it an infraction for a parent, legal guardian, or other responsible person to leave a child under six years of age in a vehicle unattended; however, 39 children die each year on average in the United States from heatstroke after being left in a vehicle, with California having 52 such

deaths since 1998.¹ This bill's provisions appear to base the immunity narrowly on a person's reasonable and good faith belief that the child's safety is in immediate danger necessitating forcible entry into the vehicle as long as the Good Samaritan takes specific actions before forcible entry. These actions include: determining the vehicle is locked or there is otherwise no reasonable manner for the child to be removed from the vehicle; contacting local law enforcement, the fire department, or 911 emergency services; remaining with the child in a safe location, out of the elements but reasonably close to the vehicle, until an officer or emergency responder arrives, and immediately turning the child over to a representative from law enforcement or other emergency responder at the scene. The immunity is further narrowly tailored in that it limits the civil immunity to property damage or trespass to a motor vehicle. In light of the fact that the Legislature granted immunity to persons who rescue unattended animals from vehicles, so long as they reasonably believe that the animal is in danger and follows specified steps, it seems eminently reasonable to offer similar immunity to persons who rescue young children in similar circumstances.

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

SUPPORT: (Verified 8/13/20)

AAA Northern California, Nevada and Utah
Auto Club of Southern California
California Professional Firefighters

OPPOSITION: (Verified 8/13/20)

None received

ARGUMENTS IN SUPPORT: The author writes:

California has laws to exempt Good Samaritans from criminal or civil liability in the rescue of animals left unattended in vehicles, but no such laws in the rescue of children. AB 2717 would exempt a person from civil and criminal liability for property damage or trespass to a motor vehicle, if it occurs while the person is rescuing a child who is 6 years of age or younger under circumstances that reasonably could cause suffering, disability, or death to the child, and they take certain steps during the removal.

¹ *Motor Vehicle Safety Issues: Hot Car Deaths*, National Safety Council (2020) available at <https://injuryfacts.nsc.org/motor-vehicle/motor-vehicle-safety-issues/hotcars/> (as of Jul. 7, 2020).

Prior to forcibly entering a vehicle, a person must have contacted a local law enforcement agency, the fire department or called “911” if they hold reasonable belief that the child’s safety is in immediate danger from heat, cold, lack of adequate ventilation or other circumstances. In addition, the person has also determined that the vehicle is locked or there is otherwise no reasonable manner for the child to be removed from the vehicle and in good faith believes that forcible entry into the vehicle is necessary. The person must remain near the vehicle at a safe location until an emergency responder arrives and immediately turn the child over to a representative from law enforcement or another emergency responder at the scene.

The California Professional Firefighters write in support, stating:

Each year as summer approaches and the weather begins to get warmer, news stories begin to increase regarding the devastating consequences of leaving an unattended child in a locked car. While forgetting a child in the back seat of their car is every parent’s worst nightmare, the numbers of children who have been injured or died as a result of pediatric vehicular heatstroke (PVH) have increased since they were first recorded in the 1990’s. In fact the deadliest year on record for PVH was 2018 when 53 cases were recorded nationwide, three of which occurred in California [...]

AB 2717 would extend existing Good Samaritan protections to those who act in in good faith to render emergency assistance from liability to individuals who take action to rescue a child younger than six years old from a motor vehicle. When there is so little time to prevent the injury or death of a young child, individuals who are on the scene and able to respond immediately should not be punished for property damage caused to the vehicle during the rescue. California’s firefighters are often the first on the scene when these horrific accidents occur, and know firsthand the devastation that comes with these tragic incidents. For these reasons and more, **we urge your support for AB 2717.** [emphasis in original]

The AAA Northern California, Nevada and Utah and Auto Club of Southern California (AAA Clubs) jointly write in support:

A child dies from a heatstroke about once every 10 days from being left alone in a hot vehicle. In fact, heatstroke is the leading cause of non-crash vehicle fatality for kids 14 and younger according to AAA research. In 90-degree weather, the inside of cars can reach 133 degrees when in direct sunlight. Even mild weather can be dangerous for young people because their bodies can heat

up five times faster than adults. There are too many tragic fatalities and even more “close calls” because of incidents involving children trapped inside cars.

More than 1 in 5 of the 50 million AAA members nationwide reside in California. The AAA Clubs regularly use our communication reach to remind all motorists not to leave kids in hot cars every summer. Unfortunately, educational campaigns are not enough given the deadly consequences at risk. Accordingly, the AAA Clubs encourage a yes vote on AB 2717. No one should have to think twice about liability issues before saving the life of a child trapped in a hot car.

ASSEMBLY FLOOR: 76-0, 6/8/20

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

NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Amanda Mattson / JUD. / (916) 651-4113
8/14/20 12:36:37

**** END ****

CONSENT

Bill No: AB 2741
Author: Blanca Rubio (D)
Introduced: 2/20/20
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 7-0, 7/31/20
AYES: Skinner, Moorlach, Bradford, Jackson, Mitchell, Morrell, Wiener

ASSEMBLY FLOOR: 75-0, 5/26/20 (Consent) - See last page for vote

SUBJECT: Children's advocacy centers

SOURCE: Author

DIGEST: This bill authorizes counties to create Child Advocacy Centers (CAC) to implement a coordinated multidisciplinary approach to investigative reports of child abuse.

ANALYSIS:

Existing law:

- 1) States the legislature intends that law enforcement agencies and the county welfare or probation department in each county shall develop and implement cooperative arrangements in order to coordinate existing duties in connection with the investigation of suspected child abuse or neglect cases. (Pen. Code, § 11166.3, subd. (a).)
- 2) Requires the local law enforcement agency having jurisdiction over a mandated child abuse or neglect case, as specified, shall report to the county welfare or probation department that it is investigating the case within 36 hours after starting its investigation. (Pen. Code § 11166.3, subd. (a).)
- 3) Requires the county welfare department or probation department, in cases where a minor is a victim of child molestation, as specified, and a dependency petition has been filed with regard to the minor, to evaluate what action or

- actions would be in the best interest of the child victim. (Pen. Code § 11166.3, subd. (a).)
- 4) Provides notwithstanding any other provision of law, the county welfare department or probation department shall submit in writing its findings and the reasons therefor to the district attorney on or before the completion of the investigation. The written findings and the reasons therefor shall be delivered or made accessible to the defendant or his or her counsel. (Pen. Code § 11166.3, subd. (a).)
 - 5) Mandates a local law enforcement agency having jurisdiction over a reported child abuse or neglect case to report to the district office of the State Department of Social Services any case reported under this section if the case involves a specified facility and the licensing of the facility has not been delegated to a county agency. The law enforcement agency shall send a copy of its investigation report and any other pertinent materials to the licensing agency upon the request of the licensing agency. (Pen. Code § 11166.3, subd. (b).)
 - 6) Mandates the Department of Justice, in cooperation with the State Department of Social Services, to prescribe by regulation guidelines for the investigation of child abuse or neglect, as defined, in facilities licensed to care for children. (Pen. Code § 11174.1, subd. (a).)
 - 7) Authorizes members of a multidisciplinary personnel team engaged in the prevention, identification, and treatment of child abuse to disclose and exchange information and writings to and with one another relating to any incidents of child abuse that may also be part of a juvenile court record or otherwise designated as confidential under state law if the member of the team having that information reasonably believes it is generally relevant to the prevention, identification or treatment of child abuse. (Welf. and Inst. Code, § 830.)
 - 8) Provides that counties may establish child abuse multidisciplinary personnel teams within that county to allow provider agencies to share confidential information in order for provider agencies to investigate reports of suspected child abuse and neglect, as specified, or for the purpose of child welfare agencies making a detention determination. (Welf. & Inst. Code, § 18961.7, subd. (a).)
 - 9) Defines "multidisciplinary personnel" as any team of two or more persons who are trained in the prevention, identification, and treatment of child abuse and

neglect cases and who are qualified to provide a broad range of services related to child abuse. The team may include but not be limited to:

- a) Psychiatrists, psychologists or other trained counseling personnel;
- b) Police officers or other law enforcement agents;
- c) Medical personnel with sufficient training to provide health services;
- d) Social workers with training or experience in child abuse prevention; and
- e) Any public or private school teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee.
(Welf. & Inst. Code, § 18961.7, subd. (b)(1).)

- 10) Defines "provider agency" as any governmental or other agency that has as one of its purposes the prevention, identification, management, or treatment of child abuse or neglect. The provider agencies serving children and their families that may share information shall include, but not be limited to the following entities or agencies: social services, children's services, health services, mental health services, probation, law enforcement; and schools.
(Welf. & Inst. Code, § 18961.7, subd. (b)(2).)
- 11) Provides that notwithstanding any other provision of law, during a 30-day period, or longer if good cause exists following a report of suspected child abuse or neglect, members of a child abuse multidisciplinary team engaged in the prevention, identification, and treatment of child abuse may disclose to, and exchange with one another information and writing that relate to any incident of child abuse that may also be designated as confidential if the member of that team having that information or writing reasonably believes it is generally relevant to the prevention, identification, and treatment of child abuse. Any discussion relative to the disclosure or exchange of the information or writings during a team meeting is confidential, and notwithstanding any other provision of law, testimony concerning that discussion is not admissible in any criminal, civil, or juvenile court proceeding.
(Welf. & Inst. Code, § 18961.7, subd. (c)(1).)
- 12) States that all information and records communicated or provided to the team members by all provider agencies, as well as information and records created in the course of a child abuse or neglect investigation, shall be deemed private and confidential and shall be protected from discovery and disclosure by all applicable statutory and common law protections. Existing civil and criminal

penalties shall apply to the inappropriate disclosure of information held by team members. (Welf. & Inst. Code, § 18961.7, subd. (h).)

- 13) Provides that any county may establish a computerized data base system within that county to allow provider agencies, as defined, to share specified identifying information regarding families at risk for child abuse and neglect, for the purposes of forming multidisciplinary personnel teams. (Welf. & Inst. Code, § 18961.5, subd. (a).)
- 14) Provides that no employee of a provider agency which serves children and their families shall be civilly or criminally liable for furnishing or sharing information, as specified. (Welf. & Inst. Code, § 18961.5, subd. (g).)
- 15) Authorizes each county to establish an interagency child death review team to assist local agencies in identifying and reviewing a suspicious child death and facilitating communication among persons who perform autopsies and the various persons and agencies involved in child abuse or neglect cases. (Pen. Code § 11174.32, subd. (a).)

This bill:

- 1) States the Legislature finds and declares:
 - a) Perpetration of child abuse and neglect is detrimental to children;
 - b) All victims of child abuse or neglect deserve to be treated with dignity, respect, courtesy, and sensitivity as a matter of high public importance;
 - c) In any investigation of suspected child abuse or neglect, all persons participating in the investigation of the case should consider the needs of the child victim and do whatever is necessary to prevent psychological harm to the child and ensure that children disclosing abuse are not further victimized by the intervention systems designed to protect them;
 - d) A multidisciplinary approach to investigating child abuse and neglect is associated with less anxiety, fewer interviews, and increased support for the child, as well as interagency collaboration, coordination, intervention, and sharing of information;
 - e) A multidisciplinary response to allegations of child abuse and neglect has been found most effective and least traumatic when coordinated through a children's advocacy center; and,

- f) The use of multidisciplinary teams and the establishment of children's advocacy centers throughout the State of California is necessary to coordinate investigation and prosecution of child abuse and neglect and to facilitate treatment referrals.
- 2) Authorizes counties to utilize CAC to use a multidisciplinary response to investigate reports of child physical or sexual abuse, exploitation, or maltreatment.
 - 3) Requires a CAC to meet the following standards:
 - a) The multidisciplinary team associated with the CAC shall consist of a representative of the CAC and at least one representative from each of the following disciplines: law enforcement, child protective services, district attorney's office, medical providers, mental health providers, victim advocate, or a representative of the CAC. Members of the multidisciplinary team may fill more than one role as needed.
 - b) The multidisciplinary team shall have cultural competency and diversity training to meet the needs of the community it serves.
 - c) The CAC shall have a designated legal entity responsible for the governance of its operations. This entity shall oversee business practices of the CAC, including setting and implementing administrative policies, hiring and managing personnel, obtaining funding, supervising program and fiscal operations, and long-term planning.
 - d) The CAC shall provide a child-focused setting, designed to provide a safe, comfortable and neutral place where forensic interviews and other CAC services can be provided for children and families.
 - e) The CAC shall use written protocols for case review and case review procedures. Additionally, the CAC shall use a case tracking system to provide information on essential demographics and case information.
 - f) The CAC shall verify that members of the multidisciplinary team responsible for medical evaluations have specific training in child abuse or child sexual abuse examinations.
 - g) The CAC shall verify that members of the multidisciplinary team responsible for mental health services are trained in, and deliver, trauma-focused, evidence supported, mental health treatments.

- h) The CAC shall conduct interviews for investigations in a child focused setting and forensically sound manner.
- 4) States a county can utilize more than one CAC.
- 5) States that any documents used or developed in providing services through a CAC are confidential and not public records.
- 6) Authorizes members of a multidisciplinary team at a CAC to share with other multidisciplinary team members any information or records concerning the child and family and the person who is the subject of the investigation of suspected child abuse or neglect for the sole purpose of facilitating a forensic interview or case discussion or providing services to the child or family; provided, however, that the shared information or records shall be treated as privileged and confidential to the extent required by law by the receiving multidisciplinary team members.
- 7) Grants immunity for an employee or designated agent of a child and family advocacy center from any civil liability from a situation that arises from the employee's or designated agent's participation in the investigation process and services provided by the child and family advocacy center. This immunity is not granted if the employee or agent acts with malice or has been charged with or is suspected of abusing or neglecting the child who is the subject of the investigation or services provided.

Background

Governor's Veto. This bill was identical to AB 1221 (Cooley, 2019), which was vetoed by the Governor. Governor Newsom in his veto message stated, "This bill would specify requirements for what constitutes a child advocacy center established in counties to coordinate the investigation and prosecution of child abuse cases. While this bill is well-intentioned, it provides overly broad immunity from civil and criminal liability for persons providing services to children and non-offending family members. For example, the measure makes no exceptions when a service provider acted with malice, gross negligence or in bad faith, or has been criminally charged with, or is suspected of, abusing or neglecting the child who is the subject of the investigation or services provided. For these reasons, I am unable to sign this bill."

This bill now has provisions that does not grant immunity to employees or designated agent who act with malice or has been charged with or is suspected of

abusing or neglecting the child who is the subject of the investigation or services provided.

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

SUPPORT: (Verified 7/31/20)

Alameda County District Attorney's Office
California Judges Association
California Sexual Assault Forensic Examiners Association
Family Healing Center
Juvenile Court Judges of California
Los Angeles County District Attorney's Office
Napa County District Attorney's Office
Palomar Health Child Abuse Program
Peace Officers Research Association of California
San Diego County District Attorney's Office
San Mateo County District Attorney's Office
StrengthUnited
The Children's Advocacy Center for Child Abuse Assessment and Treatment
The University Corporation DbA Strength United
Tuolumne County District Attorney's Office

OPPOSITION: (Verified 7/31/20)

None received

ARGUMENTS IN SUPPORT: According to the Peace Officers Research Association of California:

This bill would authorize a county, in order to implement a multidisciplinary response to investigate reports involving child physical or sexual abuse, exploitation, or maltreatment, to use a children's advocacy center that includes representatives from specified disciplines and provides dedicated child-focused settings for interviews and other services. The bill would authorize members of a multidisciplinary team associated with a children's advocacy center to share with each other information in their possession concerning the child, the family of the child, and the person who is the subject of the abuse or neglect investigation, as specified.

PORAC believes that by investigating abuse and neglect with a multidisciplinary approach within children's advocacy centers, as well as sharing information between members of the multidisciplinary team is critical

to the health and safety of our youth and can assist children and families to facilitate treatment moving forward.

ASSEMBLY FLOOR: 75-0, 5/26/20

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

NO VOTE RECORDED: Diep, Maienschein, Quirk, Wicks

Prepared by: Nikki Scott / PUB. S. /
8/5/20 12:01:45

**** END ****

THIRD READING

Bill No: AB 2756
Author: Limón (D) and Bloom (D)
Amended: 8/5/20 in Senate
Vote: 21

SENATE INSURANCE COMMITTEE: 13-0, 8/4/20

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

ASSEMBLY FLOOR: 77-0, 6/8/20 - See last page for vote

SUBJECT: Residential property insurance

SOURCE: Author

DIGEST: This bill requires insurers to procure a signed acknowledgement from an applicant or policyholder of a residential property insurance policy that does not cover the peril of fire, and to provide certain information that may help the consumer find fire coverage. Additionally, requires insurance policies that provide building code upgrade coverage or replacement cost coverage to include building code upgrade coverage of at least 10% of the dwelling policy limits.

ANALYSIS: Existing law requires residential property insurers to deliver an offer of renewal 45 days before policy expiration and to include a description of any policy limits being reduced or eliminated in the offer. Further requires insurers provide a notice on a policy declarations page, with specified information including the policy limits for the different coverages, a statement about the estimated cost to replace the home, deductibles, and whether or not the policy includes building code upgrade coverage and accompanying information as provided.

This bill requires insurers to procure a signed acknowledgement from an applicant or policyholder of a residential property insurance policy that does not cover the peril of fire, and to provide certain information that may help the consumer find fire coverage. Additionally, requires insurance policies that provide building code

upgrade coverage or replacement cost coverage to include building code upgrade coverage of at least 10% of the dwelling policy limits.

Background

Difference in Conditions Policies. In order to adjust to the changing wildfire risk in certain areas of the state, some residential property insurers are adjusting or reducing their fire risk exposure in high fire risk areas. One approach used by some insurance companies to reduce their exposure is to issue a “Difference In Conditions” (DIC) policy that does not protect the home against fire damage rather than renew a policy with comprehensive coverage. A DIC policy is actually a wrap-around policy that when paired with a fire policy, such as a FAIR Plan policy, gives the homeowner the equivalent coverage provided under the standard comprehensive homeowners policy.

The practice of automatically issuing a DIC policy may be beneficial to both parties; the insurer keeps a customer and consumer might keep a multi-policy discount (for their auto insurance for instance). But, the homeowner may not realize the need to replace the fire coverage with a policy from another insurer or a FAIR Plan policy. Failing to have coverage for fire leaves the home unprotected and the homeowner may be violating terms of their mortgage, which likely requires the home to be insured against loss or damage from fire and other hazards. Current law provides that certain requirements accompany a renewal, but does not address problems when a DIC policy is issued in a way that can cause confusion.

Insurance companies may also reduce the value of coverage upon renewal. The California Department of Insurance (CDI) reports some insurance companies have reduced coverages for a previously covered peril but failed to clearly notify the consumer of the change. Since renewals typically retain the same policy number as the expired policy, the propensity for consumer confusion increases, and CDI has received complaints from homeowners stating they did not know their policy did not cover fire losses. This bill requires insurers to take active steps to make sure that policyholders better understand a reduction or elimination of critical coverage.

Building Code Upgrade Coverage. In general, property insurance returns the insured to the position they were in prior to the loss. In auto insurance, if a 5-year old car is totaled, the insured is only entitled to compensation for a “like kind and quality” vehicle, not a “new” vehicle. This principle does not work well for homes (you cannot rebuild a 20-year old home). Accordingly, insurers offer different types of “open” policies that determine the value of the claim at the time of loss.

Most are replacement or extended replacement cost policies and will pay to build a new home after a total loss without regard to the condition of the original home. However, if the home was built before the adoption of the latest building codes, the basic insurance coverage might not provide for the additional cost of complying with the more recent codes.

Following the 2017 fires, the Senate Committee on Insurance heard extensive testimony that building costs skyrocketed due to the demand surge (the sudden rise in the costs of labor, materials, etc.), leaving many fire victims without adequate coverage to rebuild the homes they had prior to the fire. Upgrade costs were high as well; reports following those fires indicated that code upgrade requirements could drive up costs by 20% for homes built before the early 2000s.

NOTE: For further analysis of these issues, please see the Senate Committee on Insurance analysis for AB 2756.

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

SUPPORT: (Verified 8/5/20)

California Association of Realtors
California Department of Insurance

OPPOSITION: (Verified 8/5/20)

None received

ARGUMENTS IN SUPPORT: The California Department of Insurance writes, “The Department has found that some insurance companies have been reducing coverages for a previously covered peril and the reduction of coverage is not stated clearly to the consumer. Because the “renewals” typically retain the same policy number as the expiring full homeowners’ policy and have varying levels of disclosure about the elimination of coverage for the peril of fire, policyholders are often unaware that their coverage has been dramatically changed.”

ASSEMBLY FLOOR: 77-0, 6/8/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Diep, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Limón, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Nazarian, Obernolte,

O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas,
Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone,
Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Muratsuchi, Quirk

Prepared by: Brian Flemmer / INS. / (916) 651-4110
8/5/20 15:39:37

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

CONSENT

Bill No: AB 2759
Author: Obernolte (R)
Amended: 8/6/20 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-0, 8/8/20
AYES: Glazer, Chang, Archuleta, Dodd, Galgiani, Hill, Leyva, Pan, Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Collateral recovery

SOURCE: California Association of Licensed Repossessors

DIGEST: This bill increases the time that an expired repossession agency license may be renewed from three years to ten years and also allows a family member of a qualified manager who has died to reinstate and retain the repossession agency license number by paying the renewal fee and meeting requirements for licensure.

ANALYSIS:

Existing law:

- 1) Establishes the Bureau of Security and Investigative Services (BSIS) within the Department of Consumer Affairs (DCA) to license and regulate repossessionors under the Collateral Recovery Act. (Business and Professions Code (BPC) §§ 7500 – 7511)
- 2) Defines “collateral” as any specific vehicle, trailer, boat, recreational vehicle, motor home, appliance, or other property that is subject to a security agreement. (BPC § 7500.1(e))

- 3) Defines “licensee” as an individual, partnership, limited liability company, or corporation licensed under this chapter as a repossession agency. (BPC § 7500.1(o))
- 4) Defines “repossession” as the locating or recovering of collateral by means of an assignment. (BPC § 7500.1)
- 5) Requires, a licensed reposessor to remove and inventory personal effects from the collateral after repossession. The inventory of the personal effects must be complete and accurate, and the personal effects must be labeled and stored by the licensee for a minimum of 60 days in a secure manner, except those personal effects removed by or in the presence of the debtor or the party in possession of the collateral at the time of the repossession. (BPC § 7507.9)

This bill:

- 1) Increases the time in which an expired repossession agency license may be renewed from three years to ten years.
- 2) Allows a family member of a qualified manager who has died to reinstate and retain the repossession agency license number by paying the renewal fee and meeting specified requirements.

Background

The Collateral Recovery Act (Act) provides for the licensing and regulation of repossessors. Among other things, the Act specifies standards for education, experience, and repossession procedures. However, the sponsor notes that the Act is out of date in some instances. Therefore, this bill aims to clarify and update the Act.

Current law licenses and regulates repossession agencies under BSIS within the DCA. The Act defines key terms relating to the repossession industry, and contains a number of definitions that are outdated; do not reflect current practices, or which need clarification. The law requires that a reposessor license that has been expired for three years cannot be renewed, and that a new license must be obtained in order to practice in the industry. The law also does not contain a clear provision to ensure the ongoing continuity of repossession agencies by family members when the qualified manager has died.

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

SUPPORT: (Verified 8/17/20)

California Association of Licensed Repossessors (source)

OPPOSITION: (Verified 8/17/20)

None received

ARGUMENTS IN SUPPORT: The California Association of Licensed Repossessors says this bill “makes it easier for those who used to be in the profession to renew their license and for family members of a licensee who has died to continue the business of the repossession agency.”

ASSEMBLY FLOOR: 76-0, 6/8/20

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

NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Sarah Mason / B., P. & E.D. /
8/19/20 10:57:28

**** END ****

THIRD READING

Bill No: AB 2788
Author: Gloria (D)
Introduced: 2/20/20
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 10-0, 8/3/20

AYES: Hueso, Bradford, Dodd, Hertzberg, Hill, McGuire, Rubio, Skinner, Stern, Wiener

NO VOTE RECORDED: Moorlach, Chang, Dahle

ASSEMBLY FLOOR: 62-0, 6/8/20 - See last page for vote

SUBJECT: Public utilities: cooperation with immigration authorities

SOURCE: The Utility Reform Network

DIGEST: This bill prohibits an electrical corporation, gas corporation, or local publicly owned electric utility from sharing, disclosing, or otherwise making accessible to any immigration authority a customer's electrical or gas consumption data without a court-ordered subpoena or judicial warrant.

ANALYSIS:

Existing law:

- 1) Provides that all people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy. (California Constitution Article I, §1)
- 2) Establishes the California Public Utilities Commission (CPUC) with regulatory authority over public utilities, including electrical corporations and gas corporations. Local publicly owned electric utilities are under the direction of their governing boards. (California Constitution Article XII)

- 3) Prohibits an electrical corporation or gas corporation from sharing, disclosing, or otherwise making accessible to any third party a customer's electrical or gas consumption data, as defined, except as specified. (Public Utilities Code §8380)
- 4) Prohibits a local publicly owned electrical utility from sharing, disclosing, or otherwise making accessible to any third party a customer's electrical consumption data, as defined, except as specified. (Public Utilities Code §8381)
- 5) Defines immigration authority to include any federal, state, or local officer, employee, or person performing immigration enforcement functions. (Government Code §7284.4)
- 6) Finds and declares that immigrants are valuable and essential members of the California community, among other findings. (Government Code §7284)

This bill prohibits an electrical corporation, gas corporation, or local publicly owned electric utility from sharing, disclosing, or otherwise making accessible to any immigration authority a customer's electrical or gas consumption data without a court-ordered subpoena or judicial warrant.

Background

Privacy of customer data. Public Utilities Codes Sections 8380 and 8381 mandate the privacy of electric and gas utility customers' data. Consistent with that mandate, the CPUC rules prohibit electric and gas utilities from releasing advanced metering (smart meter) usage data collected to any third party without the affirmative and separate consent of the customer for each request, unless the party making the request possesses a subpoena issued by a court. Electrical or gas corporations are required to use reasonable security procedures and practices to protect a customer's unencrypted utility data from unauthorized access, destruction, use, modification or disclosure. Customer consent may be verified through an electronic signature authorization process pursuant to the Uniform Electronic Transactions Act of California. Local publicly owned electric utilities are also subject to the limitations associated with the release of their customer's utility data, as provided in Public Utilities Code Section 8381.

CPUC disclosure rules. The CPUC has established disclosure rules that prohibit CPUC-jurisdictional electrical and gas utilities and entities from disclosing covered information, except pursuant to a warrant or other court order naming the customer and specific information that is sought, or except as otherwise provided or expressly authorized by state or federal law, or by order of the CPUC. The disclosure rules further require each electrical and gas corporation and entity to

annually report to the CPUC the number of demands received for disclosure of customer data pursuant to a legal process and the number of customers whose records were disclosed. The CPUC may make the reports publicly available without identifying the affected customer, unless making such reports public is prohibited by state or federal law or by order of the CPUC. Entities that are covered within the CPUC's rules include: electrical corporations, gas corporations, community choice aggregators, electric service providers, and any third party that collects, stores, uses or discloses covered information.

Annual reporting to CPUC. As noted above, CPUC rules require electric and gas utilities under the CPUC's jurisdiction to annually report the number of demands received for disclosure of customer data pursuant to a legal process and the number of customers whose records were disclosed. These transparency reports have revealed that Immigration and Customs Enforcement (ICE) and other agencies are requesting and receiving utility data from a large number of customers. Upon reviewing these transparency reports, the American Civil Liberties Union highlighted that a single utility received the largest number of data demands by far and handed over the records to ICE and other agencies of 4,062 customers in a single year. Based on the data, in most instances, these requests were based on administrative subpoenas issued by the agency seeking the data, not by a court order.

Utility data can reveal personal information. Electricity usage data can provide many benefits to the operation of the electric grid and its customers. However, privacy concerns can become issues when personal information is shared. For example, utility usage data can reveal where a person lives, the number of people in a household, and when individuals are home. Yet, there is nothing inherent in a utility customer's information that indicates their immigration status. The state has authority to regulate utility customer information and it is not a direct infringement on immigration enforcement activities.

AB 2788. This bill establishes the requirement that immigration authorities must have a court-ordered subpoena or judicial warrant in order to receive a customer's electrical or gas consumption data. AB 2788 does not prohibit access to utility data, rather it allows immigration officials access to this data via judicial warrant or court ordered subpoena. In so doing, this bill further protects customer's private electrical and gas consumption data.

Comments

Comments from Senate Committee on Judiciary. This privacy measure falls within the jurisdiction of the Senate Committee on Judiciary. Article I Section 1 of the

California Constitution explicitly grants Californians an inalienable right to privacy. Historically, the goal for the Senate Committee on Judiciary has been to ensure that consumers' privacy is respected and that their personal information is protected. Any access to such information should only be granted under appropriate and clearly delineated circumstances. This bill further effectuates Californians' privacy rights by ensuring that consumers' utility data will not be made accessible without proper legal documentation from a court of law, namely a court-ordered subpoena or judicial warrant.

Related/Prior Legislation

SB 1476 (Padilla, Chapter 497, Statutes of 2010) required an energy investor-owned utility (IOU) or publicly owned utility (POU) using advanced metering (smart meters) to protect consumers' energy usage data from an unauthorized access or disclosure, and prohibited electric and gas IOUs and electric POUs from certain activities.

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

SUPPORT: (Verified 8/4/20)

The Utility Reform Network (source)
American Civil Liberties Union of California
California Immigrant Policy Center
Consumer Federation of California
National Association of Social Workers, California Chapter
Oakland Privacy
Santa Barbara Women's Political Committee

OPPOSITION: (Verified 8/4/20)

None received

ARGUMENTS IN SUPPORT: According to the author, "AB 2788 increases privacy protections for customer electric and gas consumption data. Smart meters give customers, and utilities, a snapshot of their energy usage throughout the day. They allow customers to have greater control of their usage and allow utilities to incentivize different energy behavior via time of day energy rates. Smart meters typically take hourly recordings of energy usage that is communicated to the utility who can then share it with their customers. This data could be used to determine where a person lives, the number of people in a household, and their comings and goings. The disclosure reports from large energy utilities have shown disturbing trends in the release of private meter data. Immigration and Customs Enforcement

(ICE) has made significant requests for account information and obtain the data through an administrative subpoena process. Undocumented immigrants are especially vulnerable to these disclosures, through them ICE can learn a person's typical routine. Strengthening privacy protections for smart meter data builds on California's commitment to protecting our immigrant communities.”

ASSEMBLY FLOOR: 62-0, 6/8/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Chu, Cooley, Cooper, Cunningham, Daly, Eggman, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Lackey, Levine, Limón, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Nazarian, O'Donnell, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Brough, Chen, Choi, Megan Dahle, Diep, Flora, Fong, Gallagher, Kiley, Mathis, Muratsuchi, Obernolte, Patterson, Quirk, Voepel, Waldron

Prepared by: Nidia Bautista / E., U., & C. / (916) 651-4107
8/5/20 12:01:46

**** END ****

CONSENT

Bill No: AB 2805
Author: Eggman (D)
Introduced: 2/20/20
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-0, 7/30/20

AYES: Jackson, Borgeas, Durazo, Lena Gonzalez, Melendez, Monning, Stern,
Umberg, Wieckowski

ASSEMBLY FLOOR: 75-0, 5/26/20 (Consent) - See last page for vote

SUBJECT: Juveniles: reunification

SOURCE: California Judges Association

DIGEST: This bill expands the scope of evidence that a court may consider when determining whether to order reunification services for a child who has been made a dependent of the juvenile court because the child, before reaching five years of age, was the victim of severe physical abuse by a parent or by any person known by the parent.

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. (Welf. & Inst. Code § 300.)¹
- 2) Requires, at the initial hearing on the petition for dependency, that the social worker report to the court reasons why the child has been removed from the family's physical custody, the need, if any, for continued detention, the available services and referral methods to those services that could facilitate the

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise specified.

return of the child to the custody of the their family, and whether there are any relatives who are able and willing to take temporary physical custody of the child. (§ 319(b).)

- 3) Requires the court, if it orders the child to be detained, to state the facts on which the decision is based, specify why the removal was necessary, reference evidence relied on in making the determination whether continuance in the home of the parent or legal guardian is contrary to child's welfare, order temporary placement and care of the child welfare department, and order services to be provided as soon as possible to reunify the child and their family, if appropriate. (§ 319(g).)
- 4) Enumerates certain circumstances in which reunification need not be ordered unless the court finds, by clear and convincing evidence, that reunification is in the best interest of the child. (§ 361.5(b),(c)(2).)
- 5) Prohibits the court from ordering reunification services if the child was brought into the juvenile welfare system due to the parent's (or someone known to the parent) severe physical abuse against the child when the child was under five years of age. Provides that this presumption may be rebutted if the court finds that those services are likely to prevent further abuse or continued neglect of the child, or that failure to try reunification will be detrimental to the child because the child is closely and positively attached to that parent. Provides that such a finding may be based on competent testimony only. (§ 361.5(c)(3).)

This bill instead provides that a finding under 5), above, may be based on any competent evidence.

Background

When a child is brought into the foster care system, a dependency court is required to order the provision of service to attempt to reunify the child with their family. However, if the child was brought into the foster care system because of certain types of severe harm at the hands of the parent, there is a rebuttable presumption against reunification. In determining if the presumption has been rebutted, courts generally may consider any competent evidence. But in the case of severe physical abuse against a child under the age of five, existing law allows a court to consider testimony only.

This bill changes that provision so the court could consider any competent evidence, thereby aligning that presumption against reunification with other similar

provisions and giving courts the ability to make a more holistic and accurate determination. This enables courts to consider this issue more holistically by admitting additional evidence, such as police reports or medical files. According to the California Chapter of the National Association of Social Workers, which supports the bill, “[t]he allowance of more evidence will provide for better consideration of the child’s best interest.”

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

SUPPORT: (Verified 7/30/20)

California Judges Association (source)

National Association of Social Workers, California Chapter

OPPOSITION: (Verified 7/30/20)

None received

ARGUMENTS IN SUPPORT: The author writes:

While there are many types of evidence, current law only allows a Judge to consider one type – testimony – when considering if a WIC section 300(e) cases. Considering if a severely abused child under the age of five should be reunified with their parents or guardians is a monumental decision. Judges should be able to consider all types of evidence when making such an important decision. This bill will expand the information a Judge can consider when deciding if bypassing guardians for reunification services is in the best interest of the child.

The bill’s sponsor, California Judges Association, adds:

Dependency Court Judges must make difficult decisions that affect the lives of children and their families. AB 2805 will provide judges with more information to make better decisions, while also avoiding unnecessary hearings that delay services to families and permanency for children. The COVID-19 pandemic was particularly disruptive to the dependency system. Nearly all dependency hearings in every county were postponed, creating a massive backlog to an already overburdened system. Many have also been concerned that shelter-in-place restrictions might contribute to an increase in abuse and neglect of children. This bill is a needed change that will improve judicial decision-making and efficiency, especially under the additional systemic pressures caused by the public health crisis.

ASSEMBLY FLOOR: 75-0, 5/26/20

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

NO VOTE RECORDED: Diep, Maienschein, Quirk, Wicks

Prepared by: Josh Tosney / JUD. / (916) 651-4113
7/31/20 18:00:55

**** END ****

CONSENT

Bill No: AB 2844
Author: Obernolte (R)
Amended: 8/1/20 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-0, 7/30/20
AYES: Jackson, Borgeas, Durazo, Lena Gonzalez, Melendez, Monning, Stern,
Umberg, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Guardians and conservators: duties: accountings

SOURCE: Conference of California Bar Associations

DIGEST: This bill enables guardians and conservators to satisfy their existing duties to provide accountings to courts by submitting verified electronic account statements.

ANALYSIS:

Existing law:

- 1) Requires, at the expiration of one year from the time of appointment and not less than biennially, a guardian or conservator to present an accounting of the assets of the estate of the ward or conservatee to the court for settlement and allowance, as specified. Provides that all such accountings must be submitted on a specified form developed by Judicial Council. (Prob. Code § 2620(a).)¹
- 2) Requires, following the death of a ward or conservatee, a final accounting by the guardian or conservator that includes a court accounting for the period that

¹ All further section references are to the Probate Code, unless otherwise specified.

ended on the date of death and a separate accounting for the period subsequent to the death. (*Id.* at (b).)

- 3) Requires, along with required court accountings, the guardian and conservator to file supporting documents, including all account statements showing the account balance as of the closing date of the accounting period of the court accounting. If the guardian or conservator is a private professional or licensed guardian or conservator, further requires the guardian or conservator to file all original account statements showing the balance as of all periods covered by the accounting. (*Id.* at (c)(2), (3).)
- 4) Provides that each accounting is subject to random or discretionary, full or partial review by the court. Provides that the review may include consideration of any information necessary to determine the accuracy of the accounting. Requires the court to make an express finding as to the severity of any error and further appropriate action in response to the error. Provides that among the action available to the court is the immediate suspension or removal of the guardian or conservator and appointment of a temporary guardian or conservator. (*Id.* at (d).)
- 5) Requires the guardian or conservator to make available for inspection and copying, upon reasonable notice, to any person designated by the court to verify the accuracy of the accounting, all books and records, including receipts for any expenditures, of the guardianship or conservatorship. (*Id.* at (e).)
- 6) Defines, for these purposes, the term “account statement” to include any original account statement from any institution or financial institution in which money or other assets of the estate are held or deposited. (*Id.* at (c)(1).)

This bill:

- 1) Expands the definition of “account statement” to include a verified electronic statement that is certified under penalty of perjury.
- 2) Provides that a court may accept a computer-generated printout of an original verified electronic statement if the guardian or conservator verifies that the statement was received in electronic form and printed without alteration.

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

SUPPORT: (Verified 8/13/20)

Conference of California Bar Associations (source)

California Commission on Aging
Executive Committee on Trusts and Estates of the California Lawyers Association
Professional Fiduciary Association of California

OPPOSITION: (Verified 8/13/20)

None received

ARGUMENTS IN SUPPORT: The author writes:

AB 2844 will add verified electronic bank statements to the acceptable bank statements that can be filed in support of accountings for guardianships and conservatorships, which will streamline and modernize the process as well as reduce delays and additional expenses. The digital age has completely changed the way people do business and day-to-day life. Over the past many years, technology has changed rapidly and as a result so has the way banking is done. Many banking activities that were previously done via paper are now done electronically. This includes bank statements. The requirement for an original bank statement is outdated and onerous and does not reflect current common banking practices, which include statements being delivered electronically. In fact, requiring original hard copy statements can cause unnecessary expense and delay in guardianship and conservatorship administrations.

The sponsor, Conference of California Bar Associations, adds: “Allowing the use of electronic statements and requiring the party submitting the electronic statement to verify authenticity of the same will reduce cost and increase efficiency in the administration of guardianship and conservatorship administrations. For example, if a client sends their attorney bank statement electronically, the attorney can download and save the statements and then electronically file the statements.” The Professional Fiduciary Association of California, in support, similarly asserts that this bill will “streamline and modernize the process as well as reduce delays and additional expenses.”

ASSEMBLY FLOOR: 76-0, 6/8/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Diep, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Limón, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Nazarian, Obernolte,

O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas,
Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone,
Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Josh Tosney / JUD. / (916) 651-4113
8/14/20 12:36:38

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

CONSENT

Bill No: AB 2932
Author: O'Donnell (D)
Amended: 6/10/20 in Assembly
Vote: 27 - Urgency

SENATE GOVERNANCE & FIN. COMMITTEE: 7-0, 7/29/20
AYES: McGuire, Moorlach, Beall, Hertzberg, Hurtado, Nielsen, Wiener

ASSEMBLY FLOOR: 79-0, 6/15/20 - See last page for vote

SUBJECT: City of Long Beach: design-build process

SOURCE: City of Long Beach

DIGEST: This bill allows the City of Long Beach to use the design-build contracting process to award contracts for curb ramps that are compliant with the Americans with Disabilities Act.

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, 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.

This bill:

- 1) Allows the City of Long Beach, upon approval of its city council, to use the design-build contracting process authorized for local agencies to award a contract for curb ramp construction.
- 2) Defines “design build” as the procurement process in which both the design and construction of a project are procured from a single entity.
- 3) Allows, for these curb ramp projects, the City of Long Beach to perform project development services, including performance specifications, preliminary engineering, procurement services and the preparation of project reports, construction inspection services (excluding specialty bridge inspectors), and the preparation of specified documents.
- 4) Requires, for these curb ramp projects, the City of Long Beach to be limited to no more than 3,000 ramps, with the total cost not to exceed \$20 million dollars per year, and subject to completion prior to January 1, 2025.
- 5) Finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique conditions in the City of Long Beach that make it necessary to grant the City of Long Beach and the City of Long Beach Public Works Department the authority to use the specific design-build procurement process described in this bill.

Background

The Americans with Disabilities Act (ADA) established civil rights protections at the federal level for individuals with physical and mental disabilities and guarantees them with equal opportunities and access in areas such as public accommodations, transportation, and state and local government services. In 2014,

five Long Beach residents filed a class action lawsuit against the City of Long Beach arguing that the city is in violation of the ADA. Specifically, their lawsuit claimed the City did not provide curb cuts at corners or repair sidewalks to accommodate individuals in wheelchairs or with other mobility disabilities.

In 2017, the City of Long Beach settled the class action lawsuit. As a result of the settlement, the City of Long Beach must:

- 1) Build up to 4,500 missing curb ramps by December 31, 2022;
- 2) Spend up to \$50 million to repair approximately 16,000 curb ramps that are damaged or otherwise inaccessible to disabled individuals;
- 3) Spend up to \$125 million to remedy broken sidewalks and crosswalks within 30 years of the settlement; and,
- 4) Reserve more than \$5 million during the first 10 years of the settlement period to make specific infrastructure fixes that residents with disabilities will be able to request.

Comments

- 1) *Purpose of the bill.* According to the author, “AB 2932 authorizes the City of Long Beach to utilize design-build contracting in order to expedite the construction of curb ramps and upgrade sidewalks to ensure compliance with the American with Disabilities Act. As part of a settlement agreement, the City must complete 3,000 curb ramps by December 31, 2022. This bill will enable the City to expedite the bidding and construction processes. The streamlined process for bidding and awarding these contracts will expedite the upgrade of sidewalks and curbs that will expand access to and ensure that residents can safely travel along city streets.”
- 2) *Project expansion.* Current law already authorizes local agencies to utilize design build contracting for public work projects in excess of one million dollars (\$1,000,000) until January 1, 2025. However, because existing law does not allow design build for projects that are not construction or improvement of a building or buildings, county sanitation wastewater treatment facilities, and park and recreational facilities, the city would not be able to use design build without legislative approval. While this would expand the City of Long Beach’s design build authority beyond what the Legislature has previously authorized, using traditional contracting methods could put the City at risk of missing the settlement deadlines.

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

SUPPORT: (Verified 7/31/20)

City of Long Beach (source)

OPPOSITION: (Verified 7/31/20)

None received

ASSEMBLY FLOOR: 79-0, 6/15/20

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

Prepared by: Gustavo Medrano / GOV. & F. / (916) 651-4119
7/31/20 17:51:56

**** END ****

CONSENT

Bill No: AB 2960
Author: Gipson (D), et al.
Amended: 7/30/20 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 11-0, 8/6/20
AYES: Wiener, Morrell, Bates, Caballero, Durazo, McGuire, Moorlach, Roth,
Skinner, Umberg, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 78-0, 6/11/20 - See last page for vote

SUBJECT: Shelter crises: fire and life safety standards

SOURCE: Mayor Eric Garcetti, City of Los Angeles

DIGEST: This bill authorizes a city with a population of more than 3.5 million to allow operation of a shelter constructed under the Shelter Crisis Act that does not comply with state and local building standards for fire and life safety, provided it has adopted standards that have been approved by the State Fire Marshal.

ANALYSIS:

Existing law:

- 1) Authorizes a governing body to declare a shelter crisis. “Declaration of a shelter crisis” is defined as the duly proclaimed existence of a situation in which a significant number of persons are without the ability to obtain shelter, resulting in a threat to their health and safety.
- 2) Authorizes emergency housing, until January 1, 2023, to include homeless shelters upon the declaration of a shelter crisis by:

- a) The Cities of Berkeley, Emeryville, Los Angeles, Oakland, San Diego, and San Jose.
 - b) Any city within Alameda or Orange County.
 - c) The Counties of Alameda, Orange, and Santa Clara.
 - d) The City and County of San Francisco.
- 3) Authorizes the cities and counties in 2) above to suspend housing, health, habitability, planning and zoning, or safety standards and procedures during the shelter crisis and allows them to adopt, by ordinance reviewed by the Department of Housing and Community Development (HCD), local standards and procedures for the design, site development, and operation of homeless shelters and structures if it is determined that strict compliance with state and local standards and laws would prevent, hinder, or delay the mitigation of the effects of the shelter crisis.
- 4) Authorizes the cities and counties in 2) above, to suspend landlord tenant laws for homeless shelters provided that the city or county adopts health and safety standards for shelters and those standards are complied with.
- 5) Requires the cities and counties in 2) above to develop a plan to address the shelter crisis by July 1, 2019, make it publicly available, and to annually report specified information to the Legislature by January 1, 2019, until January 1, 2023. Provides that Alameda County or a city within that county, Orange County or a city within that county, and the City of San Jose shall develop a plan by July 1, 2020, and provide an annual report to the Legislature on or before January 1 of the year following the shelter crisis declaration.
- 6) Requires the report to the Legislature to include:
- a) Total number of individuals in homeless shelters within the city or county.
 - b) Total number of individuals who have moved from a homeless shelter into permanent supportive housing within the city or county.
 - c) The estimated number of permanent supportive housing units.
 - d) The number of individuals who have exited the system and are no longer in need of a homeless shelter or permanent supportive housing in the city or county.
 - e) New actions the city or county is taking under the declared shelter crisis to better serve the homeless population and to reduce the number of people experiencing homelessness.

This bill:

- 1) Authorizes a city with a population of more than 3.5 million to allow the year-round operation of a shelter constructed under the Shelter Crisis Act even if the facility does not comply with state building standards for local fire and life safety standards, provided they submit reasonable standards to the State Fire Marshal that, at minimum:
 - a) Require an emergency housing facility to be subject to the building standards related to fire and life safety required by state and local regulations for existing residential occupancies, and the building standards related to fire and life safety for a new residential use that were in effect at the time the building was constructed.
 - b) Provide reasonable alternative fire and life safety standards that include, at minimum:
 - i) Maximum occupant load of 49 persons. The fire department may propose an occupant load of up to 150 persons if the city can demonstrate that the facility can safely support that number.
 - ii) 24-hour active fire watch.
 - iii) Smoke and carbon monoxide alarms.
 - iv) Fire extinguishers.
 - v) Ingress and egress that facilitates rapid exit.
 - vi) Emergency evacuation signage and emergency egress lighting.
 - vii) Every egress must be free from storage and other obstructions.
 - viii) Limited occupant storage in each room, the facility, or both.
 - ix) Prohibition on the use of open flames and combustibles.
 - x) Prohibition on smoking in the facility.
 - xi) Fire code inspection plans that occur in intervals of no more than 30 days, including authorization for the fire department to shut down a facility for major or multiple violations.
 - xii) A process to immediately remedy fire code violations.
 - xiii) A process to submit quarterly inspection reports to the State Fire Marshal.
- 2) Requires the State Fire Marshal to review the standards within 30 days and either approve them or respond as to why the city does not meet the threshold requirements.
- 3) Prohibits the city from using the standards if they are not approved by the State Fire Marshal.

- 4) Authorizes the facility to operate for 90 days, with 90-day extensions permitted, not to exceed 730 days of continuous operation.
- 5) Provides that no new permits shall be issued pursuant to this bill on or after January 1, 2023. Authorizes a facility that was issued a permit prior to that date to continue operating after that date pursuant to a 90-day extension of the permit, and to receive consecutive 90-day extensions to operate until December 31, 2024.

Background

The Shelter Crisis Act authorizes certain local jurisdictions that have declared a shelter crisis to allow homeless individuals to occupy public facilities designated as emergency housing, for the duration of the crisis. (Emergency housing is typically provided as shelter beds allowing for an overnight stay in places such as gyms.) The Shelter Crisis Act also provides limited liability and suspends local housing, health, and safety standards for public facilities to the extent that full compliance would hamper mitigation of the effects of the shelter crisis. A locality may adopt, by ordinance, reasonable local standards for design, site development, and operation of shelters; such ordinances must be reviewed by HCD to ensure they meet minimum health and safety standards.

Comments

- 1) *Author's statement.* "There are 151,278 homeless individuals in California on any given night, and two-thirds of them are unsheltered. California's homelessness crisis demands that the state do everything in its power to streamline regulations and cut through red tape to get people off the streets. This includes providing for limited relief of building codes so that temporary shelters can be established quickly and cost-effectively without compromising safety. Currently, any temporary change in use for existing buildings will automatically trigger earthquake retrofitting and increased fire and life safety standards (e.g., sprinklers). These retrofits can be costly and often make these projects financial infeasible for cities or counties trying to meet the urgent demands of housing their homeless residents. AB 2960 builds on existing shelter crisis law by allowing the year-round operation of temporary homeless shelters that do not comply with state fire and life safety standards, if reasonable alternatives are submitted and approved by the State Fire Marshal within 30 days. If the draft standards are not approved, the shelter's operation will not be permitted."

- 2) *Homelessness in California.* According to the United States Department of Housing and Urban Development *2019 Annual Homeless Assessment Report to Congress*, in January 2019, California had 27% of the nation's homeless population (about 151,278 individuals). California also contains 53% of the nation's unsheltered homeless population (108,432), including people living in vehicles, abandoned buildings, parks, or on the street. Los Angeles contains the highest number of homeless people in the state, at 56,257, where 76% of those are unsheltered. People experiencing homelessness face a variety of challenges including food and income insecurity, as well as health problems; the homeless population faces a higher risk of exposure to communicable diseases such as COVID-19, influenza, strep throat, sexually transmitted diseases, Hepatitis C, HIV/AIDS, and tuberculosis, among others.
- 3) *Sprinkler issue.* The author states that while the City of Los Angeles wants to develop emergency shelters that can be open for longer than 90 days, developing long-term shelters in existing buildings triggers a local fire department requirement to install sprinklers. Sprinkler systems can be expensive and time consuming to install, adding to the difficulties of providing urgently needed shelter on a timely basis. While state building standards require sprinklers in newly constructed residential buildings, they do not require sprinkler installation in existing residential buildings. The Los Angeles Fire Department approves the use of existing buildings for emergency shelters, but only for 90 days, and requires them to include a basic fire alarm device, as well as smoke, fire, and carbon monoxide detectors. This bill enables the City of Los Angeles and others to open a year-round shelter in an existing building without installing a sprinkler system, provided the State Fire Marshal approves the city's fire and life safety standards.

Related/Prior Legislation

AB 2553 (Ting, 2020) expands the Shelter Crisis Act to all cities and counties in California and extends the sunset to 2026. *The bill is pending in the Senate Appropriations Committee.*

AB 143 (Quirk-Silva, Chapter 336, Statutes of 2019) authorized Alameda County, any city within Alameda County, Orange County, any city within Orange County, and the City of San Jose, to include homeless shelters as emergency housing upon declaration of a shelter crisis, until January 1, 2023.

AB 932 (Ting, Chapter 786, Statutes of 2017) authorized emergency housing, upon the declaration of a shelter crisis by the Cities of Berkeley, Emeryville, Los

Angeles, Oakland, or San Diego, the County of Santa Clara, or the City and County of San Francisco, to include homeless shelters, until January 1, 2021.

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

SUPPORT: (Verified 8/12/20)

Mayor Eric Garcetti, City of Los Angeles (source)
Los Angeles Homeless Services Authority

OPPOSITION: (Verified 8/12/20)

None received

ARGUMENTS IN SUPPORT: Mayor Garcetti, sponsor of this bill, states that the City of Los Angeles is addressing homelessness through a voter-approved initiative, Proposition HHH, and “A Bridge Home,” an emergency housing construction program to transition homeless individuals into housing. This bill will help provide limited relief of building codes so that temporary shelters can be established quickly and cost-effectively without compromising the safety of Angelenos.

ASSEMBLY FLOOR: 78-0, 6/11/20

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

NO VOTE RECORDED: Quirk

Prepared by: Erin Riches / HOUSING / (916) 651-4124
8/14/20 12:36:39

**** END ****

THIRD READING

Bill No: AB 2967
Author: O'Donnell (D), et al.
Amended: 7/28/20 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 8/11/20
AYES: Hill, Jackson, Mitchell, Pan
NOES: Morrell

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Public Employees' Retirement System: contracting agencies:
exclusion from membership

SOURCE: California Professional Firefighters

DIGEST: This bill prohibits public agencies from amending their contract for retirement benefits with the California Public Employees' Retirement System (CalPERS) to exclude groups of employees, as specified.

ANALYSIS:

Existing law:

- 1) Allows a public agency to participate in the California Public Employees' Retirement System (CalPERS) by contract (Government Code Section 20460).
- 2) Permits CalPERS to refuse to contract with, or to agree to an amendment proposed by, any public agency for any benefit provisions not specifically authorized by statute and that the board determines would adversely affect the administration of the system (Government Code Section 20461).

- 3) Requires CalPERS to exclude any group of employees who vote, as specified, not to approve of a public agency's proposed plan to participate in CalPERS (Government Code Section 20470).
- 4) Provides for opportunities to amend the contract to make the public agency subject to optional CalPERS provisions (Government Code Section 20500).
- 5) Requires the public agency to cover all its employees under the contract except that the public agency may exclude, in addition to employees excluded from the system by state law, groups of employees as agreed to with CalPERS. If excluding employees from coverage, the public agency must exclude all, not just a portion, of the same kind of employees (e.g., all firefighters, or all police) and the exclusion must be based on a group (e.g., department, duties, etc.) not on an individual employee (Government Code Section 20502).

This bill:

- 1) Prohibits a contracting public agency from amending its contract with CalPERS to exclude groups of its employees. Thus, any groups of employees that were included in the initial contract will receive coverage unless the agency completely terminates its contract for all covered employees.
- 2) Declares that this bill does not prohibit an amendment to a contract that enumerates or clarifies provisions related to groups of employees in a manner that does not expand those already subject to exclusion.
- 3) Applies the prohibition against CalPERS contract amendments to any contract entered into, amended, or extended on and after January 1, 2021.

Comments

1) *Need for this bill?*

According to the author,

In 2019, the city of Placentia voted to end their contract with the Orange County Fire Authority and establish the Placentia Fire and Life Safety Department. In the Final Draft City Proposal brought before the Placentia City Council on June 4th, 2019, the City proposed to establish "a new City department with almost fifty (50) full and part-time employees" in order to reduce costs associated with fire and emergency medical services.

In September of 2019, the City petitioned CalPERS to amend its contract to exclude from CalPERS membership any firefighters hired to work for the new department. Ordinance O-2019-10, discussed at the September 10, 2019 Placentia City Council meeting, included the proposed CalPERS Amendment to the CalPERS Contract, specifying that among the “classes of employees [who] shall not become members of said Retirement System” are “firefighters employed on or after the effective date of this amendment to contract.”

Under the model proposed by this contract amendment, firefighters will be the only full-time public employees in the city of Placentia to be denied a secure pension through CalPERS. The city administrator, the police chief, and every cop and clerk employed by Placentia will get their secure retirement, but not their firefighters.

2) Senate Labor, Public Employment and Retirement Committee Comments

This bill seeks to prevent contracting agencies from using the contract amendment process to repeal defined benefit pension benefits for certain public employees through a kind of entity formation arbitrage. In Placentia’s case, after over two decades of participation, the city withdrew from the Orange County Fire Authority (OCFA), a Joint Powers Authority that provides fire services to several Orange County communities. Essentially, the city moved from receiving fire protection services from firefighters with a defined benefit plan to excluding those benefits for firefighters who will provide those services going forward. Ordinarily, a public agency would have to terminate its contract with CalPERS to eliminate its defined benefit plan and the termination would affect all of its employees. The termination process is long and arduous.

Placentia accomplished this objective by re-establishing its city fire department. However, prior to hiring any city firefighters, the city applied for a contract amendment with CalPERS to exclude firefighters from membership. Thus, the city’s miscellaneous and police employees continue to receive CalPERS retirement coverage but the city’s new firefighters will receive a 401A defined contribution plan. In the meantime, the move potentially undermines support for the OCFA, as other cities observe Placentia’s success or failure.

CalPERS membership generally provides retirement benefits for all of a public agency’s employees unless statute or the public agency specifically excludes a group upon contract formation. The amendment process was not intended to provide an avenue to shift some employees away from a defined benefit plan while maintaining it for others. This bill prohibits further use of the amendment

process to take away retirement benefits from a class of employees and prevent using it to implement “phased” contract terminations.

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

SUPPORT: (Verified 8/17/20)

California Professional Firefighters (source)
California Labor Federation, AFL-CIO
California Nurses Association
California Public Employees' Retirement System
California State Firefighters Association
Orange County Professional Firefighters Association, Local 3631

OPPOSITION: (Verified 8/17/20)

California Special Districts Association
California State Association of Counties
City of Cypress
League of California Cities

ARGUMENTS IN SUPPORT: According to the California Professional Firefighters:

This measure ensures that no class of workers can be excluded and deprived of retirement security when other classes of workers in that local agency enjoy the security of a defined benefit retirement plan. AB 2967 provides clarity in the law with respect to how employer contracts with CalPERS for the provision of retirement benefits are formed or amended to ensure that all employees have access to the benefits provided by that contract. AB 2967 simply makes clear that agencies electing to participate in the CalPERS system may not in the future amend the contract in a way that excludes a class or classes of workers from CalPERS coverage that were otherwise previously included.

ARGUMENTS IN OPPOSITION: According to a coalition consisting of the League of California Cities, the California Special Districts Association, and the California State Association of Counties:

At a time when governments at all levels of society are struggling with the dual challenges of lowered revenues and consistent or higher demands of services now is not the time to reduce one of the “tools in the toolbox” for local governments to manage their operations. This bill would prohibit cities, special

districts, and counties contracted with CalPERS from exploring novel and innovative operational structures in the future.

ASSEMBLY FLOOR: 76-0, 6/8/20

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

NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
8/19/20 16:00:47

**** END ****

THIRD READING

Bill No: AB 3012
Author: Wood (D) and Daly (D)
Amended: 8/5/20 in Senate
Vote: 21

SENATE INSURANCE COMMITTEE: 12-0, 8/4/20

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

NO VOTE RECORDED: Moorlach

ASSEMBLY FLOOR: 72-0, 6/10/20 - See last page for vote

SUBJECT: Residential property insurance

SOURCE: Author

DIGEST: This bill (1) requires a homeowners insurer to provide, along with a notice of nonrenewal, a disclosure that offers information about finding replacement coverage; (2) prohibits an insurer from deducting the value of land from the recoverable amount when an insured purchases or rebuilds on a new piece of property; (3) requires an insurer to provide additional living expense (ALE) coverage when the home is rendered uninhabitable by a covered peril even though the home is undamaged; (4) requires the insurer to pay a specified level of coverage for the loss of personal property without requiring the insured to submit an inventory; (5) authorizes the Fair Access to Insurance Requirements (FAIR) Plan to develop a clearinghouse program that connects voluntary market insurers to FAIR Plan policyholders; and (6) revises some of the rules that apply to claims against policies issued by insolvent insurers that are covered by the California Insurance Guarantee Association (CIGA).

ANALYSIS:

Existing law:

Value of Lost or Damaged Property

- 1) Establishes the minimum benefits for an “open” policy of property insurance (where the value of the benefits is determined after loss or damage).

Notice of Nonrenewal

- 2) Requires an insurer, when they will not be renewing a policy, to provide to homeowners insurance policyholders a notice of nonrenewal at least 75 days prior to policy expiration.

Relocation

- 3) Prohibits an insurer, in the event of a total loss of a home, from limiting or denying payment of building code upgrade cost coverage or replacement cost coverage on the basis that the insured has decided to rebuild, or to purchase an existing home, at a new location.

ALE

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

FAIR Plan

- 5) Establishes the California FAIR Plan to provide basic property insurance to homeowners when homeowners insurance is otherwise unavailable.

CIGA

- 6) Establishes CIGA to pay the claims, up to a limit, on policies issued by insolvent member insurers. Mandates all admitted property-casualty insurers licensed in California to be members and pay assessments if CIGA’s reserves are inadequate to pay covered claims; specifically defines “covered claims” to determine which claims are covered and by how much. Requires member insurers to pass on CIGA assessments to policyholders through a surcharge on policies. Apportions the burden of surcharging policies according to, roughly, market share as measured by “net written premiums.”

This bill:

Nonrenewal

- 1) Requires, after July 1, 2021, a notice of nonrenewal of a homeowners insurance policy to include a notice that contains the following:
 - a) An explanation of how to access and use the California Home Insurance Finder, a tool on the CDI website designed to assist homeowners find insurance;
 - b) Information about the California FAIR Plan, including how to contact the FAIR Plan and an agent or broker who can provide assistance; and
 - c) Information about the FAIR Plan policy, including how the policy offers less coverage than standard policies, as well as the availability of a “Differences in Conditions” (DIC) policy that provides supplemental coverage that, when purchased with a FAIR Plan policy or other fire policy, provides coverage that is equivalent to a standard homeowners policy.

Relocation

- 2) Clarifies that the measure of damage for a policyholder who chooses to purchase or rebuild at a different location is the full amount that would have been recoverable if the home were to be rebuilt at the original location and prohibits a deduction of the new land value from the recoverable amount.

ALE

- 3) Requires ALE coverage to include periods where the home is undamaged but remains uninhabitable due to some problem caused by a covered peril or when the property remains inaccessible due to an order of a civil authority in response to an emergency. Provides that this coverage may exclude a utility public safety power shut off event designed to reduce the risk of wildfire and limits benefits arising from an order of civil authority to two weeks, or possibly four weeks for good cause. Also, authorizes an insurer to cure a habitability problem in lieu of making ALE payments.

Open Policy: Minimum Value of Contents Coverage

- 4) Requires, if the loss resulted from an event declared to be a state of emergency and the insured files a claim for lost or damaged contents of a home (appliances, furniture, clothing, etc.), the insurer to pay at least 30% of the

dwelling structure coverage, up to \$250,000, without inventory or actual replacement of the items. Allows a policyholder to fully itemize and comply with other policy provisions in order to claim property losses that exceed that amount. Requires insurers to notify the insured of the option if they file a claim following an emergency.

FAIR Plan

- 5) Directs the FAIR Plan to implement a clearinghouse program whereby property insurers will be provided information about FAIR Plan policies for the purpose of matching insurers with available coverage to FAIR Plan policyholders. Authorizes nonadmitted insurers to participate if admitted insurers have the first option to place policies. Requires participating insurers to sign an agreement with the plan that shall set out the terms and conditions for the insurer to offer homeowners insurance through a policy's listed agent or broker of record.

CIGA

- 6) Clarifies that an injured worker who lives in California but was injured in another state while working for an employer covered by an insurer that becomes insolvent can file a claim against CIGA if the claimant does not have the right to file the claim against the guarantee association in the state where the injury occurred. Authorizes CIGA to pay a covered claim directly to a medical facility that is owned in whole or part by any agency of a state or the federal government. Clarifies the definition of "net written premium" used to apportion surcharges among insurers.

Background

Additional Living Expenses. ALE helps homeowners with the additional costs of living while they wait to rebuild, repair, or replace their home. Most policies require that the home is lost or physically damaged in a way that renders it uninhabitable. But catastrophic wildfires present several unique challenges for policyholders that do not arise in cases of one-off total losses. Authorities may prohibit homeowners from returning to undamaged homes due to danger on a neighboring property or other conditions, like a polluted water systems, that may render the home uninhabitable. However, since the home itself was undamaged, ALE will not usually apply. This bill would require the insurer to pay ALE under some circumstances when the homeowner cannot stay in the undamaged home.

Relocation. After a total loss, the insured may rebuild on the same lot or purchase an existing home, or build a new home, at a different location. Some insurers have

been refusing to pay for the new land when homeowners purchase or rebuild elsewhere by deducting the land value from the replacement cost. This practice is consistent with putting the insured in the same financial position they were in prior to the event. This approach protects against overcompensation and helps control costs. Here, if the insurer does not deduct the value of the new land, the insured gets a new dwelling, the original land, and a new piece of land—more than they had before.

On the other hand, deducting the land value may leave the insured in a position where they may have to purchase a lesser value dwelling, borrow money, or come up with cash out of their own pockets. For some, a land deduction might not be discovered until the insured has already found a home and needs to close escrow.

Nonrenewals and the FAIR Plan. This bill authorizes the FAIR Plan to develop a clearinghouse program to connect admitted market insurers to FAIR Plan policyholders in order to slow the growth of the FAIR plan and return FAIR’s customers to the admitted market more quickly.

According to data published by CDI in 2019, policyholders nonrenewed 731,660 policies and insurers nonrenewed 167,570 policies in 2018. Insurers also renewed 7.6 million policies and issued 971,809 new policies in the same year.

When the consumer receives a notice of nonrenewal or cancellation, they have a few options. They may attempt to negotiate with their current insurer, shop around for another insurer that sells in California, purchase a surplus line policy from an insurer outside of California, or purchase a policy from the FAIR Plan.

The FAIR Plan, often referred to as the “insurer of last resort,” assures that homeowners have access to some property insurance. With a few exceptions, the FAIR Plan takes all who apply, often on a next-day basis, and tends to serve high risk consumers. The FAIR Plan only offers “bare-bones” fire insurance policies that do not include liability and coverage for some types of property damage. Because FAIR Plan policies are more expensive and less desirable, high FAIR Plan enrollments indicate an insurance market problem.

Starting in 2019, FAIR Plan enrollments began accelerating. In November 2018, the FAIR Plan had 122,310 policies in force, just 6 fewer than the previous month. As of January 2020, the FAIR Plan reported 179,263 policies in-force representing a growth of 55,606 policies from January 2019. Additionally, the average policy limit has increased indicating that owners of more expensive homes are turning to the FAIR Plan.

CIGA. CIGA is an association of insurers that serves as a backstop when a member insurer becomes insolvent and is unable to pay claims. This extra protection assures policyholders and claimants that the insurance system is reliable and sound.

Problems can arise when an injured worker moves from another state to California. If the insurer becomes insolvent, but is not a member of CIGA, conflicting jurisdictional rules may impede their ability to collect on valid claims. This bill clarifies that an injured worker who lives in California but was injured in another state while working for an employer insured by an insurer that is now insolvent can file a claim against CIGA if the claimant does not have the right to file the claim against the guarantee association in the state where the injury occurred. It also streamlines and modernizes other rules related to the payment of claims covered by CIGA.

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

SUPPORT: (Verified 8/5/20)

California FAIR Plan Association
California Insurance Guarantee Association
Community Alliance with Family Farmers
Independent Insurance Agents and Brokers of California
Nevada County Board of Supervisors
Rural County Representatives of California

OPPOSITION: (Verified 8/5/20)

Personal Insurance Federation of California

ARGUMENTS IN SUPPORT: The Community Alliance with Family Farmers writes that allowing property owners who have lost their homes to wildfire to be fully compensated for replacement value, even if they choose to build somewhere other than the affected home site, allows homeowners to make a decision that benefits them and also advances the state's interest in reducing building in high-fire areas.

ARGUMENTS IN OPPOSITION: The Personal Insurance Federation of California writes that by significantly expanding the circumstances under which ALE payments may be necessary, and reducing the level of scrutiny for contents claims, this measure will drive up insurance costs for Californians.

ASSEMBLY FLOOR: 72-0, 6/10/20

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

NO VOTE RECORDED: Bigelow, Flora, Mathis, Obernolte, Patterson, Quirk, Voepel

Prepared by: Brian Flemmer / INS. / (916) 651-4110
8/5/20 12:01:48

**** END ****

THIRD READING

Bill No: AB 3020
Author: Gloria (D), et al.
Introduced: 2/21/20
Vote: 21

SENATE JUDICIARY COMMITTEE: 7-1, 7/30/20
AYES: Jackson, Durazo, Lena Gonzalez, Monning, Stern, Umberg, Wieckowski
NOES: Melendez
NO VOTE RECORDED: Borgeas

ASSEMBLY FLOOR: 57-17, 6/8/20 - See last page for vote

SUBJECT: Unfair Practices Act

SOURCE: San Diego City Attorney Mara Elliot

DIGEST: This bill adjusts the distribution of civil penalties recovered by the City Attorney of San Diego in Unfair Competition Law (UCL) actions.

ANALYSIS:

Existing law:

- 1) Establishes the UCL and 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. (Bus. & Prof. Code § 17200 et seq.)
- 2) Provides that any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction. 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, which may have been acquired by means of such unfair

competition. Any person may pursue representative claims or relief on behalf of others only if the claimant meets the standing requirements of Business and Professions Code Section 17204 and complies with Section 382 of the Code of Civil Procedure, but these limitations do not apply to claims brought under this chapter by the Attorney General, or any district attorney, county counsel, city attorney, or city prosecutor in this state. (Bus. & Prof. Code § 17203.)

- 3) 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 city attorney in a city and county;
 - f) 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
 - g) 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.)
- 4) Holds any person who engages, has engaged, or proposes to engage in unfair competition liable for a civil penalty not to exceed \$2,500 for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General, by any district attorney, by any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, by any city attorney of a city having a population in excess of 750,000, by any city attorney of any city and county, or, with the consent of the district attorney, by a city prosecutor in any city having a full-time city prosecutor, in any court of competent jurisdiction. (Bus. & Prof. Code § 17206(a).)
- 5) Requires the penalties collected pursuant to the UCL to be used for enforcement of consumer protection laws and provides for the distribution of those funds based on the entity bringing the action:

- a) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the General Fund;
 - b) If the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered;
 - c) If the action is brought by a city attorney of a city and county, the entire amount of the penalty collected shall be paid to the treasurer of the city and county in which the judgment was entered; and
 - d) If the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered, except as provided. (Bus. & Prof. Code § 17206.)
- 6) Provides that if the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action. Before any penalty collected is paid out pursuant to the provisions above, the amount of any reasonable expenses incurred by the board shall be paid to the Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the Treasurer. The amount of any reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county that funds the local agency. (Bus. & Prof. Code § 17206(e).)
- 7) Provides that the proceeds of civil penalties or other monetary awards recovered in any civil action brought jointly in the name of the people of the State of California by the Attorney General, one or more district attorneys, or by one or more city attorneys, or any combination thereof, shall be paid as approved by the court. (Gov. Code § 26506.) A district attorney, city attorney, or any combination thereof, may, in agreement with other district attorneys or city attorneys, act jointly in prosecuting a civil cause of action of benefit to his own county in a court of the other jurisdiction. (Gov. Code § 26507.)

This bill provides that if a UCL action is brought by the City Attorney of San Diego, the penalty collected shall be paid to the treasurer of the City of San Diego.

Background

The UCL, Business and Professions Code Section 17200 et seq., protects consumers against unlawful, unfair, or fraudulent business practices and advertising. The UCL provides for civil penalties to be assessed and recovered from violators in the name of the people of California by various governmental agencies. The UCL specifically details how the proceeds from those actions are to be distributed and used.

Currently, if the action is brought by a city attorney or city prosecutor, one-half of the penalty collected is paid to the city in which the judgment was entered, and one-half to the county in which the judgment was entered. This bill amends that allotment if the action is brought by the City Attorney of San Diego. The penalty collected must instead be paid to the treasurer of the City of San Diego in full.

This bill is sponsored by Mara Elliot, the San Diego City Attorney. There is no known opposition.

Comments

According to the author:

Proposition 64 (2004) limited private lawsuits, under the Unfair Competition Law, against a company only to those where an individual is actually injured by and suffers a financial loss due to an unfair, unlawful, or fraudulent business practice. Otherwise, only public prosecutors may file lawsuits charging unfair business practices. These actions may be brought forward by the Attorney General or district attorney. Additionally, the city attorney of any city with a population in excess of 750,000 may also bring actions under the Unfair Competition Law forward. However, even if an eligible city attorney brings the action forward, using only their own resources and without any assistance from a district attorney, any penalties awarded to the city attorney must be shared equally with the district attorney. The penalties awarded for an action brought by a district attorney are not required to be shared with a city attorney.

AB 3020 requires penalties collected by the San Diego City Attorney from an action under the Unfair Competition Act to be paid to the City of San Diego entirely.

UCL Enforcement

Unfair business practices encompass fraud, misrepresentation, and oppressive or unconscionable acts or practices by businesses, often against consumers. In California, affected 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 UCL.

The UCL identifies specific agencies authorized to bring such actions and to recover civil penalties. This includes the Attorney General and district attorneys. County counsel are also permitted to bring such actions if authorized by the district attorney and only in actions involving a county ordinance violation. City prosecutors in cities having a full-time prosecutor can also bring UCL claims on behalf of the people of California if they have the consent of the district attorney.

City attorneys in cities with populations in excess of 750,000 have expanded authority, as does San Francisco. They may bring UCL actions without seeking consent. 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.

Distribution of UCL Civil Penalties

The UCL also specifically details how the civil penalties collected pursuant to it are to be distributed. This is currently based primarily on which governmental entity is bringing the action. Relevant here, the law provides that “if the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered.” (Bus. & Prof. Code § 17206.) Therefore, regardless of whether the county was involved, the county is receiving half of the proceeds from these actions. For comparison, if the action is brought by a district attorney or county counsel, the entire penalty collected is received by the county in which the judgment was entered.

This bill amends the above provision by providing that if the action is brought by the City Attorney of San Diego, the entire penalty collected shall be paid to the treasurer of the City of San Diego.

It should be noted that existing law provides that if the UCL action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the board’s reasonable expenses incurred as a result of the investigation and prosecution of the action are to be reimbursed before the penalty collected is otherwise paid out.

Previous Attempt to Amend UCL Penalty Distributions

In 2019, a similar bill passed through the Legislature, AB 1477 (Gloria, 2019). It would have made a similar adjustment to the distribution of penalties. That bill was much broader in that it would have not been limited to San Diego, but have applied to all city attorneys eligible to bring such actions. It also included a one-year delay as to Los Angeles City Attorney claims and also provided that where a county agency “participated in the prelitigation investigation” of the UCL action brought by the city attorney, half of the penalties collected would go to the treasurer of the county in which the judgment was entered.

Governor Newsom vetoed the bill. In his veto message, the Governor stated:

This bill would adjust the distribution of civil penalties recovered by government entities in Unfair Competition Law actions.

This existing division is intended to ensure that both the city and county have resources to enforce consumer protection laws. This measure will revise longstanding practices and reduce the resources allocated to counties, putting in jeopardy important consumer protection services they provide.

I encourage the counties and cities impacted by this bill to work together to reach a resolution on this matter that is in the best interests of the public they serve.

AB 1477 was opposed by various counties. The County of Los Angeles argued the bill “could discourage the Los Angeles City Attorney from involving the County’s Department of Consumer and Business Affairs [(DCBA)] in pre-filing investigations because by excluding them the City Attorney could keep all of the civil penalties recovered.” The county asserted that by “eliminating a vital source of funding for the County’s consumer protection efforts by DCBA, the District Attorney, and County Counsel . . . the bill would continue to have an adverse fiscal impact on the County and on the consumer protection work that it does for the over 10 million people living in the County.”

This bill now limits its impact to claims brought by the San Diego City Attorney. There is no known opposition.

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

SUPPORT: (Verified 7/31/20)

San Diego City Attorney Mara Elliott (source)

OPPOSITION: (Verified 7/31/20)

None received

ARGUMENTS IN SUPPORT: The San Diego City Attorney Mara Elliot makes the case for why this bill is needed:

This bill protects consumers by ensuring a proper distribution of prosecutorial resources. Under AB 3020, when my Office successfully prosecutes a case under the UCL and obtains civil penalties, it will receive every dollar of those penalties to support work on other UCL cases and investigations. . . .

This puts my Office on equal footing with District Attorneys that are authorized to prosecute unfair business practices. Currently, when the District Attorney brings an action under the UCL, that county receives all of the civil penalties awarded by the court. But when my Office brings such an action, those civil penalties must be split evenly with the County of San Diego, even if the District Attorney was not at all involved with prosecuting the case.

The bill provides the City Attorney of San Diego with all of the proceeds if they bring the action, rather than sharing with San Diego County, which may not have been involved in the litigation at all.

ASSEMBLY FLOOR: 57-17, 6/8/20

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

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

NO VOTE RECORDED: Arambula, Muratsuchi, Quirk, Quirk-Silva, Smith

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
7/31/20 17:51:59

**** END ****

CONSENT

Bill No: AB 3073
Author: Wicks (D)
Amended: 8/11/20 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 7-0, 8/10/20
AYES: Hurtado, Jones, Beall, Jackson, Melendez, Pan, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: CalFresh: preenrollment

SOURCE: California Association of Food Banks
Western Center on Law and Poverty

DIGEST: This bill requires the California Department of Social Services (CDSS) to issue recommendations and suggested methods for county human services agencies to partner with the Department of Corrections and Rehabilitation (CDCR) and county jails in order to enroll otherwise eligible applicants for the CalFresh program upon reentry into the community from the state prison or a county jail, as specified. This bill also requires CDSS to submit a waiver to the federal government to allow for preenrollment of CalFresh applicants, as specified.

ANALYSIS:

Existing law:

- 1) Establishes, under federal law, the Supplemental Nutrition Assistance Program (SNAP) to promote the general welfare and to safeguard the health and wellbeing of the nation's population by raising the levels of nutrition among low-income households. (*7 USC Section 2011 et seq.*)

- 2) Permits the federal Food and Nutrition Services (FNS) to authorize waivers to deviate from specific regulatory provisions for certain reasons, including in situations where FNS determines that the waiver would result in a more effective and efficient administration of the program, among other reasons. (*7 CFR 272.3(c)(1)(ii)*)
- 3) Prohibits certain individuals from being eligible to participate as separate households or as a member of any household for purposes of determining CalFresh eligibility, including, among other things, residents of an institution, and, further, specifies that a person is considered a resident of an institution when the institution provides them with a majority of their meals (over 50 percent of three meals daily) as part of the institution's normal services. (*7 CFR 273.1(b)(7)(vi)*)
- 4) Establishes work requirements for SNAP benefits, for those who are not exempt, which includes participation in SNAP Education and Training (E&T), among other criteria. (*7 CFR 273.7*)
- 5) Establishes, in California statute, the CalFresh program to administer the provision of federal SNAP benefits to families and individuals meeting specified criteria. (*WIC 18900 et seq.*)
- 6) Establishes the CalFresh E&T (CFET) program to assist members of CalFresh households in gaining skills, training, work, or experience that will increase their ability to obtain regular employment. (*WIC 18926.5*)
- 7) Requires a county that elects to participate in CFET to screen CalFresh work registrants to determine whether they will participate in, or be deferred from, CFET. Further, allows a CalFresh work registrant to request to enroll in CFET as a voluntary participant. (*WIC 18926.5(b)*)

This bill:

- 1) Requires CDSS to, on or before September 1, 2022, issue an all-county letter (ACL) containing recommendations and suggested methods for county human services agencies to partner with CDCR and county jails to enroll otherwise eligible applicants for the CalFresh program to ensure that an applicant's benefits may begin as soon as possible upon reentry of the applicant into the community from the state prison or a county jail.
- 2) Requires the ACL to include, but not be limited to, all of the following:

- a) Information on the benefits of enrolling formerly incarcerated individuals into the CalFresh program;
 - b) Information on acceptable forms of identification necessary to complete an application for CalFresh benefits, including information on how to verify an applicant's eligibility for expedited service, as defined;
 - c) Information on how to connect individuals released from the state prison with employment or employment opportunities, including how counties may work with CDCR to connect individuals to employment opportunities related to any experience, training, and education that the individual has obtained, including experience, training, and education obtained while in state prison; and
 - d) Encourage counties to require county eligibility workers to regularly enter any state prison or county jail within the county to conduct interviews and assist individuals that are within 45 days of release from state prison or county jail with completing applications for CalFresh benefits. This assistance shall be for the purpose of establishing eligibility for CalFresh benefits prior to release from the institution.
- 3) Requires CDSS, if it deems it necessary, to maximize CalFresh enrollment outcomes or employment placement success rates for individuals reentering the community from the state prison or a county jail, to submit to the United States Department of Agriculture's FNS a request to waive specified federal regulations to allow for preenrollment of applicants prior to their release from the state prison or a county jail.

Background

CalFresh

CalFresh, California's version of federal SNAP, provides monthly food benefits to qualified low-income individuals and families to assist with the purchase of the food they need to maintain adequate nutrition levels. With over two million households (and over four million people) receiving benefits, CalFresh is the largest nutrition assistance program in California. The program is overseen by CDSS at the state level while California's 58 counties are responsible for administering CalFresh at the local level. CalFresh benefits are 100 percent federally funded and national income eligibility standards and benefit levels are established by the federal government.

The program issues monthly benefits on Electronic Benefit Transfer (EBT) cards, which may be used to purchase food (and seeds or plants that grow food for human consumption) at any grocery store or farmers' market that accepts EBT cards.

County welfare departments are responsible for determining if applicants are initially eligible and if recipients are continuingly eligible for CalFresh. In order to continue receiving CalFresh benefits, recipients must complete a Semi-Annual Eligibility Income Report (SAR 7) and comply with recertification requirements, which is usually required every 12 months.

Federal Restrictions on CalFresh Enrollment of Individuals Residing in "Institutions"

Under federal regulations, counties may not enroll individuals residing in an institution onto CalFresh, unless the state obtains a waiver. State prisons and county jails are considered institutions, per these regulations. As such, many individuals who are ineligible for CalFresh based on the fact that they are incarcerated become potentially eligible as soon as they are released. Additionally, few individuals exiting a prison or jail are able to locate employment immediately upon their release, which means most have no regular source of income upon release. However, such individuals often face barriers to accessing CalFresh and other public benefits because they typically exit with little or no proof of citizenship, income, and residency, all of which are required to determine CalFresh eligibility.

There are provisions for expedited CalFresh, but the same dilemma exists: CalFresh applicants must provide specific documentation in order to become and remain eligible.

CalFresh Preenrollment

States are permitted to obtain federal waivers that allow states to deviate from specific regulatory provisions in instances where the FNS determines that the waiver would result in a more effective and efficient administration of the program. This can include early, or preenrollment, of people who are exiting an institutional setting, like prison or jail. As of October 2019, at least 10 states (including New Jersey, New York, Oregon, South Dakota, Tennessee, Colorado, Illinois, Maine, Missouri, and Montana) have received waivers from the USDA to allow for the pre-enrollment of incarcerated individuals into the SNAP Program. This bill requires CDSS to seek such a waiver and issue guidance that encourages counties to work with soon to be released individuals to help them become eligible for CalFresh upon their release.

Orange County has developed, but not yet implemented, a pilot program to pre-enroll prisoners into CalFresh. One of the goals of this pilot program is to gather best practices for future further implementation across the state. CDSS and Orange County have been working on waiver request to allow this pilot program to proceed but have not yet submitted it to the federal government. While the original target launch date for the pilot was July 1, 2020, response to the COVID-19 pandemic caused the date to be delayed until March 2021.

CalFresh Employment and Training Program

In addition to food benefits, some CalFresh recipients may also receive employment and training services. SNAP E&T was created for the purpose of helping SNAP recipients gain the skills and experience needed to enter the workforce and reduce dependency on public benefits. All states are required by federal law to offer SNAP E&T. In California, this program is called CFET.

While it is mandatory for every state to have an E&T program, California law give counties discretion as to whether or not they choose to have such a program. Counties are also given the flexibility to design their CFET programs to meet the needs of local populations and economies. According to CDSS, 37 California counties currently operate CFET programs.

Depending on the counties' programs, targeted populations for CFET can include students, formerly incarcerated individuals, Able Bodied Adults Without Dependents (aka ABAWDS), people for whom English is a second language and people who are experiencing homelessness.

Program participants are assigned to activities that include job club, job search, workfare, vocational training, and basic education, including English as a second language. Participants are reimbursed for transportation and other ancillary costs needed to take part in the program.

Making CalFresh immediately available to newly released individuals would also make CFET available to those who are released into counties in which CFET is offered. According to the author, this could be beneficial to the thousands of Californians released from prison or jail every year with few or no job prospects and help improve outcomes of a very vulnerable population.

COVID-19 Impact and Response

On March 4, 2020, Governor Newsom declared a State of Emergency due to the COVID-19 pandemic. On March 19, 2020, Governor Newsom issued Executive Order #N-33-20 which was intended to reduce exposure to the virus by

establishing a statewide stay at home order for non-essential workers and implementing social distancing when conducting essential business. Similar stay at home orders were put into place all over the country. While the stay at home order has been lifted, less restrictive containment measures that limit exposure to the virus are in place.

The economic repercussions of the stay at home orders and other containment measures were immediate and widespread as applications for public assistance and unemployment benefits spiked. Since March 19, 2020, over seven million Californians have submitted initial unemployment claims. Monthly CalFresh applications spiked from about 39,000 in March 2019 to 96,000 in March 2020. In response, CDSS moved to create flexibility within CalFresh and other public assistance programs to allow newly eligible persons to quickly receive benefits and to ease requirements for people already receiving benefits so that services may continue uninterrupted while county offices were closed or operating under reduced hours during the stay at home order.

On May 7, 2020, the Department of Finance issued a fiscal update, which stated, in part, “the COVID-19 pandemic has caused enormous hardship for families, businesses and governments across the world, the United States, and California. It has endangered health, stressed the health care system, and caused devastating losses in family and business income. COVID-19 has caused a national recession, a precipitous decline in income, rapidly rising health and human services caseloads and substantial COVID-19 driven costs.” Given this economic outlook, it can be expected that persons reentering the community from prison or jail would likely find it difficult to locate employment and would benefit from immediate access to CalFresh benefits.

Comments

According to the author, “studies have shown that basic needs safety net programs can help reduce rates of recidivism for individuals recently released from jail or prison. AB 3073 will provide guidance to county human services agencies to help individuals released from jail or prison have access to food and training. This guidance for counties can help reduce risks of reoffending, reduce food insecurity, and support formerly incarcerated individuals by providing access to programs that can help their chances of employment and financial stability as they re-enter their communities.”

Related/Prior Legislation

SB 708 (Skinner, 2017) would have required the Secretary of CDCR to establish and maintain a statewide MOU with the federal Social Security Administration to allow a person incarcerated in a correctional institution to apply for and receive a replacement social security card and to allow the administration to process SSI claims under a prerelease program, and also would have required CDSS, on or before March 31, 2018, to request a waiver to allow for the pre-enrollment of otherwise eligible applicants to the CalFresh program up to one month prior to the applicants' reentry into the community from a county jail or the state prison. SB 708 was held in the Senate Appropriations Committee suspense file.

AB 2308 (Stone, Chapter 607, Statutes of 2014) made California's Cal-ID program mandatory for all individuals in state prison, and authorized the Department of Motor Vehicles and CDCR to create an MOU in order to allow CDCR to provide all eligible individuals with state-issued identification cards prior to release.

AB 1468 (Committee on Budget, Chapter 26, Statutes of 2014) repealed the lifetime ban on CalFresh for people with prior drug felony convictions as long as they are complying with the conditions of their probation or parole, and also established CDCR's Case Management Reentry Pilot Program to provide intensive case management to offenders who have been released on parole and are likely to benefit from assistance designed to avoid homelessness and joblessness and provide assistance for people with mental illnesses and developmental disabilities.

AB 720 (Skinner, Chapter 646, Statutes of 2013) required the board of supervisors in each county to designate an entity to assist certain jail inmates to apply for a health insurance affordability program, and prohibited county jail inmates who are currently enrolled in Medi-Cal from being terminated from the program due to their detention, unless required by federal law or they become otherwise ineligible.

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

SUPPORT: (Verified 8/19/20)

California Association of Food Banks (co-source)
Western Center on Law and Poverty (co-source)
Alameda County Community Food Bank
American Academy of Pediatrics, California
California Alliance for Retired Americans
California Catholic Conference
California Food Policy Advocates

Coalition of California Welfare Rights Organizations
County of San Diego
County Welfare Directors Association of California
East Bay Community Law Center
Feeding San Diego
Food Bank of Contra Costa and Solano
Food for People, the Food Bank for Humboldt County
Foodshare Ventura County
Hunger Action Los Angeles INC
Los Angeles Regional Food Bank
National Association of Social Workers, California Chapter
National Lawyers Guild San Francisco Chapter, Doris Brin Walker Legislative
Reform Committee
Redwood Empire Food Bank
River City Food Bank
Sacramento Food Bank & Family Services
San Diego Hunger Coalition
San Francisco Senior and Disability Action
San Francisco-Marin Food Bank
Second Harvest Food Bank of Orange County
Second Harvest Food Bank Santa Cruz County
Second Harvest of Silicon Valley
SEIU California
St. Anthony Foundation

OPPOSITION: (Verified 8/19/20)

None received

ASSEMBLY FLOOR: 76-0, 6/8/20

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

NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Taryn Smith / HUMAN S. /
8/19/20 14:00:40

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

CONSENT

Bill No: AB 3087
Author: Brough (R)
Amended: 5/4/20 in Assembly
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-0, 8/8/20
AYES: Glazer, Chang, Archuleta, Dodd, Galgiani, Hill, Leyva, Pan, Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Contractors' State License Law

SOURCE: Contractors State License Board

DIGEST: This bill authorizes the Contractors State License Board (CSLB) to contract with a third-party vendor to administer licensing examinations.

ANALYSIS:

Existing law:

- 1) Establishes the CSLB within the Department of Consumer Affairs (DCA) to license and regulate contractors and home improvement salespersons. (Business and Professions Code (BPC) § 7000 et seq.)
- 2) Requires the CSLB registrar to investigate, classify, and qualify applicants for contractors' licenses by written examination and specifies that the examination must include questions designed to show that the applicant has the necessary degree of knowledge relating to the laws of California and the contracting business and trade. (BPC § 7065(a))

- 3) Requires the CSLB to periodically review, and if needed, revise the contents of the qualifying examination(s) to ensure that the examination questions are timely and relevant; and requires the CSLB to construct and conduct examinations in such a manner as to preclude the possibility of any applicant having prior knowledge of any specific examination question. (BPC § 7065.05)

This bill authorizes the registrar to contract with a public or private organization to conduct or administer the examination and for materials or services related to the examination.

Background

Contractors State License Board. The CSLB is responsible for implementation and enforcement of the laws and regulations related to licensure and enforcement of construction related entities in California. Contractor licenses are classified within three basic branches of contracting as defined in the BPC and in the regulations of the CSLB. There are two general classifications (Class “A” and Class “B” licenses) and 42 specialty classifications (Class “C” licenses).

Applicants for a contractor’s license must pass a standard law and business examination; in addition, with the exception of the C-61 Limited specialty classification, they must pass a second test covering the specific trade or certification area for which they are applying. Currently, the CSLB is responsible for leasing testing centers throughout the state for the administration of its licensing examinations, including staffing those examination centers with proctors. There are a number of boards and bureaus that contract with outside vendors for the administration of licensing examinations.

Under BPC § 7065(a), the registrar is responsible to investigate, classify and qualify applicants for the examination, which the CSLB interprets to be prohibitive from contracting with a third-party vendor. This bill seeks to clarify that provision by authorizing the registrar to contract with a third-party vendor for examination services. The sponsors of this bill note that this may increase the number of testing days available to licensure applicants and may expand the locations of testing centers across the state.

According to information provided by the CSLB, it recently voted to join an existing DCA master contract (executed in 1998) with multiple other boards and bureaus who already contract with a third-party vendor for the administration of licensing examinations. Currently, the Office of Professional Examination

Services under the DCA oversees the master contract for examination administration at computer-based testing centers throughout the United States. This bill allows the CSLB to participate in contracting-out those examination services.

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

SUPPORT: (Verified 8/17/20)

Contractors State License Board (source)
American Fire Sprinkler Association - California Chapters
American Fire Sprinkler Association - Sacramento Valley Chapter
Associated Builders and Contractors - Southern California Chapter
Associated General Contractors of California
Bay Area Builders Exchange
Builders Exchange of Santa Clara
Builders Exchange of Stockton
California Builders Alliance
California Legislative Conference of the Plumbing, Heating and Piping Industry
Central Coast Builders Association
Independent Roofing Contractors of California, INC.
Kern County Builders' Exchange
National Electrical Contractors Association - California Chapters
Nevada County Contractors' Association
North Coast Builders Exchange
Northern California Allied Trades
Painting & Decorating Contractors of California
Placer County Contractors' Association, Inc.
Plumbing-Heating-Cooling Contractors Association of California
Sacramento Regional Builders Exchange
San Luis Obispo County Builders Exchange
Southern California Glass Management Association
Tulare Kings Counties Builders Exchange
United Contractors
Valley Contractors Exchange
Ventura County Contractors Association
Wall and Ceiling Alliance
Western Wall & Ceiling Contractors Association
Two individuals

OPPOSITION: (Verified 8/17/20)

None received

ARGUMENTS IN SUPPORT: Supporters note that this bill will greatly increase testing opportunities.

ASSEMBLY FLOOR: 76-0, 6/8/20

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

NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
8/19/20 10:57:30

**** END ****

CONSENT

Bill No: AB 3088
Author: Chiu (D)
Amended: 8/1/20 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-0, 7/30/20
AYES: Jackson, Borgeas, Durazo, Lena Gonzalez, Melendez, Monning, Stern,
Umberg, Wieckowski

ASSEMBLY FLOOR: 70-0, 6/8/20 - See last page for vote

SUBJECT: Tenancy: termination: rent caps

SOURCE: Author

DIGEST: This bill makes technical and clarifying modifications to the statewide just cause for eviction and anti-rent gouging laws enacted last year pursuant to the Tenant Protection Act of 2019 (AB 1482, Chiu, Chapter 597, Statutes of 2019). Specifically, this bill: (1) lays out how inflation should be calculated when determining permissible rent increases; (2) clarifies application of the law to properties containing two housing units; (3) aligns definitions; (4) corrects erroneous cross-references; and (5) clarifies the scope of laws with which a housing provider must demonstrate compliance before establishing new rental rates after the expiration of affordability covenants.

ANALYSIS:

Existing law:

- 1) Prohibits, until January 1, 2030, an owner of residential real property from terminating a tenancy without just cause for tenants that have continuously and lawfully occupied the unit for a year or more, with specified exceptions. (Civ. Code § 1946.2.)

- 2) Prohibits, until January 1, 2030, an owner of a residential real property from increasing the rental rate on a property that has been in effect for the preceding 12 months in an amount that is greater than the Consumer Price Index (CPI) plus five percent, not to exceed 10 percent, with specified exceptions. (Civ. Code § 1947.12.)
- 3) Provides definitions, exemptions, rules, and procedures for implementing Civil Code Sections 1946.2 and 1947.12, including the following provisions that are of particular relevance to this bill:
 - a) Exempts duplexes from the provision of these sections if the owner occupied one of the units as the owner's principal place of residence at the beginning of the tenancy, so long as the owner continues in occupancy.
 - b) Defines, in Section 1947.12, dormitories as qualifying for exemption from the rent cap as those that have been constructed and maintained in connection with any higher education institution within the state for use and occupancy by students in attendance at the institution.
 - c) Requires, for an exemption to apply, a notice with specific text to be sent to all tenants in residential real property that is alienable separate from the title to any other dwelling unit whose owner is not a real estate investment trust, a corporation, or a limited liability company in which at least one member is a corporation. The required text for the notice associated with the rent cap portion of the Act includes an erroneous cross-reference.
 - d) Defines the percentage change in the cost of living to mean the percentage change from April 1 of the prior year to April 1 of the current year in the regional CPI for the region where the residential real property is located, as published by the United States Bureau of Labor Statistics. If a regional index is not available, the California Consumer Price Index for All Urban Consumers for all items, as determined by the Department of Industrial Relations applies.
 - e) Specifies that the owner of an assisted housing development may establish the initial unassisted rental rate for units in the applicable housing development having demonstrated compliance with all applicable law or regulation intended to promote the preservation of assisted housing.

This bill:

- 1) Revises the exemption applicable to duplexes to specify that it applies to a property containing two separate dwelling units within a single structure,

neither of which is an accessory dwelling unit or a junior accessory dwelling unit.

- 2) Aligns the definition of dormitories for the rent cap portion of the Act with definition in the just cause portion of the Act, such that dormitories qualifying for exemption from the rent cap are those owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school.
- 3) Corrects, in the rent cap portion of the Act, an erroneous cross-reference in the notice required to be sent to all tenants in residential real property qualifies for exemption from the Act because it is alienable separate from the title to any other dwelling unit whose owner is not a real estate investment trust, a corporation, or a limited liability company in which at least one member is a corporation.
- 4) Revises the definition of the percentage change of the cost of living to mean the percentage change in the Consumer Price Index for All Urban Consumers for All Items, as follows:
 - a) The applicable percentage change in the cost of living shall be the Consumer Price Index for All Urban Consumers for All Items for the metropolitan area where the residential real property is located, as published by the United States Bureau of Labor Statistics. If a metropolitan area index is not available, the California Consumer Price Index for All Urban Consumers for All Items, as published by the Department of Industrial Relations, shall apply; and
 - b) The percentage change in the cost of living shall be the percentage change in the amount published for the previous April and the April before that. If there is no amount published in April for the applicable geography, the percentage change in the cost of living shall be percentage change in the amount published for the previous March and the March before that.
- 5) Clarifies that the owner of assisted housing development may establish the initial unassisted rental rate for units in the applicable housing development having demonstrated compliance with all applicable federal, state, or local laws or regulations intended to promote the preservation of assisted housing.

Background

AB 1482 (Chiu, Chapter 597, Statutes of 2019), California's landmark legislation requiring just cause for eviction statewide and prohibiting residential rent-gouging, was the product of lengthy, complex, and shifting negotiations between

stakeholders, both houses of the Legislature, and, eventually, the Governor's Office. Though the principal components of the bill are clear, hindsight has shown a handful of provisions at the margins that require further refinement in order to eliminate possible confusion. AB 1482's author therefore reconvened the principal stakeholders to the original bill and asked them to seek consensus language that could iron out these policy wrinkles. This bill is the result of that effort. Each source of potential confusion from AB 1482 is described below, accompanied by a brief explanation of the solution proposed in this bill.

1) *Determining the applicable rate of inflation.*

AB 1482 sought to cut down on rent-gouging by prohibiting annual rent increases in excess of five percent plus inflation up to a maximum cap of 10 percent. AB 1482 specified that the rate of inflation for any particular property is the percentage change in the regional CPI for the region where the residential real property is located from April 1 of the prior year to April 1 of the current year, as published by the United States Bureau of Labor Statistics. If no regional index is available for the property in question, then inflation was to be calculated using the California Consumer Price Index for All Urban Consumers for all items, as determined by the Department of Industrial Relations.

While conceptually simple, hindsight has revealed some ambiguities in this formulation. For example, if a landlord seeks to raise the rent in February, how does the landlord know what the regional CPI for April 1 of the current year will be?

This bill revises the formula for calculating inflation, eliminating points of potential confusion in the process. The new formulation is intended to cover as many contingencies as possible while making it relatively simple to follow.

2) *Clarification of how housing structures with two units are to be treated under the bill.*

AB 1482 exempted from its provisions duplexes in which the owner occupies one of the two units. In practice, however, the term duplex has no standard legal definition. As a result, there was some confusion about exactly what rental property is, and is not, exempt. To clarify the matter, this bill specifies that the exemption applies to property containing two separate dwelling units within a single structure, where neither unit is an accessory dwelling unit or a junior accessory dwelling unit, and the property owner occupies one of the units as a principal residence.

3) *Correction of erroneous cross-reference in notice of exemption to tenant.*

AB 1482 required that, in order to be exempt from the rent cap and just cause provisions, a property owner must both qualify for the exemption and provide notice of that exemption to the tenants. The bill specified the exact language that must be contained in these notices. In the legislative swirl accompanying negotiation and passage of AB 1482, two erroneous cross-references within the text for one of the required notices went undetected. As a result, landlords wishing to claim an exemption face a dilemma: they can use the exact text as it appears in the bill, but they will then be providing inaccurate information to their tenants; or alter the text of the notice to provide accurate information, but violate the statute – at least in a very technical sense – in the process. This bill corrects the cross-reference, thus eliminating this problem.

4) *Aligning definitions of school dormitories.*

AB 1482 contained exemptions for school dormitories from both the just cause provisions and the anti-rent gouging provisions. At some point in the legislative process, however, the language describing one of the exemptions got changed, but the other did not. This mismatch was unintentional. Accordingly, this bill brings the two exemptions into alignment.

5) *Clarifying the scope of laws with which housing providers must comply before establishing initial rates after the expiration of affordability covenants.*

In order to qualify for special financing, many housing providers must agree to keep the rent affordable for a specified period of time. AB 1482 provided that, upon the expiration of that period, housing providers could initially establish new rental rates without necessarily staying within the rent increase caps imposed by AB 1482. Before establishing these new initial rental rates, however, the housing provider had to demonstrate compliance with other laws designed to preserve affordable housing. As drafted, however, AB 1482 was not completely consistent about exactly what laws housing providers had to follow. This bill clarifies that the housing provider must demonstrate compliance with all applicable federal, state, and local laws. This bill further specifies that AB 1482 does not preempt any local laws that may also apply.

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

SUPPORT: (Verified 7/31/20)

California Rural Legal Assistance Foundation, Inc.
Child Care Law Center

Western Center on Law & Poverty

OPPOSITION: (Verified 7/31/20)

None received

ARGUMENTS IN SUPPORT: According to the author:

The Tenant Protection Act of 2019 provided protections against unjust evictions and rent gouging to millions of Californians. AB 3088 includes technical cleanups necessary to provide all parties the clarity they need to properly uphold this landmark law.

In support of this bill, California Rural Legal Assistance Foundation, Inc., and Western Center on Law & Poverty write:

Assembly Bill 3088 [...] will clarify provisions of last year's AB 1482, the Tenant Protection Act, to ensure the important tenant protections it contains can be administered and enforced correctly and uniformly.

ASSEMBLY FLOOR: 70-0, 6/8/20

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

NO VOTE RECORDED: Arambula, Choi, Daly, Gray, Kiley, Muratsuchi, Petrie-Norris, Quirk, Ramos

Prepared by: Timothy Griffiths / JUD. / (916) 651-4113
8/1/20 12:38:01

**** END ****

THIRD READING

Bill No: AB 3133
Author: Aguiar-Curry (D) and Reyes (D), et al.
Amended: 5/4/20 in Assembly
Vote: 21

SENATE JUDICIARY COMMITTEE: 8-0, 7/30/20
AYES: Jackson, Borgeas, Durazo, Lena Gonzalez, Monning, Stern, Umberg,
Wieckowski
NO VOTE RECORDED: Melendez

ASSEMBLY FLOOR: 74-0, 6/8/20 - See last page for vote

SUBJECT: Refugees: resettlement

SOURCE: International Rescue Committee

DIGEST: This bill prohibits local governments from withholding consent to refugee resettlement within their jurisdictions where such withholding will have the purpose or effect of discriminating on the basis of a protected characteristic.

ANALYSIS:

Existing federal law:

- 1) Defines a refugee as any person who is unable or unwilling to return to their country of nationality because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. (8 U.S.C. § 1101(a)(42).)
- 2) Grants the President of the United States the authority to set the number of refugees who may be admitted to the United States each year, based on the President's determination of what is justified in light of humanitarian concerns and the national interest, after "appropriate consultation." (8 U.S.C. § 1157(a)(2).)

- 3) Defines “appropriate consultation” to mean “discussions in person by designated Cabinet-level representatives of the President with members of the Committees on the Judiciary of the Senate and of the House of Representatives to review the refugee situation or emergency refugee situation, to project the extent of possible participation of the United States therein, to discuss the reasons for believing that the proposed admission of refugees is justified by humanitarian concerns or grave humanitarian concerns or is otherwise in the national interest.” (8 U.S.C. § 1157(e).)
- 4) Establishes the Office of Refugee Resettlement, within the Department of Health and Human Services, to fund and administer, in consultation with the Secretary of State, refugee resettlement and assistance programs. (8 U.S.C. § 1521.)
- 5) Requires the Director of the Office of Refugee Resettlement to, in consultation with representatives of voluntary agencies and State and local governments, develop and implement policies and strategies for the placement and settlement of refugees within the United States, including, to the extent possible based on available appropriations:
 - a) making available sufficient resources for employment training and placement in order to achieve economic self-sufficiency among refugees as quickly as possible;
 - b) providing refugees with the opportunity to acquire sufficient English language training to enable them to become effectively resettled as quickly as possible;
 - c) ensuring that cash assistance is made available to refugees in such a manner as not to discourage their economic self-sufficiency; and
 - d) ensuring that women have the same opportunities as men to participate in training and instruction. (8 U.S.C. § 1522.)
- 6) Provides that, depending on the outcome of pending legislation, the resettlement of refugees could be prohibited in localities unless both the state and local governments have consented to receive refugees under the State Department’s Reception and Placement Program. President Donald Trump issued Executive Order 13888 imposing the consent requirement on September 26, 2019. (Exec. Order No. 13888, 84 Fed. Reg. 52,355 (Sept. 26, 2019).) However, a federal court enjoined enforcement of Executive Order 13888 on January 15, 2020, on the basis that the plaintiffs had preliminarily demonstrated that, as of the date of the promulgation of the order, the relevant federal executives “failed to adequately consider a number of factors in

promulgating the order,” including “to what extent might State and Local Governments’ decisions to exclude refugees be based on bias or prohibited discriminatory considerations.” (*HIAS, Inc. v. Trump* (D.Md. 2020) 415 F.Supp.3d 669, 672, 683-685 (*HIAS*).) The federal government appealed the order, and the case is pending before the United States Court of Appeals for the Fourth Circuit. (See *Hias, Inc. v. Trump*, 4th Cir., Case No. 20-1160.) If the Fourth Circuit reverses the order granting the injunction, the federal government will not be able to resettle refugees without permission from the state and local governments in the area in which resettlement is sought.

Existing state law:

- 1) Establishes a Statewide Director of Immigrant Integration, who serves as the statewide lead for the planning and coordination of immigrant services and policies in California. (Gov. Code, § 65050.)
- 2) Requires the California Department of Social Services to allocate federal funds for refugee social services programs to eligible counties and qualifies nonprofit organizations based on the number of refugees receiving aid in each eligible county, and to partner with qualified nonprofit organizations to administer federally funded refugee cash assistance within a county. (Welf. & Inst. Code, §§ 13276, 13284.)
- 3) Prohibits any state or state-funded program or activity from unlawfully subjecting to discrimination, or unlawfully denying full and equal access to the benefits to, any person in the State of California on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation. (Gov. Code, § 11135(a).)

This bill:

- 1) Makes findings and declarations relating to California’s role in, and benefits reaped from, refugee resettlement, including:
 - a) The United States Refugee Resettlement program has saved the lives of over three million refugees who were fleeing violence, conflict, or instability, including Albert Einstein, Andy Grove, and Sergey Brin;
 - b) California has received newly arrived refugees, who have successfully made California their home;

- c) Since 2018, newly arrived refugees become affiliated with and receive direct support services from resettlement agencies located throughout California;
 - d) California has benefitted, and continues to benefit, from the significant economic and cultural contributions of refugees, who hold \$17 billion in spending power in the state;
 - e) Many of California's recently resettled refugees are holders of special immigrant visas, given to individuals who worked side by side with members of the United States Armed Forces during Operation Enduring Freedom and Operation Iraqi Freedom;
 - f) Federal Executive Order 13888 was issued on September 26, 2019, and generally prohibits a refugee from being resettled in a state or locality if the state or locality has not consented to receiving refugees.
 - g) On December 20, 2019, Governor Gavin Newsom sent a letter to Secretary of State Mike Pompeo, consenting to receive refugees in the State of California.
- 2) Prohibits the denial of resettlement of refugees anywhere in California based on any criterion, method of administration, or practice that has the purpose or effect of discriminating on the basis of race, religion, ethnicity, sexual orientation, or any other characteristic identified in Government Code Section 11135 (race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation).

Background

California is, and has been, a leader in accepting refugees. Historically, California has received the largest number of new refugee arrivals each year.¹ In particular, California is, by far, the leader in accepting refugees resettled under the special immigrant visa program for Afghan and Iraqi citizens who worked with the United States government in their home countries.²

The current regime for resettling refugees in the United States dates back to 1980. Congress authorized the president, in consultation with Cabinet-level executives

¹ Cal. Dept. of Public Health, Office of Refugee Health, Background, <https://www.cdph.ca.gov/Programs/CID/ORH/Pages/Program%20Overview.aspx> [last visited June 30, 2020]; ¹ Krogstad, *Key facts about refugees to the U.S.*, Pew Research Center, Oct. 7, 2019, available at <https://www.pewresearch.org/fact-tank/2019/10/07/key-facts-about-refugees-to-the-u-s/> [last visited June 30, 2020] (California has accepted the most refugees dating back to 2002).

² See Pew Research Center, "California and Texas are top states for resettlement among special immigrant visa holders," Dec. 8, 2017, https://www.pewresearch.org/fact-tank/2017/12/11/afghans-who-worked-for-u-s-government-make-up-growing-share-of-special-immigrant-visa-recipients/ft_17-12-07_specialvisas_state/.

and members of Congress, to each year set the number of refugees the United States would accept in the following year.³ The federal Office of Refugee Resettlement then works with funding and administering refugee resettlement, in consultation with state and local governments, and with implementing programs to place refugees in homes and jobs and provide other resettlement assistance.⁴

In the 1980s, the United States accepted and resettled nearly one million refugees.⁵ In the 1990s, the United States accepted and resettled just over one million refugees.⁶ The numbers declined in the 2000s, with the United States resettling just over half a million refugees.⁷ And in the 2010s, the United States accepted and resettled close to 600,000 refugees—though this number represents a precipitous drop in refugees accepted by the Trump Administration.⁸

After taking office, President Donald Trump issued an executive order reducing the 2017 cap to 50,000 and prohibiting the resettlement of any refugees from Syria.⁹ The United States ended up resettling just over 53,000 refugees that year.¹⁰ President Trump reduced the cap again for 2018, setting it at 45,000 refugees;¹¹ the United States came in far short of the cap, however, taking in fewer than 23,000 refugees.¹² President Trump reduced the cap yet again in 2019, to 30,000 refugees, and admitted exactly that many.¹³ For 2020, President Trump set the refugee cap at 18,000 refugees,¹⁴ the lowest number of refugees accepted since 1980.¹⁵

³ 8 U.S.C. § 1157.

⁴ 8 U.S.C. § 1522.

⁵ Refugee Processing Center, *Refugee Admissions By Region, Fiscal Year 1975 through May 31, 2020*, available at <https://www.wrapsnet.org/documents/Refugee%20Admissions%20by%20Region%20since%201975%20as%20of%206-5-20.pdf> [last visited June 30, 2020].

⁶ *Ibid.*

⁷ *Ibid.*

⁸ *Ibid.*

⁹ Exec. Order No. 13769, 82 Fed. Reg. 8,977, § 5(c)-(d) (Jan. 27, 2017).

¹⁰ Office of Immigration Statistics, Office of Strategy, Policy, & Plans, *Annual Flow Report, Refugees and Asylees: 2017*, March 2019, at 2, available at https://www.dhs.gov/sites/default/files/publications/Refugees_Asylees_2017.pdf [last visited June 30, 2020].

¹¹ Presidential Determination on Refugee Admissions for Fiscal Year 2018, 82 Fed. Reg. 49,083 (Sept. 29, 2017).

¹² Krogstad, *Key facts about refugees to the U.S.*, Pew Research Center, Oct. 7, 2019, available at <https://www.pewresearch.org/fact-tank/2019/10/07/key-facts-about-refugees-to-the-u-s/> [last visited June 30, 2020].

¹³ Presidential Determination on Refugee Admissions for Fiscal Year 2019, 83 Fed. Reg. 55,091 (Oct. 4, 2018); Refugee Processing Center, *Refugee Admissions Report May 31, 2020*, available at <https://www.wrapsnet.org/admissions-and-arrivals/> [last visited June 30, 2020].

¹⁴ Presidential Determination on Refugee Admissions for Fiscal Year 2020, 84 Fed. Reg. 65,903 (Nov. 1, 2019).

¹⁵ Refugee Processing Center, Department of State, *Refugee Admissions By Region, Fiscal Year 1975 through May 31, 2020*, available at <https://www.wrapsnet.org/documents/Refugee%20Admissions%20by%20Region%20since%201975%20as%20of%206-5-20.pdf> [last visited June 30, 2020].

At the end of 2019, President Trump issued Executive Order 13888.¹⁶ The order stated that, while it was already federal policy to consult with state and local governments regarding refugee resettlement, some states and localities believed the existing consultation was “insufficient.”¹⁷ On that basis, the order directs the federal government to resettle refugees only in jurisdictions where both the state and local governments have consented to receive refugees, and directs the Secretaries of State and Health and Human Services to develop a process to obtain written consent to refugee resettlement from state and local governments.¹⁸

Three resettlement agencies sued President Trump and three cabinet secretaries in federal court, seeking preliminary and permanent injunctive relief staying enforcement of Executive Order 13888.¹⁹ On January 15, 2020, the court granted the organizations’ request for a preliminary injunction.²⁰ The defendants appealed the order granting the injunction to the United States Court of Appeal for the Fourth Circuit, where the case is currently pending.²¹ Thus, although the enforcement of Executive Order 13888 is currently enjoined, the administration’s appeal leaves uncertain the question of whether localities will have to consent to refugee resettlement.

This bill seeks to address one of the most harmful outcomes contemplated by Executive Order 13888 if the injunction is lifted on appeal, by prohibiting localities from refusing to consent to refugee resettlement based on practices that have the purpose or effect of discriminating based on race, religion, ethnicity, and other protected characteristics.

Comments

According to the author:

The Trump Administration put a travel ban in place, has continually reduced total refugee arrivals to their lowest levels ever, and separated families at the border while criminalizing desperate people seeking refuge. AB 3133 codifies California’s commitment to resettling refugees without discrimination as part of the United States Reception and Placement program, and recognizes the importance of the refugee resettlement program as a humanitarian, national security, and foreign policy imperative of the United States.

¹⁶ Exec. Order No. 13888, 84 Fed. Reg. 52,355 (Sept. 26, 2019).

¹⁷ *Id.*, § 1.

¹⁸ *Id.*, §§ 1, 2.

¹⁹ *HIAS, supra*, 415 F.Supp.3d at pp. 671, 677, 679.

²⁰ *Id.* at p. 671.

²¹ See *Hias, Inc. v. Trump*, 4th Cir., Case No. 20-1160.

In support, sponsor International Rescue Committee writes:

For the last three years, California has been a leader in supporting recently resettled refugees into our state. We have established in-state tuition rates for refugees at California State Community Colleges; provided resources for schools with high populations of refugee students; and passed a resolution calling on the [Trump] Administration to raise the number of refugees admitted to the United States. AB 3133 affirms and codifies California's long tradition of supporting resettlement for generations to come. At a time when our country is resettling the lowest number of refugees in the history of the resettlement program and the Administration is encouraging states to oppose resettlement, California is taking a stand in support.

Bill supporter Anti-Defamation League further writes:

The threat of continued [executive orders] restricting refugees' entry into the country and limiting their ability to obtain assistance remains...The Trump Administration has reduced the total number of refugees to be resettled in the U.S. to a historical low and in light of the COVID-19 pandemic the refugee program has largely been put on pause. AB 3133 puts into California law affirmative language stating that no matter what occurs federally, refugees will remain welcome and accepted without discrimination here.

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

SUPPORT: (Verified 7/31/20)

International Rescue Committee (source)

ACLU of California

Anti-Defamation League

Asian Americans Advancing Justice – California

California Immigrant Policy Center

California Public Defenders Association

National Association of Social Workers – California

Santa Barbara Women's Political Committee

OPPOSITION: (Verified 7/31/20)

None received

ASSEMBLY FLOOR: 74-0, 6/8/20

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

NO VOTE RECORDED: Choi, Fong, Muratsuchi, Patterson, Quirk

Prepared by: Allison Meredith / JUD. / (916) 651-4113
7/31/20 17:52:00

**** END ****

CONSENT

Bill No: AB 3137
Author: Voepel (R)
Amended: 5/18/20 in Assembly
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 7/29/20
AYES: Leyva, Wilk, Chang, Durazo, Glazer, McGuire, Pan

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Community colleges: California College Promise: members of the
Armed Forces of the United States

SOURCE: Author

DIGEST: This bill requires California Community Colleges (CCC) to allow a student who is a member of the Armed Forces of the United States who is called to active duty to withdraw from participation in the California College Promise fee waiver program and resume receipt of the waiver once they return from duty without penalty.

ANALYSIS:

Existing law:

- 1) Authorizes the governing board of each community college district to charge each student \$46 per unit per semester. Exempts the following from paying the prescribed fee:
 - a) Students enrolled in specific public benefit non-credit programs.

- b) Students enrolled in or receiving benefits from Temporary Assistance for Needy Families program (TANF), the Supplemental Security Income/State Supplementary Payment Program, or a general assistance program.
 - c) Students who demonstrate eligibility according to income standards established by regulations of the CCC Board of Governors.
 - d) Demonstrates financial need according to the methodology set forth in federal law or regulations for determining the expected family contribution of students seeking financial aid.
 - e) Homeless or formerly homeless youth, as defined.
 - f) Students who were the dependent or surviving spouse of any member of the California National Guard who died or was permanently disabled while in the line of duty or while in active service of the state.
 - g) Students who were the dependent or surviving spouse of a California firefighter or law enforcement officer killed in the performance of their duties or who died as a result of performing duties related to law enforcement or fire suppression.
 - h) Students who were the dependent of a California resident who killed or who died as a result of injuries sustained in the September 11th, 2001 terrorist attacks.
 - i) Any child of any veteran of the United States military who has a service-connected disability, was killed in service, or has died of a service-connected disability.
 - j) The child of a recipient or the recipient of a Congressional Medal of Honor. (Education Code § 76300, 68120, and 66025.3)
- 2) Establishes the California College Promise, under the administration of the Chancellor of the CCC, to provide funding, upon appropriation by the Legislature to each community college that:
- a) Partners with one or more local education agencies (LEA) to establish an Early Commitment to College Program to provide K-12 students and families ample opportunities to learn about college and the necessary step in applying to college.

- b) Partners with one or more LEA to support and improve high school students' preparation for college and reduce postsecondary remediation through best practices.
 - c) Utilizes evidence-based assessment and placement practices at the community college that include multiple measures of student performance and uses evidence-based practices to improve outcomes for underprepared students.
 - d) Participates in the California Community College Guided Pathways Grant Program.
 - e) Maximizes students' access to need-based financial aid by leveraging the Board of Governors fee waiver, ensuring that students complete the Free Application for Federal Student Aid (FAFSA), Cal Grant application or the Dream Act application, and participate in a federal loan program. (EC § 76396 and 76396.2)
- 3) Authorizes a community college that meets all the criteria of (2) to offer a fee waiver for two academic years to first-time community college students who are California residents and enrolled at the college full time (12 or more units) unless otherwise specified. Requires the Chancellor of the CCC to submit a report to the Legislature by July 1, 2024, evaluating the use of funding for the California College Promise to waive student fees. (EC § 76396.3)
- 4) Requires the CCC and the California State University, and requests the University of California, to provide priority enrollment and priority registration to any member or former member, as defined, of the Armed Forces of the United States, and who is a resident of California. Armed Forces of the United States is defined as the Air Force, Army, Coast Guard, Marine Corps, National Guard, Naval Militia, Navy, and the reserve components of each of those forces, including the California National Guard. (EC § 66025.8)

This bill:

- 1) Requires the CCC to allow a student who is a member of the Armed Forces of the United States who is called to duty compelling the student to take a leave of absence pursuant to federal law, or to state-funded active duty on order by the Governor, to withdraw from participation in the California College Promise and resume participation in the program upon the student's return without losing program eligibility.

- 2) Prohibits the time during which a student was obliged to withdraw from counting toward the 2-year limit of that student's eligibility for participation in the California College Promise.
- 3) Defines for purposes of the section, "Armed Forces of the United States" to mean the United States Air Force, Army, Coast Guard, Marine Corps, and Navy, and the reserve components of each of those forces, and the California National Guard, the California State Guard and the California Naval Militia.

Comments

- 1) *Need for the bill.* The California College Promise Program allows CCCs to waive some or all tuition fees for first-time community college students enrolled in college full-time (12 credits or more) for up to two academic years. Annual tuition fees total \$1,380 at a CCC. According to the author, a concern arose from one of his constituents who was afraid they might lose their eligibility and funding from the College Promise Program if either the Governor or the President of the United States calls them to active duty. The author asserts, "our military personnel fight for the freedom of everyday America. The least we can do is ensure they do not lose their eligibility to a program like the California College Promise Program in order to achieve a California education."
- 2) *Other aid available to military personnel and veterans.* The California College Promise is one of several tuition relief programs available to individuals enrolled at a CCC. Additionally, active duty military and veterans may access federal aid programs specifically designed for services members such as the post-9/11 GI Bill and others. Absent this bill, service members who lose eligibility due to deployment could have tuition covered through other programs. This bill maintains eligibility of a specific tuition waiver program at the CCC known as the California College Promise for participants of that program who are called to active duty.
- 3) *California National Guard called to duty during COVID crisis.* COVID-19, also known as "coronavirus", is a respiratory illness caused by a novel virus that has spread worldwide. As of July 1, 2020, over 230,000 cases have been confirmed in California and over 6,000 individuals have died in the state. To mitigate the spread of the pandemic, virtually all schools and public higher education institutions in California closed their campuses in mid-March 2020, and those campuses remained closed through the end of the 2019-20 school year. In response, the vast majority transitioned "distance learning." Around the same time, counties implemented shelter-in-place strategies to reduce the

number coronavirus cases. However, the coronavirus pandemic placed community charities in a difficult situation as the demand for food assistance spiked. In response to this issue, the Governor ordered the California National Guard to deploy to food banks across the state to help with food distribution. Shortly thereafter Governor Newsom activated the remaining California National Guard members to assist law enforcement with civil unrest in a handful of cities statewide. Presumably, community college students were among those members called to active duty and consequently could not finish the term potentially losing their fee waiver under the California College Promise Program. This bill may provide an avenue for those students to continue participation in the tuition waiver program.

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

SUPPORT: (Verified 8/13/20)

California Teachers Association
Faculty Association of California Community Colleges
Los Angeles Community College District

OPPOSITION: (Verified 8/13/20)

None received

ASSEMBLY FLOOR: 76-0, 6/8/20

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

NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Olgalilia Ramirez / ED. /
8/14/20 12:22:11

**** END ****

THIRD READING

Bill No: AB 3182
Author: Ting (D)
Amended: 7/27/20 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 8-2, 8/6/20
AYES: Wiener, Durazo, McGuire, Moorlach, Roth, Skinner, Umberg,
Wieckowski
NOES: Morrell, Bates
NO VOTE RECORDED: Caballero

ASSEMBLY FLOOR: 55-17, 6/11/20 - See last page for vote

SUBJECT: Common interest developments: governing documents: rental or
leasing of separate interests

SOURCE: California YIMBY

DIGEST: This bill requires common interest developments (CIDs) to allow
owners to rent or lease out their units, as specified.

ANALYSIS:

Existing law:

- 1) Establishes, within the Davis-Stirling Common Interest Development Act, rules and regulations governing the operation of a CID and the respective rights and duties of a homeowners association (HOA) and its members. Requires the governing documents of a CID, and any amendments to the governing documents, to be adopted through HOA elections in accordance with specified procedures.
- 2) Deems void and unenforceable any covenant, condition, or restriction (CC&R) contained in any deed, contract, security instrument, or other instrument

affecting the transfer of, or any interest in, real property, and any provision of the CID governing documents, that effectively prohibits or restricts:

- a) Installation of a solar energy system.
- b) Installation or use of a video or television antenna.
- c) Installation of low-water using plants, artificial turf, and other synthetic surface that resembles grass.
- d) Installation or use of an electric vehicle charging station within the owner's unit or designated parking space.
- e) Display or affixation of one or more religious items on any entry door frame to a dwelling.
- f) Construction or use of an accessory dwelling unit (ADU) or junior accessory dwelling unit (JADU) on a lot zoned for single-family residential use that meets the requirements of existing law regarding ADUs and JADUs.

This bill:

- 1) Provides that an owner of a separate interest (e.g., an individual dwelling unit) in a CID shall not be subject to a provision in, or amendment to, a governing document that prohibits, has the effect of prohibiting, or unreasonably restricts the rental or lease of any of the separate interests, ADUs, or JADUs, in that CID.
- 2) Authorizes a CID, however, to prohibit the short-term rental of a separate interest for a period of 30 days or less.
- 3) Authorizes a CID to impose reasonable rental restrictions that have the effect of limiting the total number of rentals to 25% of the separate interests in the CID. Provides that ADUs and JADUs shall not be counted toward this cap.
- 4) Authorizes an HOA to adopt a higher percentage of rental restrictions in order to help buyers qualify for loans insured by the Federal Housing Administration (FHA) or guaranteed by the Department of Veterans Affairs (VA), the Federal National Mortgage Association (Fannie Mae), or the Federal Home Mortgage Loan Corporation (Freddie Mac); facilitate loan financing for the CID; or facilitate acquisition and maintenance of insurance at industry-recognized HOA rates.

- 5) Repeals the existing law provision allowing rent or lease prohibitions in CID governing documents effective prior to January 1, 2012.

Background

A CID is a form of real estate in which each homeowner has an exclusive interest in a unit or lot and a shared or undivided interest in common-area property. Condominiums, planned unit developments, stock cooperatives, community apartments, and many resident-owned mobilehome parks all fall under the umbrella of CIDs. There are more than 50,000 CIDs in California comprising over 4.8 million housing units, or approximately one-quarter of the state's housing stock. CIDs are governed by HOAs. The Davis-Stirling Common Interest Development Act provides the legal framework under which CIDs are established and operate. In addition to the requirements of the Act, each CID is governed according to the recorded declarations, bylaws, and operating rules of the association, collectively referred to as the governing documents.

Comments

- 1) *Author's statement.* According to the author, "We must marshal all available resources to address the housing and homelessness crisis. There are millions of homes across the state that have the potential to be rented to Californians in need of housing but are prohibited from being leased under outdated HOA rules. AB 3182 prohibits rental bans in HOAs to allow homeowners who want to, rent out their homes."
- 2) *Expanding the right to rent out.* SB 150 (Correa, Chapter 62, Statutes of 2011) required CIDs to allow owners to rent or lease their units, but applied prospectively, exempting governing documents adopted prior to January 1, 2012. That bill, which was sponsored by the California Association of Realtors, was opposed by the Community Associations Institute (CAI), the organization representing CIDs. CAI argued that CID rules and regulations, including renter restrictions, need to be fluid and change with conditions imposed by the mortgage market or personal needs. In addition, CAI stated that that rental rules should be uniform for all owners, not differ based on when a unit was purchased. This bill, by removing the exemption for pre-2012 governing documents, would apply the right to rent or lease out a unit in a CID, to all units.
- 3) *Home loan concerns.* CAI opposed this bill in the Assembly based on concerns that it could jeopardize financing opportunities for those looking to purchase a home in a CID. Specifically, individuals seeking loans from government

entities such as the FHA or VA, or seniors seeking to refinance through a reverse mortgage, would not be covered if the owner occupancy rate falls below a certain threshold. According to the FHA website, such requirements are intended to prevent investors from profiting off the government loan program's affordable rates and less stringent lending guidelines. Most FHA loans require the purchaser to live in the home for at least one year prior to renting it out. These loan opportunities are important for low- to moderate-income households, who might otherwise be unable to afford to purchase a home. In addition, there are reports that homeowners and CIDs face difficulty with the issuance of insurance policies when more than 25% of home in the CID are rented out.

To address these concerns, the author amended this bill on July 15, 2020, to allow an HOA to impose restrictions that effectively limit the total number of rentals in the CID to 25%. The amendments also give an HOA the flexibility to raise the cap higher if needed to meet FHA or Freddie Mac requirements or to facilitate other financing or insurance needs.

- 4) *Double-referral*. Due to the COVID-19 Pandemic and the unprecedented nature of the 2020 Legislative Session, this bill was referred to both the Housing and Judiciary Committees but only heard in the Senate Housing Committee. The Senate Judiciary Committee notes this bill is silent as to remedies: “Presumably, the owner of the separate interest could sue for declaratory relief or an injunction perhaps, and any actual damages suffered, but as to attorney’s fees, the default ‘American Rule’ would apply. Under the American Rule, each side pays for its own attorney fees regardless of who prevails in a legal dispute. Since that bill is likely to be substantial, the prospect of paying it will dissuade many from bothering to try to enforce their rights in the first place. This may be seen as beneficial, since it discourages litigation. On the other hand, it can be viewed as problematic, since it probably means that the underlying policy probably will not be enforced as vigorously as it would be if a one-way fee shifting clause were included.”

Related/Prior Legislation

SB 150 (Correa, Chapter 62, Statutes of 2011) exempted an owner of a unit in a CID from any prohibition on renting or leasing the unit, except when the prohibition was effective on or after January 1, 2012.

AB 1927 (Knight, 2010) would have established specific procedures for a CID to follow when initially recording or amending governing documents, on or after

January 1, 2011, in a manner that prohibits the rental or lease of individual units. The bill was vetoed by Governor Schwarzenegger.

AB 2259 (Mullin, 2008) would have exempted an owner of a unit in a CID from any prohibition on renting or leasing the unit, unless that provision was effective prior to the date the owner acquired title. The bill was vetoed by Governor Schwarzenegger.

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

SUPPORT: (Verified 8/7/20)

California YIMBY (source)
Bay Area Council
California Apartment Association
Lake Wildwood Association

OPPOSITION: (Verified 8/7/20)

Community Associations Institute - California Legislative Action Committee
Daniel Burnham Court Master and Homeowners Associations
The Fairway Tennis Maintenance Association
Five Individuals

ARGUMENTS IN SUPPORT: California YIMBY, sponsor of this bill, states that HOA prohibitions against tenants act as a prohibition against the production of important types of housing needed to solve California's housing crisis because if that housing cannot be occupied by a tenant, it is unlikely in many cases to be built. California YIMBY states that new housing for tenants, and those who would be tenants, is now even more critical as the need to shelter in place from COVID-19 reveals in stark clarity that California is ill-positioned to house all of its people.

ARGUMENTS IN OPPOSITION: CAI states that this bill will jeopardize the opportunity for an HOA to access financing for critical maintenance and infrastructure issues that would otherwise have to be funded through assessment increases on individual owner; that it could hurt first-time homebuyers' ability to obtain FHA loans, veterans' ability to obtain VA loans, and seniors' ability to refinance through reverse mortgages; and that it will increase investment buying within CIDs due to the ability to rent multiple units. In addition, The Fairway Tennis Maintenance Association states that the provision allowing HOAs to continue to ban short-term rentals would alter the compromise reached by SB 150 (Correa, 2011) by taking away the rights of homeowners while granting new rights to CIDs.

ASSEMBLY FLOOR: 55-17, 6/11/20

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

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

NO VOTE RECORDED: Boerner Horvath, Burke, Gabriel, Mayes, Muratsuchi, Quirk, Quirk-Silva

Prepared by: Erin Riches / HOUSING / (916) 651-4124
8/7/20 17:31:40

**** END ****

THIRD READING

Bill No: AB 3228
Author: Bonta (D)
Amended: 8/10/20 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 7-0, 8/13/20
AYES: Jackson, Durazo, Lena Gonzalez, Monning, Stern, Umberg, Wieckowski
NO VOTE RECORDED: Borgeas, Melendez

ASSEMBLY FLOOR: 61-14, 6/10/20 - See last page for vote

SUBJECT: Private detention facilities

SOURCE: Immigrant Defense Advocates

DIGEST: This bill requires, in line with California's interest in ensuring the safety and welfare of its residents and in order to protect incarcerated individuals from serious harm within our state border, a private detention facility operator to comply with, and adhere to, the detention standards of care and confinement agreed upon in the facility's contract for operations. This bill also provides a private right of action for an individual injured by noncompliance with the above standards, as specified, and allows the court to award a prevailing plaintiff reasonable attorney's fees and costs.

ANALYSIS:

Existing law:

- 1) Prohibits the operation of a for-profit detention facility within the state, as specified. (Penal Code § 9501 & § 9502 (a) – (g).)
- 2) Provides that the prohibition of the operation of a for-profit detention facility within the state does not apply to any privately owned property or facility that is leased and operated by CDCR or a county sheriff or other law enforcement agency. (Penal Code § 9503.)

- 3) Provides that the prohibition of the operation of a for-profit detention facility within the state does not apply to those that operate pursuant to a valid contract with a government entity that was in effect before January 1, 2020, for the duration of that contract, not to include any extensions made to or authorized by the contract. (Penal Code § 9505 (a).)
- 4) Provides that on or after January 1, 2020, CDCR: (a) shall not enter into a contract with a private, for-profit prison facility located in or outside of the state to provide housing for state prison inmates; and (b) shall not renew an existing contract with a private, for-profit prison facility located in or outside of the state to incarcerate state prison inmates. (Penal Code § 5003.1 (a) & (b).)
- 5) Provides that on or after January 1, 2028, a state prison inmate or other person under the jurisdiction of CDCR shall not be incarcerated in a private, for-profit prison facility. (Penal Code section 5003.1 (c))
- 6) Provides that a “private, for-profit prison facility” does not include a facility that is privately owned, but is leased and operated by CDCR. (Penal Code section 5003.1 (d))
- 7) Specifies that the detention facility ban will not get in the way of the state’s required compliance with a specified federal court order. (Penal Code section 5003.1 (e))

This bill:

- 1) Declares that it is the intent of the Legislature, in keeping with its obligation to safeguard the humane and just treatment of all individuals located within California, to ensure that private actors in the State of California respect and adhere to detention standards set forth in their private contracts, thus ensuring the welfare of those detained in these facilities and protecting public health with respect to the threat posed by COVID-19.
- 2) Requires a private detention facility operator to comply with, and adhere to, the detention standards of care and confinement agreed upon in the facility’s contract for operations.

- 3) Provides that if a private detention facility operator, or agent, or person acting on behalf of a detention facility operator, commits a tortious action that violates the requirement to comply with detention standards of care and confinement, an individual who has been injured by that tortious action may bring a civil action for relief.
- 4) Provides that the court, in its discretion, may award the prevailing plaintiff reasonable attorney's fees and costs, including expert witness fees, in these civil actions.
- 5) Defines "detention facility" as any facility in which persons are incarcerated or otherwise involuntarily confined for purposes of execution of a punitive sentence imposed by a court or detention pending a trial hearing or other judicial or administrative proceeding, with some exceptions, as specified.
- 6) Defines "private detention facility" as a detention facility that is operated by a private, nongovernmental, for-profit entity pursuant to a contract or agreement with a governmental entity.
- 7) Defines "private detention facility operator" as any private person, corporation, or business entity that operates a private detention facility.
- 8) Defines "detention standards of care and confinement" as any regulations, policies, or standards specified in the contract for services in the facility.
- 9) Defines "tortious action" as any act or willful misconduct that violates a duty of care, as specified in Section 1714 of the Civil Code.
- 10) Contains a severability provision that provides that if any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

Background

For-profit prison corporations operate private detention facilities in California that hold Californians against their will pursuant to criminal and civil laws. There are numerous documented abuses of people held in for-profit run detention facilities in California. For-profit prison corporations have not limited their business ventures to profiting from the incarceration of Californians convicted of crimes. Private prison corporations also profit from the incarceration of Californians in civil

detention. In line with California's interest in ensuring the safety and welfare of its residents, AB 32 (Bonta, Chapter 1739, Statutes of 2019) was signed into law last year to phase in the abolition of the private for-profit prison industry from our state. Some facilities run by for-profit prison corporations that imprison criminal and civil detainees still exist in California, notwithstanding AB 32.

These for-profit private prison corporations benefit from incarcerating Californians and have no incentive to invest in their rehabilitation or mental and physical health. For-profit prison corporations owe a fiduciary duty to their shareholders. Their mission is to maximize profits for their investors. They are able to accomplish this by increasing their inmate population and cutting operational costs, which is dangerous and detrimental to the Californians who are held against their will. Every dollar spent in treating their prisoners and detainees in a way that promotes the health and welfare of the prisoners and detainees is a dollar less in profit for shareholders. Indeed, these for-profit corporations have a documented history of operating in a manner that is detrimental to the health and welfare of those detained.

With the spread of COVID-19 in prisons and detention facilities, the health and welfare of those in detention is critical, not only to individuals detained, but to surrounding communities that may be impacted by decisions made by those operating these facilities. As a result, it is critical that for-profit prison corporations are held accountable and comply with strict regulations related to health, welfare, and safety.

Just last week, the Los Angeles Times reported that a California detention facility operated by a for-profit prison corporation has been letting COVID-19 run rampant by failing to test detainees.¹ This is the most recent public example of how detainees are harmed at detention facilities operated by profit motivated corporations. Earlier this year, it was reported that a for-profit prison corporation attempted to require detainees held in a San Diego facility to sign legal waivers holding the corporation harmless before providing them with masks to protect against COVID-19.² Detainees were reportedly pepper sprayed when they protested.

¹ *ICE deliberately limited testing at Bakersfield immigration facility with COVID-19 outbreak*, Andrea Castillo, Los Angeles Times, (August 6, 2020) available at <https://www.latimes.com/california/story/2020-08-06/amid-coronavirus-outbreak-at-bakersfield-immigration-facility-emails-show-ice-deliberately-limited-testing> (as of August 8, 2020).

² *Senators Want to Know if ICE Detainees Were Pepper Sprayed After Requesting Masks*, Tyche Hendricks, KQED, (April 17, 2020) available at <https://www.kqed.org/news/11812701/senators-want-to-know-if-ice-detainees-were-pepper-sprayed-after-requesting-masks> (as of August 8, 2020).

This bill requires for-profit prison corporations to comply with standards they agreed to in their contract for operations, provides an enforcement mechanism to ensure that the standards are adhered to, and allows the court to award a prevailing plaintiff reasonable attorney's fees and costs.

The bill is sponsored by Immigrant Defense Advocates, and is supported by various civil rights organizations, immigrant rights organizations, the Riverside County Sheriffs' Association, and Alameda County District Attorney Nancy O'Malley. The bill has no registered opposition.

Comments

According to the author:

AB 3228 seeks to provide accountability for health and safety in all private detention facilities in the state of California. In the wake of COVID-19 accountability in private detention facilities is an urgent issue to protect public health and human life. This bill would ensure that all detention facility operators in the state of California adhere to the minimum detention standards agreed upon in the contract for the facility. The bill provides for a cause of action in state court for any violations of the agreed upon standards and also ensure that detention facilities abide by and uphold basic human rights and standards in the treatment of civil detainees. The violations of standards by these operators not only endangers detainees, but also the staff and by extension the surrounding community. Our state sent a clear message with AB 32, a bill which I authored, to end the use of private prisons and detention facilities. We must now do what is necessary to ensure those facilities that remain open and in operation adhere to the highest standards, particularly at such a critical time for public safety.

Immigrant Defense Advocates, the sponsor of this bill, writes:

In the case of civil detention facilities, both the federal agency and private contractors have agreed upon specific standards within their contracts, and any deviation from those standards, particularly those that result in negligence or harm, should create clear liability on behalf of the operator. However, ICE has shown little to no willingness to hold private operators accountable for violations of minimum standards, even when their negligence results in death.

Currently, an estimated 90% of those detained in California are in the care of for-profit institutions, whose duty is to shareholders as opposed to public safety. Despite these issues arising in many private facilities, ICE has been reluctant to terminate contracts with operators who routinely violate the standards set forth in their contracts, or to provide meaningful levels of oversight or enforcement. As a result, private operators are able to violate basic minimum standards with no consequences.

This bill seeks to create accountability for private operators and ensure that there is a mechanism to ensure compliance and accountability in these facilities. This level of immediate oversight and accountability is more critical than ever given how many California lives are presently imperiled by federal inaction and the rapid spread of COVID-19 in immigration detention facilities.

There are documented serious abuses at facilities operated by for-profit prison corporations.³ Just last week United States District Judge Vince Chhabria of the Northern District of California granted a temporary restraining order in favor of the detainees at the Mesa Verde Detention Center, a detention facility operated by a for-profit prison corporation. The detainees filed the motion due to a COVID-19 outbreak at the facility where detainees and staff tested positive for COVID-19.⁴ The Judge found that detainees “have demonstrated a strong likelihood of success on the merits of their claim that the defendants have violated the due process

³ *Review of the Federal Bureau of Prisons’ Monitoring of Contract Prisons*, August 2016, available at <https://oig.justice.gov/reports/2016/e1606.pdf> (as of August 8, 2020); Justice Policy Institute, *The Problem with Private Prisons*, February 2, 2018, Tara Joy, available at <http://www.justicepolicy.org/news/12006> (as of August 8, 2020); American Civil Liberties Union, *Banking on Bondage: Private Prisons and Mass Incarceration*, November 2011, available at <https://www.aclu.org/banking-bondage-private-prisons-and-mass-incarceration> (as of August 8, 2020); The Sentencing Project, *Capitalizing on Mass Incarceration: US Growth in Private Prisons*, August 2, 2018, Kara Gotsch & Vinay Basti, available at <https://www.sentencingproject.org/publications/capitalizing-on-mass-incarceration-u-s-growth-in-private-prisons/> (as of August 8, 2020); Disability Rights California, *There Is No Safety Here: The Dangers for People with Mental Illness and Other Disabilities in Immigration Detention at GEO Group’s Adelanto ICE Processing Center*, March 2019, available at https://www.disabilityrightsca.org/system/files/file-attachments/DRC_REPORT_ADELANTO-IMMIG_DETENTION_MARCH2019.pdf (as of August 8, 2020); Attorney General of California, *Immigration Detention in California*, (Feb. 2019), available at <https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/immigration-detention-2019.pdf> (August 8, 2020); ‘This death was preventable’: Family asks state to probe 74-year-old’s suicide in ICE detention, Rebecca Plevin, Palm Springs Desert Sun, (August 7, 2020) available at <https://www.desertsun.com/story/news/politics/immigration/2020/08/07/family-asks-newsom-probe-choung-woohn-ahn-suicide-ice-mesa-verde/5504694002/> (as of August 8, 2020); Auditor of the State of California, *City and County Contracts with U.S. Immigration and Customs Enforcement: Local Governments Must Improve Oversight to Address Health and Safety Concerns and Cost Overruns*, (Feb. 2019), available at <http://www.auditor.ca.gov/pdfs/reports/2018-117.pdf> (as of August 8, 2020); See: Human Rights Watch, ACLU, National Immigrant Justice Center, Detention Watch Network, *Code Red, The Fatal Consequences of Dangerously Substandard Medical Care in Immigration Detention*, (June 2018) available at <https://www.aclu.org/report/code-red-fatal-consequences-dangerously-substandard-medical-care-immigration-detention> (as of August 8, 2020); Los Angeles Times, *An immigrant detainee fell into a coma and died at 27, His family wants to know why*, Paloma Esquivel, (April 10, 2019) available at <https://www.latimes.com/local/lanow/la-me-ln-adelanto-detainee-death-20190410-story.html> (as of August 8, 2020).

⁴ *Angel de Jesus Zepeda Rivas, et al. v. David Jennings, et al.*, United States District Court Northern District of California, August 6, 2020, Case 3:20-cv-02731-VC, Document 500, pages 1-4.

rights...through deliberate indifference to the risk of an outbreak.” The Judge wrote that “the documentary evidence shows that the defendants have avoided widespread testing of staff and detainees at the facility, not for lack of tests, but for fear that positive test results would require them to implement safety measures that they apparently felt were not worth the trouble.” As described by Judge Chhabria:

The defendants, having responded to the health crisis in such a cavalier fashion (even in the face of litigation and a string of court orders), have lost the credibility to complain that the relief requested by the plaintiffs is too rigid or burdensome. The defendants have also lost the right to be trusted that they will accomplish on their own what the plaintiffs contend requires a court order to ensure.

The judge ordered the implementation of numerous measures immediately at the Mesa Verde facility, including to administer COVID-19 testing, as specified, and maintain a dormitory to segregate detainees who test positive for COVID-19. The judge highlighted that the defendants jeopardized the safety of their own employees and endangered the community at large.⁵

As reported by the legal publication, the Recorder⁶:

The judge noted that one email he saw from facility administrators reflected a desire to avoid testing staff across the board, because that would result in more positive tests that ICE and GEO would have to deal with.

“It’s becoming more and more obvious that we’re dealing with institutions that really don’t seem to care,” he said. “They don’t actually care about the thing they should be caring about, which is avoiding the spread of the virus.”

⁵ *ICE deliberately limited testing at Bakersfield immigration facility with COVID-19 outbreak*, Andrea Castillo, Los Angeles Times, (August 6, 2020) available at <https://www.latimes.com/california/story/2020-08-06/amid-coronavirus-outbreak-at-bakersfield-immigration-facility-emails-show-ice-deliberately-limited-testing> (as of August 8, 2020); *‘People Are Terrified’: SF Judge Orders COVID-19 Testing at ICE Facility*, Farida Jhabvala Romero, The California Report KQED, (August 7, 2020) available at <https://www.kqed.org/news/11832472/people-are-terrified-sf-judge-orders-covid-19-testing-at-ice-facility> (as of August 8, 2020).

⁶ *‘Start Working on It Now’: Federal Judge Orders ICE Detention Center to Procure Quick-Turnaround COVID-19 Tests*, Alaina Lancaster, The Recorder, (August 5, 2020) available at https://www.law.com/therecorder/2020/08/05/start-working-on-it-now-federal-judge-orders-ice-detention-center-to-administer-quick-turnaround-covid-19-tests/?kw=%27Start%20Working%20on%20It%20Now%27:%20Federal%20Judge%20Orders%20ICE%20Detention%20Center%20to%20Procure%20Quick-Turnaround%20COVID-19%20Tests&utm_source=email&utm_medium=enl&utm_campaign=weekendedition&utm_content=20200809&utm_term=ca (as of August 8, 2020).

AB 3228 protects Californians from serious harms, including harms to their safety and welfare, in facilities operated by for-profit prison corporations, by ensuring that these facilities adhere to the minimum detention standards agreed upon in the contract for the facility and providing a civil enforcement mechanism.

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

SUPPORT: (Verified 8/14/20)

Immigrant Defense Advocates (source)
Alameda County District Attorney, Nancy E. O'Malley
Alianza Sacramento
American Civil Liberties Union of California
American Friends Service Committee
Asian American Pacific Islander Christians for Social Justice
Asian Prisoner Support Committee
Asylum Sponsorship Project
Bay Area Asylum Support Coalition
Bay Area Resource Generation
California Coalition for Immigrant Justice
California Collaborative for Immigrant Justice
California Faculty Association
California Federation of Teachers
California Immigrant Policy Center
California Immigrant Youth Justice Alliance
California Pan-Ethnic Health Network
California Partnership
California Public Defenders Association
California Rural Legal Assistance Foundation
California Sanctuary Campaign
Campaign for Immigrant Detention Reform
Center for Empowering Refugees and Immigrants
Center for Gender & Refugee Studies
Central American Resource Center of California
Central Valley Immigrant Integration Collaborative
Centro Legal de La Raza
Clergy and Laity United for Economic Justice
Coalition for Humane Immigrant Rights
Communities United for Restorative Youth Justice
Contra Costa Immigration Rights Alliance
Council on American-Islamic Relations – California

Desert Support for Asylum Seekers
Disability Rights California
Do No Harm Coalition
Dolores Street Community Services
Education and Leadership Foundation
Ensuring Opportunity Campaign to End Poverty in Contra Costa
Freedom for Immigrants
ICE Out of Marin
Immigrant Legal Defense
Immigrant Legal Resource Center
Immigration Task Force
Immigration Task Force (Monterey)
Indivisible Sausalito
Inland Coalition for Immigrant Justice
Jewish Action NorCal
Kehilla Community Synagogue
League of United Latin American Citizens
League of Women Voters of California
Legal Aid at Work
Long Beach Immigrant Rights Coalition
McGeorge Immigration Clinic
National Association of Social Workers – California Chapter
NextGen California
NorCal Resist
North Bay Rapid Response Network: Napa, Solano and Sonoma Counties
Oakland Privacy
Oasis Legal Services
One Justice
Pacifica Social Justice
Pangea Legal Services
PICO California
Public Law Center
Rapid Response Network of Monterey County
Resilience Orange County
Riverside Sheriffs' Association
Sacramento Immigration Coalition
San Diego Immigrant Rights Consortium
San Francisco Public Defender
San Francisco Rapid Response Network
San Joaquin College of Law – New American Legal Clinic

Santa Cruz Barrios Unidos
Secure Justice
Services, Immigrant Rights and Education Network
Shomeret Shalom Global Congregation
Stand Together Contra Costa
STEP UP! Sacramento
Tahirih Justice Center
The Multicultural Center of Marin
USF Immigration and Deportation Defense Clinic
VIDAS Legal Services and Committee VIDA
Wellstone Democratic Renewal Club

OPPOSITION: (Verified 8/14/20)

None received

ASSEMBLY FLOOR: 61-14, 6/10/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Boerner
Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Chu, Cooley,
Cooper, Daly, Diep, Eggman, Frazier, Friedman, Gabriel, Cristina Garcia,
Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin,
Jones-Sawyer, Kalra, Kamlager, Levine, Limón, Low, Maienschein, Mayes,
McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris,
Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas,
Santiago, Smith, Mark Stone, Ting, Weber, Wicks, Wood, Rendon
NOES: Bigelow, Brough, Choi, Cunningham, Megan Dahle, Flora, Fong,
Gallagher, Kiley, Lackey, Mathis, Obernolte, Patterson, Voepel
NO VOTE RECORDED: Chen, Quirk, Ramos, Waldron

Prepared by: Margie Estrada / JUD. / (916) 651-4113
8/14/20 12:48:19

**** END ****

THIRD READING

Bill No: AB 3242
Author: Irwin (D)
Amended: 8/5/20 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 7-0, 8/1/20
AYES: Pan, Lena Gonzalez, Hurtado, Leyva, Mitchell, Monning, Rubio
NO VOTE RECORDED: Grove, Melendez

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Mental health: involuntary commitment

SOURCE: California Hospital Association
National Alliance on Mental Illness-California

DIGEST: This bill authorizes the use of telehealth to examine, assess, or evaluate individuals for the purposes of involuntarily detention by specified entities.

ANALYSIS:

Existing law:

- 1) Authorizes an individual to be involuntarily detained (“5150”) by a peace officer or other authorized person for assessment, evaluation, and crisis intervention, when, as a result of a mental disorder, chronic alcoholism, or use of controlled substances, as specified, the individual is a danger to self or others, or is gravely disabled. [WIC §5150]
- 2) Authorizes a county-designated facility, as specified, to involuntarily detain an individual for a period of up to 72 hours on a 5150 for evaluation and treatment. Requires the professional person in charge of the facility or a designee to assess the individual in person to determine the appropriateness of the involuntary detention. [WIC §5151]

- 3) Prohibits licensed general acute care hospitals or licensed acute psychiatric hospitals that are not county-designated facilities (NDFs) for purposes of involuntarily detaining an individual; licensed professional staff of those hospitals; or, any physician providing emergency medical services in those hospitals from being civilly or criminally liable for involuntarily detaining an individual for more than eight hours but less than 24 hours who is gravely disabled, which is defined as an inability to provide for one's basic personal needs for food, clothing, or shelter. [HSC §1799.111]
- 4) Defines a “designated facility” or “facility designated by the county for evaluation and treatment” as a facility that is licensed or certified as a mental health treatment facility or a hospital, as specified, by the Department of Public Health, and includes a licensed psychiatric hospital, a licensed psychiatric health facility, and a certified crisis stabilization unit. [WIC §5008]
- 5) Defines “telehealth” to mean the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers. [BPC §2290.5]

This bill:

- 1) Authorizes an examination or assessment by county-designated entities, in order to involuntarily detain an individual, to be conducted using telehealth. Requires this examination and assessment to be consistent with a county's authority to designate facilities for evaluation and treatment, as specified.
- 2) Authorizes an examination, assessment, or evaluation for purposes of detaining an individual at an NDF, by specified persons, to be conducted using telehealth.
- 3) Makes other technical changes.

Background

- 1) The Lanterman-Petris-Short (LPS) Act provides for involuntary detentions for varying lengths of time for the purpose of evaluation and treatment, provided certain requirements are met, such as that an individual is taken to a county-designated facility. Typically, one first interacts with the LPS Act through a 5150 hold initiated by a peace officer or other person authorized by a county

who must determine and document that the individual meets this standard. A county-designated facility is authorized to then involuntarily detain an individual for up to 72 hours for evaluation and treatment if they are determined to be, as a result of a mental health disorder, a threat to self or others, or gravely disabled. The professional person in charge of the county-designated facility is required to assess an individual in person to determine the appropriateness of the involuntary detention prior to admitting the individual. Outside of the LPS Act process, an NDF is authorized to involuntarily detain an individual for up to eight hours but less than 24 hours after examination, assessment, or evaluation by specified persons. Some NDFs use county-designated persons to make the examinations, assessments, or evaluations prior to either involuntarily detaining an individual or releasing an individual from involuntary detention. This bill seeks to permit the examination, assessments, or evaluations in these situations to be conducted via telehealth in order to address any barriers throughout the processes. Information provided to Committee staff indicates that counties authorized telehealth services even prior to the COVID-19 pandemic.

- 2) *Governor's Executive Order on telehealth during the COVID-19 pandemic.* On April 3, 2020, Governor Gavin Newsom signed Executive Order (EO) N-43-20 to expand protections to medical providers as they amplify the use of video chats and similar applications to provide routine and non-emergency medical appointments in an effort to minimize patient exposure to COVID-19. The EO relaxes certain state privacy and security laws for medical providers so they can provide telehealth services without the risk of being penalized. This action is similar to the federal Department of Health and Human Services Office for Civil Rights waiver issued on March 17, 2020, regarding federal privacy and security laws. The EO defines “telehealth services” as the use of telehealth services to engage in the provision of behavioral or mental health services, in addition to the use of telehealth services to engage in the provision of medical, surgical, or other health care services. This EO applies to the provision of behavioral or mental health services to the same extent that it applies to other forms of health care.

Comments

- 1) *Author's statement.* According to the author, Californians who are experiencing a moment of crisis need to be met by our behavioral health system with compassion and expedient care. Counties throughout the state have differing policies on who can assess and release a 5150 involuntary hold. During the COVID-19 pandemic, many counties have turned to methods of telecommunications to conduct these assessments, resulting in less egregious

wait times for evaluation and less overcrowding in emergency departments (EDs). This bill will allow 5150 and 5151 involuntary hold assessments to be conducted via telehealth, giving involuntarily held individuals a clinically reasonable, safe timeline for evaluation. As our state continues to grapple with the COVID-19 pandemic, it has never been more important to keep EDs cleared of individuals who do not need to be there, such as stabilized individuals on involuntary holds or the law enforcement officers required to monitor them. In addition, it is crucial to codify telehealth assessments for 5150s to support county behavioral health systems during the COVID-19 pandemic.

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

SUPPORT: (Verified 8/6/20)

California Hospital Association (co-source)
 National Alliance on Mental Illness-California (co-source)
 California Association of Public Hospitals and Health Systems
 California Judges Association
 California Psychiatric Association
 County Behavioral Health Directors Association of California
 County of Ventura
 Dignity Health
 District Hospital Leadership Forum
 Kaiser Permanente
 Scripps Health
 Sharp HealthCare
 Stanford Health Care
 Stanford Health Care—ValleyCare
 Steinberg Institute
 Tenet Healthcare

OPPOSITION: (Verified 8/6/20)

Depression and Bipolar Support Alliance

ARGUMENTS IN SUPPORT: The California Hospital Association and National Alliance on Mental Illness-California, co-sponsors of this bill, and other supporters, largely behavioral health providers, state that in 2018, EDs across California's 58 counties saw 6,600 people with a behavioral health diagnosis each day. Although ED doors will always be open to anyone in need, these sites often do not have the specialized services needed to care for those with behavioral health conditions. Supporters argue that California's shortage of dedicated crisis services

means people with behavioral health issues—including those facing homelessness and substance use disorders—often cannot get the care they and their family members need. People experiencing a psychiatric crisis may be placed on a 5150. However, as the behavioral health system has become more strained at every level, patients often languish in the ED while waiting for an assessment. Although the COVID-19 crisis has created enormous challenges for the health care system, it has also opened new ways of thinking about how we deliver care. During the pandemic, telehealth has quickly proven to be a safe and effective way to ensure patients receive the assessments, evaluations, and timely follow-up care they deserve, in the most expedient way possible. Supporters state that this bill will improve response times to hospital ED requests for a 5150 assessment by enshrining the experience with the COVID-19 pandemic and permanently allowing 5150 assessments and evaluations to be done using telehealth or other telecommunications technology.

ARGUMENTS IN OPPOSITION: The Depression and Bipolar Support Alliance states that while the COVID-19 pandemic has pushed the state to find alternative methods of providing health care, they firmly oppose the use of impersonal telehealth in traumatic crisis situations, such as for involuntary commitments.

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent)

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

NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Reyes Diaz / HEALTH / (916) 651-4111
8/7/20 15:19:34

**** END ****

THIRD READING

Bill No: AB 3277
Author: Jones-Sawyer (D)
Amended: 6/29/20 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 14-0, 8/4/20
AYES: Beall, Bates, Allen, Dahle, Dodd, Galgiani, Lena Gonzalez, McGuire,
Morrell, Roth, Rubio, Skinner, Umberg, Wieckowski
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/13/20
AYES: Portantino, Bates, Bradford, Hill, Jones, Leyva, Wieckowski

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Parking penalties: collection

SOURCE: Los Angeles Homeless Services Authority

DIGEST: This bill makes various eligibility and programmatic changes to the payment plan program administered by local agencies relative to parking citations.

ANALYSIS:

Existing law:

- 1) Provides several options to processing agencies collecting unpaid parking penalties for tickets, including filing an itemization of unpaid parking penalties and service fees with the Department of Motor Vehicles (DMV) for collection with the registration of a vehicle, so long as the processing agency:
 - a) Provides a payment plan option for indigent persons, as defined, that allows unpaid parking fines and fees to be paid off in monthly installments of no more than \$25 for total amounts due that are \$300 or less, in a period within

18 months. No prepayment penalty for paying off the balance prior to the payment period may be accessed.

- b) Waives all late fees and penalty assessments, exclusive of any state surcharges, as defined, if an indigent person enrolls in the payment plan. Waived late fees and penalty assessments may be reinstated if the person falls out of compliance with the payment plan.
 - c) Limits the processing fee to participate in a payment plan to \$5 or less for indigent persons and \$25 or less for all other persons. The processing fee may be added to the payment plan amount at the discretion of the payee.
 - d) Allows the application for indigency determination for a period of 60 calendar days from the issuance of a notice of parking violation, or 10 days after the administrative hearing determination, whichever is later.
- 2) Requires a processing agency to allow a registered owner or lessee who falls out of compliance with a payment plan a one-time extension of 45 calendar days from the date the plan becomes delinquent to resume payments before the processing agency files an itemization of unpaid parking penalties and service fees with DMV.
- 3) Requires a processing agency to include information regarding its payment plan option above on its public website, and a web page link and telephone number to more information on the program.
- 4) Defines “indigent” for the purposes of this section to mean anyone who meets the income requirements for or is currently on several public assistance programs, including Supplemental Security Income (SSI), Supplemental Nutrition Assistance Program (SNAP, or more commonly known as food stamps), Medi-Cal or IHSS.

This bill:

- 1) Makes the following changes to the law requiring processing agencies to provide indigent individuals the opportunity to set up a payment plan to pay parking tickets before a processing agency can use DMV to collect unpaid parking debt:
- a) Increases the \$300 maximum debt limit to \$500 for the total debt amount required a parking agency to offer a payment plan to an indigent person.

- b) Lengthens the payment plan to be available for a maximum of 24 months from 18 months.
- c) Lengthens the period of time an individual can request a payment plan from 60 calendar days from the issuance of a parking violation to 120 days from the issuance of a parking violation.
- d) Clarifies that the required website notification of the availability of a payment plan must be in a place that is readily accessible in a prominent location on parking payment section of the agency's website.

Comments

- 1) *Author's statement.* According to the author, "AB 3277 would update existing law to allow more individuals to access to payment plans. Granting additional flexibility reduces the financial impact of parking debt for more low-income individuals and gives individuals in financial distress greater lengths of time to enroll and pay off their debts. As cities and counties seek to find ways to help low-income individuals, including vehicle owners experiencing homelessness, AB 3277 makes relief more accessible to a population that is disproportionately struggling with housing and economic instability."
- 2) *Parking citations.* The cost of being late or being unable to pay a parking ticket on time can easily spiral out of control for an indigent person. An unpaid parking ticket can accrue multiple cycles of late fees. Local agencies are authorized to file unpaid tickets with the DMV, which can require payment in full for unpaid parking tickets when the vehicle owner renews their vehicle registration. However, if someone were unable to pay their parking tickets, then they are unlikely to be able to pay their vehicle registration, which means additional late fees and additional fines for driving an unregistered vehicle. In 2017, the Legislature passed and the Governor signed AB 503 (Lackey, Chapter 741, Statutes of 2017), to break this cycle of debt and require agencies to provide indigent people a payment plan for unpaid parking tickets that also waives late fees, prior to asking DMV to collect their unpaid parking debt, starting on July 1, 2018. In 2018, AB 2544 (Lackey, Chapter 494, Statutes of 2018) was enacted as follow up measure to clarify when local entities are to start implementing the payment plan options. The author of these bills subsequently introduced AB 833 (Lackey, Chapter 495, Statutes of 2019), which clarified that the \$300 maximum cap for which a parking agency had to offer a payment plan only applied to the base fines and not to late penalties.

The provisions specified in this bill aim expand the scope of the parking citation payment program voluntarily administered by local agencies in attempt to qualify a larger number of participants that may benefit from the program. The author rightfully points to the economic downturn associated with the current COVID-19 pandemic as one of the primary reasons to modify program eligibility criteria. As Californians continue to experience layoffs, reduced hours, and challenges finding employment, it's within reason to provide motorists experiencing hardships with options to satisfy their financial obligations to local agencies while still allowing these municipalities to enforce parking ordinances.

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

According to the Senate Appropriations Committee, increasing the cap on the amount of unpaid parking penalties and fees that may be included in a repayment plan, and extending the timeframe for filing a request to participate in a plan are likely to result in an increase in the number of participants, resulting in the following impacts:

- Unknown, likely minor reduction in state parking citation revenue related to the waiver of all late fees and penalty assessments on citations issued by state parking entities for indigent persons that enter into payment plans pursuant to the expanded criteria in this bill. Additional potential revenue reductions may also occur as a result of removing a collection tool through the Department of Motor Vehicles. Revenue reductions would be mitigated partially by some revenue gains for payments on debt that may not have otherwise been paid. (State University Parking Revenue Fund, other funds administered by institutions of higher education)
- Unknown, likely minor reduction in local parking citation revenue related to the waiver of all late fees and penalty assessments on citations issued by local parking entities for indigent persons that enter into payment plans pursuant to the expanded criteria in this bill. Additional potential revenue reductions may also occur as a result of removing a collection tool through the Department of Motor Vehicles. Revenue reductions would be mitigated partially by some revenue gains for payments on debt that may not have otherwise been paid. (local funds)

SUPPORT: (Verified 8/18/20)

Los Angeles Homeless Services Authority (source)

AARP

Downtown Women's Center

National Association of Social Workers, California Chapter

North Valley Caring Services

Safe Parking LA

OPPOSITION: (Verified 8/18/20)

None received

ASSEMBLY FLOOR: 76-0, 6/8/20

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

NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Manny Leon / TRANS. / (916) 651-4121

8/19/20 10:57:32

***** END *****

THIRD READING

Bill No: AB 3308
Author: Gabriel (D), Mullin (D) and Quirk-Silva (D), et al.
Amended: 7/21/20 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 9-2, 8/6/20
AYES: Wiener, Caballero, Durazo, McGuire, Moorlach, Roth, Skinner, Umberg,
Wieckowski
NOES: Morrell, Bates

ASSEMBLY FLOOR: 71-0, 6/8/20 - See last page for vote

SUBJECT: School districts: employee housing

SOURCE: Los Angeles Unified School District

DIGEST: This bill allows school districts to restrict occupancy of affordable housing on school district-owned land, funded with low income housing tax credits (LIHTC), to teachers and school district employees of the school district that owns the land. It further allows public employees to also occupy the housing constructed under this provision.

ANALYSIS:

Existing law:

1) Provides for the following, pursuant to the Teacher Housing Act of 2016:

- a) Defines “teacher or school district employee” as any person employed by a unified school district maintaining prekindergarten, transitional kindergarten, and grades 1-12 inclusive, an elementary school district maintaining prekindergarten, transitional kindergarten, and grades 1-8 inclusive, or a high school district employing grades 1-12 inclusive, including but not limited to certificated and classified staff.

- b) Creates a state policy supporting housing for teachers and school district employees and further permits school districts and developers in receipt of local or state funds or tax credits designated for affordable rental housing to restrict occupancy to teachers and school district employees on land owned by school districts, so long as that housing does not violate any other applicable laws.
 - c) Limits this act to teacher or school district employees.
- 2) Enacts the Unruh Civil Rights Act, which specifically outlaws discrimination in California based on sex, race, color, religion, ancestry, national origin, age, disability, medical condition, genetic information, marital status, or sexual orientation.
 - 3) Enacts the Fair Employment and Housing Act, which prohibits the existence of a restrictive covenant that makes housing opportunities unavailable based on race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, source of income or ancestry.

This bill:

- 1) Provides that a school district may also allow local public employees to occupy teacher and school employee housing created by the Teacher Housing Act of 2016. Defines “local public employees” to include employees of a city, county, or city and county, charter city, charter county, charter city and county, special district or combination thereof.
- 2) Allows projects restricted for teachers and school district employees to permit school districts to restrict occupancy on land owned by school districts to teachers and school district employees of the school district that owns the land, so long as that housing does not violate any applicable laws. The California Fair Employment and Housing Act and the Unruh Civil Rights Act shall apply to any program authorized by this bill, except to the extent those laws would prohibit restricting units to teachers or district employees.
- 3) Authorizes a school district to retain the right to prioritize school district employees over local public employees to occupy housing.
- 4) Includes a severability clause. If any provision of this bill or its application is held invalid, that invalidity shall not affect other provisions or application that can be given effect without the invalid provision or application.

Background

- 1) *Low Income Housing Tax Credits*. Most affordable housing created in the state is funded in part by federal and state LIHTC. LIHTC are used to develop housing for households that make up to 80% of the area median income. California receives an allocation of federal tax credits each year based on a per-resident formula. In 2020, the state awarded \$1.06 billion in federal tax credits. In 1987, the Legislature authorized the creation of a state LIHTC program to augment the federal tax credit program. The state tax credit program has an ongoing statutory authorization of \$70 million. The 2019-20 budget authorized an additional \$500 million for state tax credits and the Governor's May budget continues this allocation for the 2020-21 budget year.

Generally, under federal Internal Revenue Service (IRS) rules, if a residential unit is provided only for a member of a social organization or provided by an employer for its employees, the unit is not for use by the general public and is not eligible for federal LIHTC. However, federal IRS law also states that a qualified LIHTC project does not fail to meet the general public use requirement solely because of occupancy restrictions or preferences that favor tenants (a) with special needs, (b) who are members of a specified group under a federal program or state program or policy that supports housing for such a specified group, or (c) who are involved in artistic or literary activities.

- 2) *Teacher Housing Act of 2016*. In 2016, SB 1413 (Leno, Chapter 732) established the Teacher Housing Act of 2016 to facilitate the acquisition, construction, rehabilitation, and preservation of affordable housing for teachers and school employees. School districts are authorized to establish and implement programs that address the housing needs of teachers and school district employees by leveraging funding sources including state, federal, local, public, private and resources available to housing developers, promoting public and private partnerships, and fostering innovative financing opportunities. SB 1413 also created a state policy supporting the use of federal and state LIHTC to fund housing for teachers and school district employees on land owned by the school district and permitting school districts to restrict occupancy to teachers and school district employees.

The intent of SB 1413 was to provide express state statutory authority to permit school districts to construct housing on their property and limit the occupancy to teachers and school districts employees. As mentioned above, federal law creates an exemption to the "general use" requirement that allows the use of federal and state tax credits if a state establishes a policy or program that

supports housing for such a specified group. SB 1413 established this policy by allowing school districts to restrict occupancy of affordable housing on school district land constructed with federal or state low-income housing tax credits to the teachers and school district employees.

By declaring a state policy supporting housing for teachers/school district employees, these housing projects could qualify under federal law as general public housing and therefore be eligible for both federal and state LIHTCs.

- 3) *Limiting occupancy to employees of a specific district.* The Los Angeles Unified School District (LAUSD) applied for LIHTC to fund the construction of affordable housing on their land and planned to restrict occupancy to employees of LAUSD. Their application, however, was rejected under the previous leadership of the California Tax Credit Allocation Committee (TCAC) who did not agree that the statute or IRS law authorizes LIHTC to be used to fund affordable housing limited to one employer. Since that time, the leadership at TCAC has changed and the new Executive Director has provided a different interpretation of the statute and IRS law and has indicated that she would recommend that TCAC award LIHTC to a housing development that restricts occupancy to an individual employer.

Existing law authorizes school districts to restrict occupancy of affordable housing created using LIHTC on school district land to teachers and school district employees. The statute is ambiguous as to whether or not affordable housing constructed on school district land using tax credits can be restricted to employees of one school district. This bill explicitly allows a school district to limit occupancy of housing funded with LIHTC to employees of a school district on land owned by that school district. This bill further expands the Teacher Housing Act to permit local public employees to occupy teacher and school district employee housing. A school district may, however prioritize school district employees over local public employees to occupy housing.

- 4) *Permitting local public employees to occupy school district housing.* The Redwood City Unified School District currently owns and operates their district office located in downtown Redwood City. Multiple stories of the Redwood City Unified School District headquarters building are currently vacant, which could be renovated and used for an affordable housing project. The District has made attempts to secure financing for the project, however there are too few school employees who would meet the eligibility requirements for tax credits. Given the shortage of eligible occupants of a school district employee housing development, this bill further expands the Teacher Housing Act to permit local

public employees to occupy teacher and school district employee housing. This bill provides, however, that a school district may, however prioritize school district employees over local public employees to occupy housing.

Related/Prior Legislation

SB 1413 (Leno, Chapter 732, Statutes of 2016) established the Teacher Housing Act of 2016 and provided that a school district may establish and implement programs that address the housing needs of teachers and school district employees who face challenges in securing affordable housing.

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

SUPPORT: (Verified 8/7/20)

Los Angeles Unified School District (source)
California Apartment Association
California Federation of Teachers
California School Employees Association
California YIMBY
City of Redwood City
Mercy Housing
San Diego Unified School District
San Fernando Valley Young Democrats
San Francisco Unified School District
Southern California Association of Nonprofit Housing

OPPOSITION: (Verified 8/7/20)

Woodland Hills Homeowners Organization

ARGUMENTS IN SUPPORT: The author states, “We are in the midst of a serious affordable housing crisis and we should work with every partner and use every tool available to address it. AB 3308 will provide some much needed clarity that will ensure school districts can and will continue building affordable housing for teachers and school employees.”

ARGUMENTS IN OPPOSITION: Woodland Hills Homeowners Organization is concerned that there is the potential that school sites will be used for purposes that are inappropriate and the bill should be amended to protect school sites for educational purposes.

ASSEMBLY FLOOR: 71-0, 6/8/20

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

NO VOTE RECORDED: Bigelow, Brough, Choi, Megan Dahle, Gallagher,
Mathis, Muratsuchi, Quirk

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
8/7/20 17:31:41

**** END ****

THIRD READING

Bill No: AB 3312
Author: Gray (D)
Amended: 8/13/20 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 7-0, 7/29/20
AYES: McGuire, Moorlach, Beall, Hertzberg, Hurtado, Nielsen, Wiener

ASSEMBLY FLOOR: 78-0, 6/11/20 - See last page for vote

SUBJECT: Local agency formation: annexation: City of Merced

SOURCE: Author

DIGEST: This bill allows the City of Merced to annex the territory comprising the campus of the University of California, Merced (UC Merced) and a connecting road strip.

Senate Floor Amendments of 8/13/20 specify that (1) that the bill's authority for the Merced County Local Agency Formation Commission to annex the UC Merced campus and the road strip that connects it to the city refers to that single road, and not to any others, and (2) clarify that any subsequent annexations to the road strip meet the bill's requirement to be contiguous to the campus.

ANALYSIS:

Existing law:

- 1) Enacts the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act), which:
 - a) Controls how local officials change the boundaries of cities and special districts, putting local agency formation commissions (LAFCOs) in charge of the proceedings; and,

- b) Directs LAFCOs to ensure that services are effectively and efficiently delivered, and local governments can only exercise their powers and provide services where allowed to by LAFCO, including the formation of new cities and special districts, modifications of existing boundaries, and dissolutions of unsustainable special districts.
- 2) Prohibits annexations of territory to a city or special district if the territory is not contiguous with the annexing city or special district.
- 3) Establishes several exemptions to the prohibition in 2).
- 4) Provides that territory cannot be considered contiguous if the only way it is connected to the city is through a strip of land that is less than either 300 feet long or 200 feet wide, with the express statement of excluding highways.

This bill:

- 1) Allows the Merced LAFCO to, upon approval of the commission, annex unincorporated territory comprising the main campus of UC Merced to the City of Merced, along with a road strip that connects the campus to the City, as long as the affected territory is within the sphere of influence of the annexing city and lies within the unincorporated area of the County of Merced.
- 2) Prohibits the commission from approving any subsequent annexation to the road strip unless the territory proposed to be annexed is contiguous to the property comprising the main campus of UC Merced or the boundaries of the City of Merced as it existed on January 1, 2021.
- 3) Provides that it only applies to the City of Merced, defines several terms, and includes findings and declarations to support its purposes.

Background

The CKH Act prescribes a process for the inclusion or addition of territory to a district (annexation), which requires numerous steps:

- Application to LAFCO, by petition or resolution;
- Noticed public hearing, testimony, and approval or disapproval by LAFCO in which they can impose terms and conditions;

- Additional public hearing for protests (if more than 25% of voters file protest, the LAFCO must order an election on the proposed annexation, and if more than 50% of voters protest, then the LAFCO must terminate the proceedings);
- An election, if there were significant protests; and
- LAFCO staff to file all relevant documents to complete the annexation.

LAFCO law was revised in 2000 (AB 2838, Hertzberg, Chapter 761) to enhance LAFCO's powers to more effectively control sprawl. Accordingly, some limitations were placed on the ability of LAFCOs to annex far-flung territory into a city. Specifically, territory proposed for annexation to a city must generally be contiguous with the existing boundaries of the city and located in the same county, and territory cannot be considered contiguous if the only way it is connected to the city is through a strip of land that is less than either 300 feet long or 200 feet wide, with the express statement of excluding highways. However, the CKH Act carves out a few exceptions to these rules. A city can annex noncontiguous territory that:

- Constitutes 300 acres or less and is being used for municipal purposes. No size limitation applies if it is annexed for wastewater treatment purposes;
- Constitutes a state correctional facility or correctional training facility; or
- Constitutes 3,100 acres or less and is being used for municipal water purposes, wildlife habitat, or sustainable forestry.

In addition, in 1980, the Legislature authorized a one-time exemption to allow an annexation along a road strip for the City of Cupertino.

University of California, Merced. The University of California Board of Regents selected a site in eastern Merced County adjacent to Lake Yosemite Park as the location for the 10th campus of the University of California in May of 1995. The Merced County location was selected based upon a number of factors, including:

- The land was to be donated by the Virginia Smith Trust (VST), a charitable trust that provides college scholarships to Merced-area high school students;
- Adequate water would be available for university needs;
- The county government initiated a planning process to assure compatible development of adjacent land and good transportation access; and

- Merced is centrally located with easy access from communities in the San Joaquin Valley, including the Valley's largest city, Fresno.

By 1997, UC Merced had established a regional office at Merced College, and the UC Fresno Center also served as a focal point for the new UCM campus. In 1998, the University joined with the Merced County Board of Supervisors, VST, the City of Merced, and the Merced Irrigation District to initiate a planning process for the university community. UCM officially opened with its first class of undergraduate students in September 2005, and as of 2018, had more than 8,000 undergraduate and graduate students.

The UC Merced campus lies approximately four miles from the boundary of the City of Merced with two main roads connecting the city and the campus: Bellvue Road and Lake Road.

Between the campus and the city lies predominantly undeveloped property. However, both the City and County have plans for development that relates to the University, including the County of Merced's University Community Plan, the City of Merced's Bellvue Corridor Plan, and the North Merced Annexation Feasibility Study. In addition, VST continues to own property surrounding the campus, and revenues from the development of property owned by the trust supports scholarships for local youth.

The UC Merced campus is contained within the sphere of influence of the City of Merced, and the city currently provides water and sewer service to the UC Merced campus through an out-of-boundary service extension. However, the surrounding property is served by the county. Because of the relatively large distance between the campus and the current boundaries of the city, it is unlikely that the city will grow organically to reach the campus in the next several decades. The author wants to allow the City of Merced to annex the campus, roads that connect the campus to the city, and the property immediately surrounding the campus to allow development of the area around the campus.

Comments

- 1) *Purpose of the bill.* According to the author, "As the youngest campus in the UC system, UC Merced has faced unique challenges since it opened its doors just as the Great Recession decimated promised public and private financial resources. The resilient campus has turned to creative means to continue to expand and enroll students and recently achieved its 2020 goal of enrolling 10,000 students. While an adjacent vibrant urban community was always envisioned around the campus, no development has yet occurred as the campus

nears its 20th anniversary. This is a unique situation faced by no other UC campus, and has resulted in a lack of off campus housing, access to food and basic services, and minimal public and affordable transportation options. Existing law does not account for the unique challenges of a newly established UC campus cited in a rural community more than three miles from the nearest development. In order to facilitate smart growth to support the campus community without an incidental annexation of hundreds or thousands of acres of additional land, AB 3312 provides a limited exemption from current law to allow the City of Merced to complete an annexation of the UC Merced campus and adjacent properties.”

- 2) *Is it fair?* The Central Valley is home to numerous disadvantaged unincorporated communities (DUCs) that face infrastructure deficits, particularly for water and sewer infrastructure. In recent years, the Legislature has taken several steps to try to address some of the service problems experienced by DUCs. SB 244 (Wolk, Chapter 513, Statutes of 2011) required LAFCOs to identify and describe the location and characteristics of any DUCs within or contiguous to the sphere of influence of agencies undergoing a municipal service review and to consider the water, sewer, or fire protection needs of DUCs within the sphere when considering sphere updates. When conducting a municipal service review, LAFCOs can also assess options for governmental reorganizations or consolidations that improve the efficiency and affordability of service delivery and can review whether water systems in the area are in compliance with the Safe Drinking Water Act. Finally, SB 244 required cities and counties to review the water and fire service needs of DUCs in their general plans. According to a 2013 report by Policy Link on disadvantaged communities in the San Joaquin Valley, the County of Merced contains 47 DUCs that house an estimated 15% of the population of the county. Some environmental justice advocates argue that the City of Merced has not met the requirements under SB 244 in its general plan to identify DUCs and analyze alternatives to fix their service deficiencies, while AB 3312 expands the ability of the city to serve new development that wouldn't otherwise be allowed. Should additional actions should be taken by the City of Merced, the County of Merced, or others to address existing infrastructure deficiencies in Merced County DUCs before granting an exception to state law for new development?

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

SUPPORT: (Verified 8/14/20)

Steve M. Tietjen, Ed.D., Merced County Superintendent of Schools
Virginia Smith Trust

OPPOSITION: (Verified 8/14/20)

Leadership Counsel for Justice and Accountability

ASSEMBLY FLOOR: 78-0, 6/11/20

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

NO VOTE RECORDED: Quirk

Prepared by: Anton Favorini-Csorba & Colin Grinnell / GOV. & F. / (916) 651-4119

8/14/20 12:48:18

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

THIRD READING

Bill No: AB 3336
Author: Carrillo (D)
Amended: 8/12/20 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 7-1, 8/10/20
AYES: Pan, Lena Gonzalez, Hurtado, Leyva, Mitchell, Monning, Rubio
NOES: Melendez
NO VOTE RECORDED: Grove

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 41-18, 6/18/20 - See last page for vote

SUBJECT: Third-party food delivery service: food safety

SOURCE: California Association of Environmental Health Administrators

DIGEST: This bill requires ready-to-eat food delivered by third-party food delivery services to be transported in a manner that protects the food from contamination and spoilage, including by requiring the interior floor, sides, and top of the food holding area to be clean, requiring the food to be maintained at a holding temperature necessary to prevent spoilage, and by requiring bags or containers to be closed with a tamper-evident method prior to the food deliverer taking possession of the ready-to-eat food.

ANALYSIS:

Existing law:

- 1) Establishes the California Retail Food Code (CalCode) to provide for the regulation of retail food facilities. Health and sanitation standards are established at the state level through the CalCode, while enforcement is charged to local agencies, carried out by the 58 county environmental health departments, and four city environmental health departments (Berkeley, Long

Beach, Pasadena, and Vernon). Prohibits any food facility from being open for business without a valid permit from the local health agency having jurisdiction over the food facility. [HSC §113700, et seq.]

- 2) Defines a “food facility” as an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level. Excludes various entities from the definition of a “food facility,” including a commercial food processing establishment, a cottage food operation, and a church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs no more than three days in any 90-day period. [HSC §113789]
- 3) Requires all food to be manufactured, produced, prepared, compounded, packed, stored, transported, kept for sale, and served so as to be pure and free from adulteration and spoilage; to have been obtained from approved sources; to be protected from dirt, vermin, unnecessary handling, droplet contamination, overhead leakage, or other environmental sources of contamination; and to otherwise be fully fit for human consumption. [HSC §113980]
- 4) Defines “potentially hazardous food” as a food that requires time or temperature control to limit pathogenic micro-organism growth or toxin formation. [HSC §113871]
- 5) Requires potentially hazardous food, except during preparation, cooking, cooling, or during transportation to or from a retail food facility for a period of less than 30 minutes, to be maintained at or above 135 degrees Fahrenheit, or at or below 41 degrees Fahrenheit, with certain specified exceptions. [HSC §113996(a)]

This bill:

- 1) Defines “third-party food delivery service,” for purposes of this bill, as a business engaged in the service of online food ordering and delivery from a food facility, except for grocery stores as defined in existing law, to a consumer.
- 2) Requires ready-to-eat food delivered through a third-party food delivery service to be transported in a manner that meets all of the following requirements:
 - a) The interior, sides, and top of the food holding area is clean and capable of withstanding frequent cleaning;

- b) Read-to-eat food is protected from contamination in accordance with provisions of existing law ensuring that the food free from adulteration and spoilage, and is protected from dirt, vermin, unnecessary handling, droplet contamination, overhead leakage, or other environmental sources of contamination; and,
 - c) The food is maintained at holding temperature necessary to prevent spoilage.
- 3) Requires all bags or containers in which ready-to-eat foods are being transported or delivered from a food facility to a customer through a third-party food delivery service to be closed by the food facility with a tamper-evident method prior to the food deliverer taking possession of the ready-to-eat food.
 - 4) Exempts food transported as part of a charitable feeding program, or food being donated to a food bank, from the tamper-evident closure requirements described in 3) above.
 - 5) Requires enforcement officers to recover from a third-party food delivery service reasonable costs that are associated with the enforcement of this bill against food deliverers who transport and deliver ready-to-eat food for the third-party food delivery service.
 - 6) Exempts the transportation of prepackaged nonpotentially hazardous foods from the provisions of this bill.

Comments

- 1) *Author's statement.* According to the author, there is a concern regarding food safety problems associated with third-party food deliveries. Media reports and anecdotal evidence suggest that food delivered by these services is being tampered with or contaminated during transport. Most local environmental health agencies are not able to investigate or substantiate these complaints because they do not have jurisdiction, nor are there any applicable requirements in place to ensure safe food delivery. This bill will provide critical basic consumer protections against food contamination from “ready-to-eat” delivery services by establishing principal safeguards.
- 2) *The regulation of food in California.* In general, there are two regulatory structures for food safety: one for food processors/manufacturers, which generally process and sell food products at a wholesale level, and another for retail food facilities, most commonly restaurants that sell prepared food to consumers but which also encompasses grocery stores. The former (food processors) is generally regulated at the state level, while the latter is regulated

at the local level, and they follow two different bodies of law. Food processing establishments engaged in manufacturing, packing, and holding of processed food for wholesale purposes are regulated under the Sherman Law, and under the California Food Sanitation Act, which are enforced by the Department of Public Health in most areas of the state, except where it has been delegated to the Counties of Los Angeles, Orange, and San Bernardino, and the City of Vernon. Retail food facilities (restaurants and grocery stores) are subject to the CalCode, and are regulated by local environmental health departments in the 58 counties plus four cities that have been delegated enforcement authority: Berkeley, Long Beach, Pasadena, and Vernon.

- 3) *Existing law on temperature control and protection from contamination.* The CalCode requires potentially hazardous food to be kept at certain temperatures, generally at or below 41 degrees Fahrenheit, or at or above 135 degrees Fahrenheit, with certain exceptions. One of the exceptions is when being transported to or from a food facility for a period of 30 minutes or less. Other provisions of the CalCode require all food to be transported “so as to be pure and free from adulteration and spoilage...obtained from approved sources...protected from dirt, vermin, unnecessary handling, droplet contamination, overhead leakage, or other environmental sources of contamination” and otherwise be fully fit for human consumption and conforming to applicable provisions of the Sherman Law.

Under current law, these requirements apply to retail food facilities, including grocery stores. Therefore, these requirements would apply to the transportation of food, and the delivery of food, using in-house drivers. For example, when Domino’s delivers a pizza using one of its employees as a delivery driver, as a company that is a registered retail food facility, it is subject to temperature control requirements of potentially hazardous foods under the CalCode. Again, there is an exception to the temperature requirements for transportation times of 30 minutes or less. However, third-party delivery companies such as Grubhub, Postmates, or Uber Eats are not permitted as food facilities and therefore not under the jurisdiction of the local environmental health officers, and so these requirements are not enforceable with regard to these deliveries.

- 4) *Food handler certification.* SB 602 (Padilla, Chapter 309, Statutes of 2010) was enacted to require food handlers to obtain food handler cards. The intent of food handler certification is to provide employees who handle non-prepackaged food with an overview of key elements of food safety in order to prevent the transmission of foodborne illnesses. Both the course and test for food handlers is required to be available online, and the test does not require a proctor. Topics

covered include foodborne illness, time and temperature control, personal hygiene, cross-contamination prevention, and proper cleaning and sanitizing techniques. To obtain a food handler card, applicants are required to take the food handler training course and pass the assessment test with a score of at least 70%. The food handler test and card is required to be provided by a training provider that is accredited by the American National Standards Institute (ANSI), and at least one vendor is required to offer the course for \$15 or less. Food handler cards are valid for three years. The law requiring food facilities to have all food handlers obtain a food handler card does contain some exemptions, including those working in temporary food facilities, grocery stores, unionized food facilities, and food facilities with in-house training approved in another state (many chain restaurants, such as Burger King, Denny's, and McDonald's are exempted under this provision). Additionally, food handlers that were subject to pre-existing local food handler programs in the counties of Riverside, San Bernardino, and San Diego are exempted.

Related/Prior Legislation

AB 1461 (Thurmond, 2017) would have required an employee of a food facility, and that is also a for-profit business that offers meal subscription plans, to obtain a food handler card if they work in whole or in part with unpackaged food. AB 1461 was vetoed by Governor Brown who stated: "This bill attempts to regulate a burgeoning new business model of home food delivery. I'm not convinced, however, that the existing regulatory scheme for food facilities is suitable for this new industry. I encourage the Legislature to continue to work on this issue with the Department of Public Health and interested stakeholders to ensure food safety is protected and innovation is encouraged."

SB 303 (Padilla, Chapter 233, Statutes of 2011) clarified that existing law requiring a food handler to obtain a food handler card only applies to food handlers employed at a food facility that sells food for human consumption to the general public; required that after January 1, 2012, a food handler must obtain a food handler card exclusively from a nationally accredited training provider; and clarified that snack bars, prisons and county jails, and elderly nutrition programs are exempt from the food handler certification requirements.

SB 602 (Padilla, Chapter 309, Statutes of 2010) required a food handler, as defined, to obtain a food handler card within 30 days after his/her hire date at a food facility, with specified exceptions, beginning June 1, 2011, and mandated at least one of the accredited food safety certification examinations required under current law to be offered online.

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

SUPPORT: (Verified 8/18/20)

California Association of Environmental Health Administrators (source)
Los Angeles County Board of Supervisors

OPPOSITION: (Verified 8/18/20)

California Chamber of Commerce
Internet Association
TechNet

ARGUMENTS IN SUPPORT: This bill is sponsored by the California Association of Environmental Health Administrators (CAEHA), which states that it is intended to provide a minimum of public health protection during the delivery of ready-to-eat food. CAEHA states that especially during this COVID-19 pandemic, and given the rapidly increasing use of third-party food delivery services, this bill is necessary to provide restaurants, the consumer, and the drivers with necessary protection. CAEHA states that numerous local jurisdictions wish to provide some reasonable oversight of this service, but are likely to be preempted by the CalCode from taking action. According to CAEHA, this bill is necessary to clarify the “regulatory gray area” that these ready-to-eat services fall into as they are not able to meet the current commercial food delivery requirements, yet are still operating extensively across the state. The Los Angeles County Board of Supervisors supports this bill, stating that this bill aligns with the County’s objective for safe food handling practices by third-party delivery drivers. Increased protections are critically needed as more people are opting to use delivery services to purchase ready-to-eat food rather than going to restaurants to order take-out food.

ARGUMENTS IN OPPOSITION: TechNet, the California Chamber of Commerce, and the Internet Association wrote a joint letter opposing this bill unless amended. According to this letter, these organizations are primarily concerned with vehicle requirements and temperature control requirements. Opponents are concerned about how a personal vehicle would be in compliance with the requirements of this bill and are concerned this would restrict Californians from using their personal vehicles for food delivery. With regard to temperature control requirements, opponents state this bill requires potentially hazardous foods be maintained at prescribed temperatures if transported for longer than 30 minutes. Opponents state that it is unclear how personal vehicles that are not equipped with temperature controls would comply with temperature requirements in the case

when delivery is over 30 minutes. Opponents state that consumers can track via the app when their order is accepted by the restaurant, picked up by the driver, and the route the driver takes during delivery. This allows a consumer access to all the information about how their food was delivered and any potential risk for how long the delivery took if such risk exists. Finally, opponents argue this bill should refer to food delivery from restaurants, rather than food facilities, and that the term “third-party food delivery service” should be changed to “third-party food delivery platform” to conform to other references to delivery network companies in California law.

ASSEMBLY FLOOR: 41-18, 6/18/20

AYES: Arambula, Bauer-Kahan, Berman, Bloom, Bonta, Calderon, Carrillo, Chau, Chiu, Chu, Frazier, Friedman, Gabriel, Eduardo Garcia, Gipson, Gloria, Gonzalez, Holden, Irwin, Jones-Sawyer, Kalra, Limón, Low, McCarty, Mullin, Muratsuchi, Nazarian, O'Donnell, Quirk, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Santiago, Smith, Mark Stone, Ting, Weber, Wicks, Wood, Rendon

NOES: Bigelow, Brough, Chen, Choi, Cunningham, Megan Dahle, Flora, Fong, Gallagher, Kiley, Lackey, Levine, Mathis, Mayes, Obernolte, Patterson, Voepel, Waldron

NO VOTE RECORDED: Aguiar-Curry, Boerner Horvath, Burke, Cervantes, Cooley, Cooper, Daly, Diep, Eggman, Cristina Garcia, Gray, Grayson, Kamlager, Maienschein, Medina, Petrie-Norris, Quirk-Silva, Ramos, Blanca Rubio, Salas

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
8/19/20 14:00:40

**** END ****

THIRD READING

Bill No: AB 3366
Author: Committee on Judiciary
Amended: 6/8/20 in Assembly
Vote: 27 - Urgency

SENATE JUDICIARY COMMITTEE: 7-0, 7/30/20
AYES: Jackson, Durazo, Lena Gonzalez, Monning, Stern, Umberg, Wieckowski
NO VOTE RECORDED: Borgeas, Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 62-2, 6/15/20 - See last page for vote

SUBJECT: Judicial emergencies

SOURCE: Author

DIGEST: This bill empowers the Chairperson of the Judicial Council, the Chief Justice of the California Supreme Court, to authorize certain actions by the courts in response to specified emergency conditions affecting them *sua sponte*, rather than in response to requests by individual courts.

ANALYSIS:

Existing law:

- 1) Permits a presiding judge to request and the Chief Justice to authorize the following actions when war, an act of terrorism, public unrest or calamity, epidemic, natural disaster, or other substantial risk to the health and welfare of court personnel or the public, or the danger thereof, the destruction of or danger to the building appointed for holding the court, a large influx of criminal cases resulting from a large number of arrests within a short period of time, or a condition that leads to a state of emergency being proclaimed by the President of the United States or by the Governor, threatens the orderly operation of a

superior court location or locations within a county or renders presence in, or access to, an affected court facility or facilities unsafe:

- a) hold sessions anywhere within the county;
- b) transfer civil cases pending trial in the court to a superior court in another county, as specified;
- c) declare that a date or dates on which an emergency condition substantially interfered with the public's ability to file papers in a court facility or facilities be deemed a holiday for purposes of computing the time for filing papers with the court under Sections 12 and 12a of the Code of Civil Procedure, as specified;
- d) declare that a date on which an emergency condition prevented the court from either (A) conducting proceedings governed by Section 825 of the Penal Code, or Section 315, 334, 631, 632, 637, or 657 of the Welfare and Institutions Code, or (B) accepting the filing of petitions for purposes of Section 313 or 631 of the Welfare and Institutions Code, be deemed a holiday for purposes of computing time under those statutes, as specified;
- e) extend the time periods provided in Sections 583.310 and 583.320 of the Code of Civil Procedure to bring an action to trial;
- f) extend the duration of any temporary restraining order that would otherwise expire because an emergency condition prevented the court from conducting proceedings to determine whether a permanent order should be entered;
- g) within the affected county during a state of emergency resulting from a natural or human-made disaster proclaimed by the President of the United States or by the Governor pursuant to Section 8625 of the Government Code, extend the time period provided in Section 825 of the Penal Code within which a defendant charged with a felony offense shall be taken before a magistrate from 48 hours to not more than seven days, with the number of days to be designated by the Chief Justice;
- h) extend the time period provided in Section 859b of the Penal Code for the holding of a preliminary examination from 10 court days to not more than 15 court days;
- i) extend the time period provided in Section 1382 of the Penal Code within which the trial must be held by not more than 30 days, but the trial of a defendant in custody whose time is so extended shall be given precedence over all other cases;
- j) within the affected area of a county during a state of emergency resulting from a natural or human-made disaster proclaimed by the President of the United States or by the Governor pursuant to Section 8625 of the Government Code, extend the time periods provided in Sections 313, 315, 632, and 637 of the Welfare and Institutions Code, with the number of days

- to be designated by the Chief Justice. With regard to the time periods provided in Sections 632 and 637 of the Welfare and Institutions Code, this paragraph applies only if the minor has been charged with a felony; or
- k) within the affected county during a state of emergency resulting from a natural or human-made disaster proclaimed by the President of the United States or by the Governor pursuant to Section 8625 of the Government Code, extend the time period provided in Sections 334 and 657 of the Welfare and Institutions Code within which a hearing on a juvenile court petition shall be held by not more than 15 days, with the number of days to be designated by the Chief Justice. This authorization shall be effective for 30 days unless it is extended by a new request and a new order. With regard to the time periods provided in Section 657 of the Welfare and Institutions Code, this paragraph applies only if the minor has been charged with a felony. (Gov. Code § 68115(a).)
- 2) Places limitations on the length of the extensions of time above with many limited to the fewest days necessary under the circumstances of the emergency, as determined by the Chief Justice. The law further provides that the above limitations on extensions of time provided for in subdivision (a) set forth the maximum respective extensions allowable from the time when the Chief Justice makes a determination that circumstances warranting relief under this section exist. The limitations on extensions of time do not preclude the Chief Justice, at the request of a presiding judge, from granting further extensions, up to the maximum permitted under the relevant paragraph, upon making a renewed determination that circumstances warranting relief under this section continue to exist. (Gov. Code § 68115(b).)
- 3) Authorizes the Governor to proclaim a state of emergency in an area affected or likely to be affected thereby when the Governor make certain findings. (Gov. Code § 8625.)
- 4) Defines “state of emergency” as the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor’s warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy or conditions causing a “state of war emergency,” which, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to

combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the California Public Utilities Commission. (Gov. Code § 8558.)

- 5) Requires each trial court to determine the number and location of sessions of the court necessary for the prompt disposition of the business before the court. In making this determination, the court must consider various factors. The preceding provision makes clear that it does not preclude a session from being held in a building other than a courthouse. (Gov. Code § 69740(a).)
- 6) Establishes the Judicial Council and requires it to survey judicial business and make recommendations to the courts, make recommendations annually to the Governor and Legislature, adopt rules for court administration, practice and procedure, and perform other functions prescribed by statute in order to improve the administration of justice. The rules adopted shall not be inconsistent with statute. (Cal. Const. art. VI, § 6.)

This bill:

- 1) Authorizes the Chief Justice to issue an order *sua sponte* authorizing multiple courts to implement some or all of the relief provided for in Section 68115 when the Chairperson determines that a circumstance warranting relief affects court locations in more than one county.
- 2) Declares that it is an urgency statute necessary for the immediate preservation of the public peace, health, or safety. It declares that in order to timely address the ongoing COVID-19 pandemic the authority granted by the bill to the Chief Justice must be granted immediately.

Background

Executive Summary

Existing law, Section 68115 of the Government Code (“Section 68115”), allows a presiding judge to request, and the Chief Justice to authorize, various actions in response to specified emergency conditions. In the wake of a spate of massive wildfires, the Senate Judiciary Committee sponsored a bill, SB 1208 (Committee on Judiciary, Chapter 201, Statutes of 2018), that modernized Section 68115. SB 1208 expanded the circumstances under which the authorization applies and provided additional flexibility to the Chief Justice whom is empowered to grant authority pursuant to Section 68115 to the courts upon request.

Spurred by the recent COVID-19 pandemic, which resulted in a state of emergency affecting all 58 counties, this bill allows the Chief Justice to authorize the courts to carry out some or all of those emergency responses without a request from the presiding judge of the relevant court if the underlying emergency affects the courts in at least two counties.

The bill is sponsored by the author. It is supported by California Defense Counsel and the Consumer Attorneys of California. This bill contains an urgency clause.

Comments

According to the author:

This bill will amend Government Code Section 68115 to supplement the existing powers of Chief Justice in the event of a statewide or multiple-county emergency. Specifically, when emergency conditions threaten the orderly operation of the courts in more than one county, or more than one district of courts of appeal, or if the emergency otherwise renders courts unsafe to court personnel or the public, this bill would authorize the Chief Justice to issue appropriate multi-county or statewide emergency orders, with or without an Executive Order or requests from presiding superior court judges.

The COVID-19 pandemic and the courts

On March 4, 2020, Governor Gavin Newsom declared a state of emergency in California in response to the growing COVID-19 pandemic. In response to the impact the emergency had on the orderly operation of their courts, the presiding judges in counties across the state began to request authority to implement the relief provided for in Section 68115. According to the California Courts web site, orders began to be approved from a handful of counties on March 13, 2020, extending time lines and declaring days during which court access was limited to be court holidays for the computation of time. Over the following two months, over 100 requests were made and granted for various relief in individual courts.

In addition to granting individual requests to courts, Chief Justice Tani Cantil-Sakauye also issued guidance to courts encouraging various actions. Eventually, citing her authority pursuant to article VI, section 6 of the California Constitution, and Section 68115, the Chief Justice responded to the crisis by issuing the following orders on March 23, 2020:

- (1) All jury trials are suspended and continued for a period of sixty (60) days from the date of this order. Courts may conduct such a trial at an

earlier date, upon a finding of good cause shown or through the use of remote technology, when appropriate.

- (2) The time period provided in Penal Code section 1382 for the holding of a criminal trial is extended for a period of sixty (60) days from the date of this order. Courts may conduct such a trial at an earlier date, upon a finding of good cause shown or through the use of remote technology, when appropriate.
- (3) The time period provided in Code of Civil Procedure sections 583.310 and 583.320 for the holding of a civil trial is extended for a period of sixty (60) days from the date of this order. Courts may conduct such a trial at an earlier date, upon a finding of good cause shown or through the use of remote technology, when appropriate.
- (4) All superior courts are authorized under rule 10.613(i) of the California Rules of Court to adopt any proposed rules or rule amendment that is intended to address the impact of the COVID-19 pandemic to take effect immediately, without advance circulation for 45 days of public comment. A court adopting any such rule change must provide a copy to Judicial Council staff and post notice of the change prominently on the court's website, along with the effective date of the new or amended rule. Additionally, the court must immediately distribute the new or amended rule as set forth in rule 10.613(g)(2). No litigant's substantive rights shall be prejudiced for failing to comply with the requirements of a new or amended rule until at least 20 days after the rule change has been distributed.

On March 27, 2020, Governor Newsom signed an executive order "to enhance the authority of California's Judicial Branch to take emergency action in the face of the COVID-19 crisis." Citing the authority vested in him by the California Constitution and Government Code Sections 8567, 8571, and 8627, the Governor laid out a series of orders. He suspended any limitation, imposed or implied, by any law, including Section 68115, on the "subject matter the Chairperson of the Judicial Council may address via emergency order or statewide rule issued pursuant to section 68115." The stated intention was to "remove any impediment that would otherwise prevent the Chairperson from authorizing, by emergency order or statewide rule, any court to take any action she deems necessary to maintain the safe and orderly operation of that court." The Governor also similarly suspended any such limitations on the Chief Justice's authority to issue, amend, or suspend any court rules in response to the COVID-19 pandemic.

Following the executive order, the Chief Justice issued another order on March 30, 2020, authorizing the extension of various time periods and ordering a change to her prior jury trial order. On April 6, 2020, 11 statewide, emergency orders were issued, providing or amending the procedures and timelines for various matters, including unlawful detainers, criminal matters, including the setting of \$0 bail for specified charges, juvenile proceedings, and various other civil matters. Other statewide orders soon followed while previous orders were rescinded.

Streamlining the emergency authority of the Chief Justice

This bill seeks to streamline the operation of Section 68115 when the underlying emergency or extraordinary circumstance affects more than one county. Instead of a process whereby individual courts must request authority to implement the measures provided for in the statute, the Chief Justice is empowered to authorize the courts to take necessary action *sua sponte*, without waiting for each request and in one fell swoop. The Chief Justice may exercise such authority when it is determined that a circumstance warranting relief affects multiple court locations.

The utility of such a change is clear given the initial phases of the ongoing pandemic. Rather than wait for and grant individual requests from the over 50 counties seeking relief piecemeal, the Chief Justice could have initially granted the appropriate authorizations for each affected court to adjust time lines, extend protective orders, and declare court holidays in one order upon the determination that relief was warranted. It should be noted that the bill simply allows the Chief Justice to authorize the courts to take the enumerated actions as opposed to ordering them to, as the current process provides for. Thus, the ultimate decision maker for whether the modified processes and procedures that are authorized by the Chief Justice are going to be implemented in any county will be the presiding judge of that county.

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

SUPPORT: (Verified 8/13/20)

California Defense Counsel
Change for Justice
Consumer Attorneys of California
Los Angeles County District Attorney's Office

OPPOSITION: (Verified 8/13/20)

Bay Area Housing Advocacy Coalition

ARGUMENTS IN SUPPORT: The Consumer Attorneys of California write in support: “This pandemic has highlighted the dire need for the judicial branch to have clear emergency authority to ensure our court system can function. Without a uniting entity such as the Chairperson of the Judicial Council each county court must come up with their own procedures and rules in response to the emergency.”

ARGUMENTS IN OPPOSITION: Writing in opposition to the bill, the Bay Area Housing Advocacy Coalition claims: “AB 3366 will eliminate essentially all statutes of limitation, a necessary component to the expedient development of housing in California. The frequent and lengthy nature of California state of emergency proclamations means that eliminating statute of limitations will drastically affect the development of housing, among other issues.”

ASSEMBLY FLOOR: 62-2, 6/15/20

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

NOES: Brough, Gray

NO VOTE RECORDED: Bigelow, Chen, Choi, Megan Dahle, Diep, Flora, Fong, Gallagher, Kiley, Mathis, Mayes, Obernolte, Patterson, Voepel, Waldron

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
8/15/20 7:44:57

**** END ****

CONSENT

Bill No: AB 3370
Author: Committee on Elections and Redistricting
Amended: 7/14/20
Vote: 21

SENATE ELECTIONS & C.A. COMMITTEE: 5-0, 8/4/20
AYES: Umberg, Nielsen, Hertzberg, Leyva, Stern

ASSEMBLY FLOOR: 75-0, 5/26/20 (Consent) - See last page for vote

SUBJECT: Elections omnibus bill

SOURCE: Author

DIGEST: This bill makes various minor, technical, and corresponding changes to the Elections Code.

ANALYSIS:

Existing law:

- 1) Provides, for the purpose of electing county central committee members for the Democratic Party of California in Sacramento County for the June 5, 2012 statewide primary election, that signers of nomination papers for candidates for the county central committee shall be voters who disclosed a preference for the Democratic Party, as specified, and who are residents of Sacramento County, regardless of whether they are residents of the district in which the candidate is to be voted on.
- 2) Prohibits a declaration of candidacy for a partisan office or for membership on a county central committee from being filed by a candidate unless (1) at the time of presentation of the declaration and continuously for not less than three months immediately prior to that time, or for as long as the candidate has been eligible to register to vote in the state, the candidate is shown by the candidate's

affidavit of registration to be affiliated with the political party the nomination of which the candidate seeks, and (2) the candidate has not been registered as affiliated with a qualified political party other than that political party the nomination of which the candidate seeks, except as specified. Provides that this provision does not apply to the presidential primary election. Defines “partisan office” to mean President of the United States, Vice President of the United States, and the delegates therefor, and elected member of a party committee.

- 3) Provides that if a referendum petition protesting the adoption of a county ordinance and containing a specified number of signatures of voters in the county is presented to the county board of supervisors before the effective date of the ordinance, the ordinance shall be suspended and the board of supervisors shall reconsider the ordinance.
- 4) Permits any jurisdiction having the necessary computer capability to start processing vote by mail (VBM) ballots on the 10th business day before the election. Provides, for these purposes, that processing VBM ballots includes opening VBM ballot return envelopes, removing ballots, duplicating damaged ballots, and preparing ballots to be machine read, or machine reading them, including processing write-in votes so that they can be tallied by the machine. Prohibits any vote count from being accessed or released until 8 p.m. on the day of the election.

This bill:

- 1) Repeals obsolete provisions of law that governed the conduct of political party central committee elections for the Democratic Party in Sacramento County at the June 5, 2012 statewide primary election.
- 2) Revises provisions of law governing the filing of declarations of candidacy for partisan office at a primary election to clarify that those provisions apply only to candidates for political party central committee.
- 3) Requires the proponents of a referendum protesting the adoption of a county ordinance to submit the referendum petition to the county elections official, instead of to the county board of supervisors.
- 4) Allows county elections officials in jurisdictions having the necessary computer capability to begin processing VBM ballots on the 15th business day before the election, instead of on the 10th business day before the election, provided that a

vote count is not accessed or released until 8 p.m. on the day of the election.

5) Corrects an erroneous cross-reference.

Background

Obsolete Sacramento Democratic Central Committee Candidate Filing Rules.

Section 7201.1 of the Elections Code establishes rules governing the election of county central committee members for the Democratic Party in Sacramento County. Subdivision (b) of that section established a special procedure that was in effect only for the June 2012 statewide primary election. Since that primary election has occurred, subdivision (b) of section 7201.1 is now obsolete. This proposal, which was identified by committee staff, repeals that obsolete language, and is found in section 1 of this bill.

Declaration of Candidacy for Partisan Office. Section 8001 of the Elections Code establishes rules for a candidate who seeks to file a declaration of candidacy for a partisan office or for membership on a county central committee. Prior to the enactment of the “top two” primary election system, these rules applied to candidates for numerous offices, including candidates for the Legislature and Congress. Many offices that were “partisan offices” prior to the passage of the “top two” primary election system, however, are now classified as “voter-nominated offices.” Accordingly, section 8001 of the Elections Code is no longer applicable to those offices.

Pursuant to section 337 of the Elections Code, the only partisan offices in California are an elected member of a party committee and President of the United States, Vice President of the United States, and the delegates therefor. Section 8000 of the Elections Code, however, provides that the requirements of section 8001 do not apply to the presidential primary election, and the candidates for President and Vice President that appear on the ballot for a presidential general election do not file declarations of candidacy. Accordingly, the requirements found in section 8001 apply only to candidates for membership on a county central committee. Nonetheless, the unnecessary references to “partisan office” in section 8001 have caused confusion since many people do not realize that voter-nominated offices are no longer classified as partisan offices. This proposal, which was identified by committee staff, streamlines and clarifies the provisions of section 8001 to make it clear that the section applies only to elections for membership on a

political party central committee. This proposal is found in section 2 of this bill.

County Referendum Petition Submission. Existing law governing a referendum of a county ordinance requires the county board of supervisors (board) to suspend and reconsider an ordinance if a petition protesting its adoption that is signed by a specified number of voters in the county is presented to the board before the effective date of the ordinance. Although existing law requires the proponents to submit the referendum petition directly to the board, the county elections official has the responsibility of validating the signatures on the petition, so petitions typically are submitted to the elections official.

This bill codifies this practice by requiring the proponents of a referendum to submit the referendum petition to the county elections official, instead of the board. This proposal was requested by the California Association of Clerks and Election Officials (CACEO) and is found in section 3 of this bill.

Vote by Mail Ballot Processing. Elections Code section 15101 permits elections officials to begin processing VBM ballot return envelopes 29 days before the election, and authorizes any jurisdiction having the necessary computer capability to start processing VBM ballots 10 business days before the election.

This bill allows an elections official to begin processing VBM ballots 15 business days before the election, instead of 10 business days before the election. With the increase in VBM balloting, elections officials believe that allowing them to begin processing VBM ballots earlier will help minimize overtime that otherwise would be needed for staff to process VBM ballots. This proposal was requested by CACEO and is found in section 4 of this bill.

Outdated Cross-Reference. Section 18104 of the Elections Code includes an outdated cross-reference to another section of the Elections Code. This proposal, which was identified by committee staff, corrects that cross reference, and is found in section 5 of this bill.

Comments

According to the author, this is an Assembly Elections & Redistricting Committee omnibus bill, containing various minor and technical changes to the Elections Code. This bill includes changes requested by the California Association of Clerks

and Election Officials (CACEO), and technical changes identified by committee staff.

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

SUPPORT: (Verified 8/4/20)

California Association of Clerks and Election Officials

OPPOSITION: (Verified 8/4/20)

None received

ARGUMENTS IN SUPPORT: In a letter supporting AB 3370, the California Association of Clerks and Election Officials stated, in part, the following:

Current law states that proponents of a referendum petition must submit the petition to the board of supervisors who then must deliver it to the county elections official to review. The time to review the signatures begins when the petition is filed, not when the petition is delivered to the county elections official. Changing the law to reflect that the petition is filed with the county elections official allows for the process to be done timely, will lessen confusion for the proponents and eliminate possible lawsuits due to unclear instructions and timelines.

Current [law] states that counties can begin to process vote by mail ballot return envelopes 10 business days prior to the election...With the increase of vote by mail rates across the state, counties are having to stretch their resources and incur greater staffing costs to prepare these ballots to be tallied on election night. Changing the code will allow the counties to process the vote by mail ballots timelier and in a more cost-effective way.

ASSEMBLY FLOOR: 75-0, 5/26/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin,

Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Limón, Low, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Obernolte, O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Voepel, Waldron, Weber, Wood, Rendon

NO VOTE RECORDED: Diep, Maienschein, Quirk, Wicks

Prepared by: Darren Chesin / E. & C.A. / (916) 651-4106
8/5/20 12:01:49

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

THIRD READING

Bill No: AB 3371
Author: Committee on Veterans Affairs
Introduced: 3/12/20
Vote: 21

SENATE VETERANS AFFAIRS COMMITTEE: 5-0, 8/10/20
AYES: Archuleta, Hurtado, Roth, Umberg, Wilk
NO VOTE RECORDED: Grove, Nielsen

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Veteran suicides: report

SOURCE: Author

DIGEST: This bill requires the State Department of Public Health (DPH) to add additional data to the Veteran Suicide report currently compiled and released annually to the Legislature and the Department of Veterans Affairs (CalVet).

ANALYSIS:

Existing law:

- 1) Requires DPH to implement an electronic death registration system (EDRS).
- 2) Requires DPH to implement an EDRS and to access data within the system to compile a report on veteran suicide in California that includes information on the veterans' ages, sexes, races or ethnicities, and methods of suicide.
- 3) Requires DPH to provide that report annually to the Legislature and CalVet.

This bill:

- 1) Amends the data-reporting requirement to include “counties of residence.”
- 2) Requires cross-tabulation of current data, and comparison with the previous year’s data.
- 3) Adds a report due date of March 15.

Background

According to the Centers for Disease Control and Prevention, there were 42,773 suicides in 2014 in the United States, or 117 suicides each day. About 18 percent of those who die by suicide are Veterans. Veterans can be at risk for suicide for a variety of reasons. Some are coping with aging, stress, or lingering effects stemming from their military service that have never been addressed. Many have underlying mental health conditions or substance use disorders, in some cases aggravated by their military service, which increases their risk. Many recently discharged Veterans have difficulty with personal relationships or their transition back to civilian life.

The U.S. Department of Veterans Affairs (VA) has undertaken several measures to prevent suicide among veterans, including a 24-hours-per-day, seven-days-per-week veterans crisis telephone hotline, using predictive analytics to identify those at risk for suicide and providing early intervention services, bolstering mental health services for female veterans, expanding telemental health services, and proactively reaching out to veterans needing care.

Existing law requires DPH to implement an EDRS and to access data within EDRS to compile a report on veteran suicide in California and annually submit this report to the Legislature and CalVet. Existing law requires this report to include information on age, sex, race or ethnicity and methods of suicide of veterans.

The 2017 report by DPH on suicides among veterans in California reports that veterans made up 15.3% of all suicides that year, but did not include important personal information such as the location where the veteran lived upon time of death, nor did the report include cross-tabulation of data. For example, the report indicates 21 female veterans committed suicide in 2017, but there is no table or data on the age of the women veterans, their race/ethnicity, or mechanism of suicide. According to the author, these additional data inputs would create a clearer

picture of mortality by suicide among veterans and aid in more appropriately identifying sub populations that are at risk.

In June 2020, DPH released the second annual report (2017-2018), which includes demographic characteristics and mechanism of suicide by age and sex, and county of residence. The report found that in 2018, there were 690 suicide deaths among California residents aged 18 years and older who had served in the United States Armed Forces. Suicide deaths among veterans made up 16% of all suicides in 2018 (an 8% increase from 2017). Los Angeles and San Diego, the two most populous counties, have the largest number of suicide deaths among Veterans in California, accounting for 30% in 2018.

In comparison, the federal VA Suicide Prevention Annual Report, includes personal information to include where the veteran lived, and cross-tabulates data to account for percentage of veterans who used Veterans Health Administration Care, as well as those health care patients with mental health or substance abuse disorders. Additionally, the Department of Defense Suicide Event Report contains the following information, when available: personal information, including age, sex, ethnicity, education, marital status; military information, including job code, duty status, permanent duty station; event information including access to firearms, event method, event setting; medical history, including behavioral health and medical history; military history, including deployment history, disciplinary action; and, personal history, including developmental and family history and current stressors.

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

Related/Prior Legislation

AB 1935 (Voepel, 2020) requires CalVet to establish a program to fund an academic study of mental health among women veterans in California and to report findings and recommendations to the Legislature by July 31, 2022. Held in the Senate Committee on Veterans Affairs.

AB 232 (Cervantes, 2019) requires the current DPH veteran suicide report to include information on the veterans' locations of residency and death, length and locations of service, branches of service, and occupations and industries or businesses. In addition, the bill establishes, within CalVet, the Commission on Veteran Suicide Prevention, comprised of five commissioners and requires the Commission to review each annual report on veteran suicide in California,

described above, and make recommendations for preventing veteran suicide from the data collected in each report. Held in the Senate Committee on Health.

AB 242 (Arambula, Chapter 222, Statutes of 2017) required that a certificate of death must show if the deceased person was ever a member of the United States Armed Forces, and required DPH to access data and compile an annual report. The data required “shall only include information on the ages, sexes, races or ethnicities, and methods of suicide of veterans.”

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

SUPPORT: (Verified 8/18/20)

AMVETs, Department of California
Associated Builders and Contractors Northern California Chapter
California Association of County Veterans Service Officers
California State Commanders Veterans Council
Military Officers Association of America, California Council of Chapters

OPPOSITION: (Verified 8/18/20)

None received

ARGUMENTS IN SUPPORT: According to the author, “Data in the 2019 Report on Suicides Among Veterans in California is derived from 2017 and later. Although the June 2020 report included much of the information required in this bill, if the department chooses not to include the information in future reports, they are well within their legal right to do so (based on current code).”

“We have had precious few years of collection and report, and what we do have is insufficient. Waiting longer to improve data reporting means a longer wait to a useful report. A delay in implementation of this bill would be compounded by the two-year delay in available data.”

ASSEMBLY FLOOR: 76-0, 6/8/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Diep, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Limón,

Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Nazarian, Obernolte,
O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas,
Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone,
Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Veronica Badillo / V.A. / (916) 651-1503
8/19/20 10:57:33

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

CONSENT

Bill No: AB 3372
Author: Committee on Revenue and Taxation
Amended: 7/22/20 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 7-0, 7/29/20
AYES: McGuire, Moorlach, Beall, Hertzberg, Hurtado, Nielsen, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Taxation: administration: earnings withholding: water's edge elections

SOURCE: Franchise Tax Board

DIGEST: This bill makes changes to allow withholding orders to be issued electronically, and allows certain unitary foreign corporations to be included in a water's edge filing.

ANALYSIS:

Existing law:

- 1) Allows the Franchise Tax Board (FTB) to send notices to withhold after several notices have been sent to the taxpayer in an attempt to collect delinquent debt.
- 2) Requires that these notices and any other notice or document required in connection with these notices, to be delivered via first-class mail or in-person service only.
- 3) Requires California taxpayers to file tax returns using the combined reporting method of corporate taxation, which requires a corporation computing its

California tax liability to include the tax returns of its “unitary” subsidiaries and affiliates into one report, and divide the corporation’s overall income among the taxing jurisdictions in which it does business. While determining whether a subsidiary or affiliate is unitary for tax purposes is often subject to disputes, a subsidiary is generally considered unitary if its parent corporation controls its operations.

- 4) Requires corporate taxpayers to compute their tax on a worldwide combined group basis, which directs each taxpayer to compute its California tax by including all income and apportionment factors from all of its subsidiaries and affiliates in its worldwide unitary business unless it makes a water’s edge election.
- 5) Allows corporations to elect to file a return on a “water’s edge basis,” which allows them to exclude some or all of the business income and apportionment factors of certain foreign subsidiaries that do not have any United States operations.
- 6) Directs that if the corporation chooses the water’s edge method, the corporation only reports net income based on the operations of its U.S.-based subsidiaries and affiliates, and not its foreign ones, with some exceptions.
- 7) Allows a water’s edge election to last seven years, and remain in effect thereafter unless the corporation terminates the election.
- 8) Requires every unitary member of the combined reporting group that is subject to California taxation be included on the election form at the time of the election.
- 9) Provides that a corporation has sufficient nexus for California corporation tax when it is “doing business” in the state, including an “economic nexus” standard that states corporations are doing business in the state when any of the following apply:
 - It is organized or commercially domiciled in this state.
 - Its sales exceed either \$500,000 (adjusted annually for inflation) or 25% of its total sales.
 - Its real or tangible personal property in California exceeds the either \$50,000 (adjusted annually for inflation) or 25% of the taxpayers’ total property.

- The amount it pays in compensation in California exceeds either \$50,000 or 25% of its total compensation.
- 10) Provides rules for when members of the combined group acquire nexus unexpectedly under the economic nexus standard that state when a member of the combined group acquires nexus unexpectedly, its water's edge election is unaffected; any domestic subsidiary that was excluded in the original water's edge filing is "deemed" to have made the same election with the combined group, so long as the domestic subsidiary was part of the combined reporting group in the year when the group made the water's edge election.

This bill:

- 1) Allows FTB, upon election by the receiving party, to provide continuous orders to withhold (COTWs), earning withholding orders for taxes (EWOTs) and earning withholding orders (EWOs) and related orders electronically.
- 2) Allows unitary foreign affiliate corporations to be included in a water's edge filing when the affiliate becomes a California taxpayer solely due to California's "doing business" statute.

Background

Withholding orders. A withholding order is an order issued to any third party or employer that has access to funds or properties that belong to an individual in order to settle a delinquent debt owed by that individual. The FTB can issue a withholding order to any third party that or employer for any taxpayer that owes a delinquent tax liability to the FTB, such as a bank, employer, or other entity who makes payments to the delinquent taxpayer. Withholding orders may be issued either as a one-time order, or as a continuous order, depending on the amount of debt accrued and the type of order issued. There are several types of withholding orders, including:

- *COTWs.* This demand takes a credit or payment due to the taxpayer to offset certain uncollected liabilities or obligations. This order can be directed against: services performed as an independent contractor, dividends, rents, royalties, residuals, patent rights, mineral or other natural resource rights, services or sales, whether they are paid as wages, salary, commission, or in another way.
- *EWOTs and EWOs.* These demand notices are sent to a delinquent taxpayer's employers, who then deducts the amount from wages, and remits it to FTB.

FTB only sends notices to withhold after several notices have been sent to the taxpayer in an attempt to collect the delinquent debt. Current state law requires COTWs, EWOTs, EWOs, and any other notice or document required in connection with these notices, to be delivered via first-class mail or in-person service only.

Water's edge filing and economic nexus. California applies the combined report method of corporate taxation, which requires a corporation computing its California tax liability to include the tax returns of its "unitary" subsidiaries and affiliates into one report, and divide the corporation's overall income among the taxing jurisdictions in which it does business. The combined report method generally allows for the cancellation of any intercompany transactions, such as dividends paid from a subsidiary to its corporate parent, which allows its overall net income to be measured more accurately.

Additionally, California requires corporate taxpayers to compute their tax on a worldwide combined group basis. As an alternative, California law allows corporations to elect to file a return on a "water's edge basis," which allows corporations to exclude some or all of the business income and apportionment factors of certain foreign subsidiaries that do not have any United States operations.

In some cases, members of the combined group can acquire nexus unexpectedly under the economic nexus standard, sometimes by simply paying a dividend of more than \$500,000 to its California-based parent. In this case, state law provides that the status of its water's edge election is unaffected; any subsidiary that was excluded in the original water's edge filing is "deemed" to have made the same water's-edge election with the combined group, so long as the subsidiary was part of the combined reporting group in the year when the group made the water's edge election,. However, existing law does not expressly address the status of a water's-edge election when a unitary foreign affiliate acquires nexus in California because as an excluded foreign affiliate outside the water's edge, it could not have been a member of the combined reporting group at the time the election was made. Because the law can terminate a water's edge election in some circumstances when an entity that should be subject to tax is excluded instead, a foreign affiliate acquiring nexus could lead to the unintended consequence of accidentally terminating the deemed election.

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

SUPPORT: (Verified 8/13/20)

Franchise Tax Board (source)

OPPOSITION: (Verified 8/13/20)

None received

ARGUMENTS IN SUPPORT: According to the author, “AB 3372 makes technical changes in the Revenue and Taxation Code to ease administration and reduce uncertainty for taxpayers. Specifically, this bill allows the FTB to serve earnings withholding orders for taxes, earnings withholding orders, and continuous orders to withhold by email or other electronic communication. By allowing the FTB to use modern technology, this bill would bring efficiencies and cost savings to both FTB and employers. Additionally, this bill prevents an unintended consequence related to the water's-edge election when a non-electing unitary foreign affiliate subsequently changes status from a non-taxpayer to a California taxpayer because of the revised definition of "doing business." These changes are sponsored by the FTB.”

ASSEMBLY FLOOR: 76-0, 6/8/20

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

NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Jessica Deitchman / GOV. & F. / (916) 651-4119
8/15/20 7:35:32

**** END ****

CONSENT

Bill No: AB 3373
Author: Committee on Revenue and Taxation
Introduced: 3/16/20
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 7-0, 7/29/20
AYES: McGuire, Moorlach, Beall, Hertzberg, Hurtado, Nielsen, Wiener

ASSEMBLY FLOOR: 75-0, 5/26/20 (Consent) - See last page for vote

SUBJECT: Property taxation: assessment appeals boards

SOURCE: California Association of Clerks and Elections Officials
Los Angeles County Board of Supervisors

DIGEST: This bill deletes the current cap of five assessment appeals boards per county, instead providing that counties may create as many boards as they deem necessary.

ANALYSIS:

Existing law:

- 1) Provides that all property is taxable and shall be assessed at the same percentage of fair market value, unless explicitly exempted by the Constitution or federal law (California Constitution, Article XIII, Section One).
- 2) Requires that all property taxed by a local government be assessed in the county, city, and district in which it's situated (California Constitution, Article XIII, Section 14).
- 3) Places the appellate authority for locally-assessed property taxes with the county board of supervisors or one or more assessment appeals boards constituting the county board of equalization, and requires the board to equalize the value of all property by adjusting individual assessments (California Constitution, Article XIII, Section 16)

- 4) Limits the maximum amount of any ad valorem tax on real property at 1% of full cash value, and directs assessors to only reappraise property when newly constructed, or when ownership changes (California Constitution, Article XIII A, as added by Proposition 13, 1978).
- 5) Requires assessment appeals board members to complete a training program, and possess five years of professional experience in California as a certified public accountant or public accountant, licensed real estate broker, attorney, or property appraiser. However, in counties with a population of less than 200,000, someone “possessed of competent knowledge of property appraisal and taxation,” can be appointed without professional experience.
- 6) Directs assessment appeals boards must hear and decide appeal applications within two years of the date the taxpayer files the application.
- 7) States that if the two-year time period is not met, the taxpayer’s opinion of value is enrolled for the tax year covered by the appeal, and remains in effect until the appeals board makes a final determination.
- 8) Caps the number of assessment appeals boards in a county to five.

This bill:

- 1) Deletes the current cap of five assessment appeals boards.
- 2) Permits counties to create as many boards as it deems necessary for the orderly and timely processing, hearing, and disposition of assessment appeals.

Background

In 17 California counties, boards of supervisors hear appeals directly, while all the others have created one or more assessment appeals boards to perform the quasi-judicial role to hold a hearing to determine value of the taxpayer’s property. Instead of assessment appeals boards, other counties appoint hearing officers, who hold less formal hearings to review evidence presented by both the assessor and the taxpayer. In some counties, a hearing officer’s decision is final, while in others, the officer recommends a value that taxpayers can subsequently dispute before the board.

Until 1995, state law capped the number of assessment appeals boards in a county to five. That year, the Legislature allowed counties to create up to 10 in an urgency bill, effective July 24, 1995, but sunset the change in 1999 (AB 1620, McDonald, Chapter 164, Statutes of 1995). Later that year, the Legislature

removed the sunset, effective January 1, 1996, (SB 657, Maddy, Chapter 495, Statutes of 1995) before placing a new sunset date of January 1, 2005, the year after (SB 713, Maddy, Chapter 171, Statutes of 1996). The increase was necessary to ensure that appeals could be heard and adjudicated within the two-year period after an economic recession resulted in market values that fell below assessed values, which generated an unprecedented number of assessment appeals statewide. On January 1, 2005, the law reverted to the current cap of five boards. Today, only Fresno, Los Angeles, Orange, and Riverside Counties currently operate the maximum number of five assessment appeals boards.

The COVID-19 pandemic has significantly affected county operations, including the ability for assessment appeals boards to hear and adjudicate assessment appeals within the two-year period. Additionally, the justification for capping the number of assessment appeals boards is unclear.

According to the Board of Equalization, counties receive more than 70,000 appeals annually, of which there are more than 30,000 in Los Angeles County alone. The economic effects of the COVID-19 pandemic is likely to increase this number; economic recessions reduce market values of properties, sometimes below its assessed value. While assessed values are relatively fixed because they are based mostly on inflation-adjusted purchase prices, determining market values are generally more difficult to determine with certainty and subject to disputes between taxpayers and assessors. Additionally, voters will consider Proposition 15 at the November 3, 2020 general election, which directs assessors to revalue most properties used for commercial and industrial purposes to fair market value according to a specified schedule, instead of the current Proposition 13 restriction to do so only upon change in ownership or new construction. Should voters approve the initiative, counties expect further increases in assessment appeals

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

SUPPORT: (Verified 7/31/20)

California Association of Clerks and Elections Officials (co-source)

Los Angeles County Board of Supervisors (co-source)

California Alliance of Taxpayer Advocates

California Taxpayers Association

Los Angeles County Assessor Jeffrey Prang

San Diego County

OPPOSITION: (Verified 7/31/20)

None received

ARGUMENTS IN SUPPORT: According to the author, “AB 3373 will improve the efficiency of the property tax assessment appeal process for both counties and taxpayers by allowing county boards of supervisors to create as many assessment appeals boards as it deems necessary for the orderly and timely processing, hearing, and disposition of appeals filed by taxpayers in the county. Some counties are operating the maximum number of appeals boards allowed and anticipate the need to create additional boards to address current appeal backlogs and a possible surge of new appeals related to COVID-19's impact on property values. This bill will allow counties the flexibility to position themselves to provide property taxpayers with better access to appeals boards and more timely resolution of property tax disputes as the need arises.”

ASSEMBLY FLOOR: 75-0, 5/26/20

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

NO VOTE RECORDED: Diep, Maienschein, Quirk, Wicks

Prepared by: Colin Grinnell / GOV. & F. / (916) 651-4119
7/31/20 17:51:57

**** END ****

CONSENT

Bill No: AB 3374
Author: Committee on Higher Education
Introduced: 3/16/20
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 7/29/20
AYES: Leyva, Wilk, Chang, Durazo, Glazer, McGuire, Pan

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/8/20 (Consent) - See last page for vote

SUBJECT: Postsecondary education

SOURCE: Author

DIGEST: This bill, the higher education omnibus clean-up measure, corrects technical errors and oversights, and makes non-controversial changes to various provisions of the Education Code.

ANALYSIS:

Existing law:

- 1) Prohibits, commencing with admissions for the 2020–21 academic year, a campus of the California State University (CSU) and, the University of California (UC), if adopted by the Regents by appropriate resolution, from admitting an applicant by admission by exception, as defined, unless the admission by exception has been approved, prior to the student’s enrollment, by at least three senior campus administrators, the applicant is a California resident who is receiving an institution-based scholarship to attend the campus, or the applicant is accepted by an educational opportunity program for admission to the campus. Commencing with admissions for the 2020–21 academic year, existing law establishes requirements pertaining to admission by exception at a

campus of the CSU and, if adopted by the Regents by appropriate resolution, a campus of the UC, as specified. (Education Code § 66022.5)

- 2) Classifies any person as a temporary employees who is employed to teach adult or community college classes for not more than 67 percent of the hours per week considered a full-time assignment for regular employees having comparable duties, excluding substitute service. Existing law also authorizes the governing board of a community college district (CCD) to employ a qualified individual as a temporary faculty member for a complete academic year, but not less than a complete semester or quarter during an academic year. Finally, existing law requires that the employment of those persons be based upon the need for additional faculty during a particular semester or quarter, as specified. (EC § 87480 et al.)
- 3) Exempts persons serving as full-time or part-time clinical nursing faculty who meet specified requirements from certain limitations. A single CCD may employ, for up to 4 semesters or 6 quarters, a person serving as full-time clinical nursing faculty or as part-time clinical nursing faculty teaching not more than 67 percent of the hours per week considered a full-time assignment for regular employees having comparable duties. (EC § 87482)
- 4) Requires the Legislative Analyst's Office (LAO) to aggregate, analyze, and submit an interim report by January 1, 2019, and a final report by December 1, 2021, to the Legislature on the progress of a financial and professional development grant funding program in achieving its prescribed purpose, based on information submitted by community colleges participating in the grant program. (EC § 88810)
- 5) Provides, under the California Private Postsecondary Education Act of 2009, for the regulation of private postsecondary educational institutions by the Bureau for Private Postsecondary Education (BPPE) in the Department of Consumer Affairs. The act also establishes the Student Tuition Recovery Fund (STRF) and requires the BPPE to adopt regulations governing the administration and maintenance of the fund, including requirements relating to assessments on students and student claims against the fund, and establishes that the moneys in this fund are continuously appropriated to the bureau for specified purposes.

This bill, the higher education omnibus clean-up measure, corrects technical errors and oversights, and makes non-controversial changes to various provisions of the Education Code. Specifically, it:

- 1) Revises the operative date from 2020-2022, to 2021-2022, academic year for provisions that prohibit CSU and, if adopted as specified, the UC, from admitting an applicant by admission by exception, as defined.
- 2) Clarifies that full-time or part-time clinical nursing faculty may be employed by a single CCD for up to four semesters or six quarters within any period of three consecutive academic years, and also makes clarifying and non-substantive changes.
- 3) Deletes the requirement that the LAO submit a final report on the progress of the Basic Skills and Student Outcomes Transformation (BSSOT) grant program.
- 4) Makes a clarifying change to the provisions of economic loss detailed in the STRF.

Comments

- 1) *Omnibus bill.* This bill is the annual higher education omnibus bill, which seeks to provide various and necessary noncontroversial changes to the Education Code.
- 2) *Rationale for inclusion in the omnibus bill.* This omnibus measure makes several changes to the Education Code, below is the rationale for these changes:
 - a) *Operative Date Change for Admission by Exception Decision.* AB 1383 (McCarty, Chapter 522, Statutes of 2019) established a process in statute for the UC and the CSU to use in granting admissions by exception by prohibiting a UC or CSU campus from admitting a student by admission by exception unless the student's admission has been approved by a minimum of three senior campus administrators.

As noted in a September 13, 2019 Letter to the Assembly Journal, the intent of the author had been for the provisions of AB 1383 to become operative commencing with the 2021-2022 academic year. The change proposed in this omnibus bill to EC § 66022.5 is consistent with the author's intent, and gives campuses valuable time to comply fully with AB 1383.

- b) *Three-Year Calendar Period for Part-Time Nursing Faculty.* AB 1051 (Smith, Chapter 234, Statutes of 2019) authorized CCDs to employ temporary faculty members serving as full-time clinical nursing faculty at one district for up to four semesters or six quarters indefinitely; requires each district that employs that faculty to report specified information on or

before June 30 of each year; and, requires the California Community Colleges Chancellor's Office to report the findings of the districts' report on their clinical nursing faculty staffing levels, to the Legislature and the Governor, on or before September 30 of each year.

A technical error was discovered following the chaptering of AB 1051. Current law states that a person serving as full-time clinical nursing faculty, or as part-time clinical nursing faculty teaching the specified hours per week, may be employed by any one CCD under EC § 87482 teaching above the 67 percent load cap "...for up to four semesters or six quarters" - unintentionally implying that the faculty member would be unable to teach above the cap following the conclusion of the four semesters or six quarters. The intent was for faculty to be able to exceed the 67 percent cap for four semesters within a three-year period, and after the conclusion of that time, another three-year period would begin. The provisions in this bill establish this three-year reset. This bill additionally makes non-substantive clarifying and clarifying changes in this section.

- c) *BSSOT Grant Final Report Deletion.* On February 5, 2016, the LAO noted in a presentation to the Assembly Budget Subcommittee No. 2 on Education Finance that three-quarters of first time college students are assessed as unprepared. This report also noted there is a low percentage of students who complete basic skills courses and persist to certificate or degree completion. The state responded to these concerns, and the 2015-2016 Budget allocated \$60 million in one-time grant funding through the BSSOT to assist colleges in improving their basic skills course offerings.

The passage of AB 705 (Irwin, Chapter 745, Statutes of 2017) has significantly altered remediation and placement policies throughout the California Community College system. Thus, several of the objectives and outcomes associated with the BSSOT program are obsolete in the post-AB 705 era. While the LAO completed their interim report on the BSSOT program, collecting data for a final report is no longer necessary and likely irrelevant given the direction of AB 705. This bill removes the final BSSOT report requirement.

- d) *STRF Technical Clarification.* AB 1346 (Medina, Chapter 521, Statutes of 2019) expanded the definition of "economic loss" to include all cash or other consideration paid by the student to an institution, all expenses related to private or government student loans in connection with the student's attendance, and all third-party payments paid to the student or to the

institution in connection with the student's attendance at the institution, as specified, and expanded STRF eligibility to students residing in California and attending a campus of a Corinthian Colleges, Inc. as specified.

Following the chaptering of AB 1346, Legislative Counsel identified inconsistency in EC § 94923(f)(2). A comma was needed to make clear that nonpecuniary damages were not to be included in the definition of an economic loss. This bill makes those changes.

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

SUPPORT: (Verified 8/11/20)

None received

OPPOSITION: (Verified 8/11/20)

None received

ASSEMBLY FLOOR: 76-0, 6/8/20

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

NO VOTE RECORDED: Low, Muratsuchi, Quirk

Prepared by: Olgalilia Ramirez / ED. /
8/14/20 12:36:40

**** END ****

THIRD READING

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

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

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

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

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

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

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

SOURCE: AFSCME Local 3299

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

ANALYSIS:

Existing constitutional law:

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

This constitutional amendment:

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

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

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

Comments

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

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

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

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

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

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

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

According to the Senate Appropriations Committee:

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

SUPPORT: (Verified 8/30/19)

AFSCME Local 3299 (source)

American Federation of State, County and Municipal Employees

California Federation of Teachers

California Labor Federation

Health Access California

University Council-American Federation of Teachers

OPPOSITION: (Verified 8/30/19)

California Association of Public Hospitals & Health Systems

California Chamber of Commerce

California Hospital Association

Carlsbad Chamber of Commerce

Chamber Newport Beach

City of Laguna Niguel

Fontana Chamber of Commerce

Greater Irvine Chamber of Commerce

Greater Riverside Chamber of Commerce

Oceanside Chamber of Commerce

Orange County Business Council

Oxnard Chamber of Commerce

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

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

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

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

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

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

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

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

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

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

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

CONSENT

Bill No: ACR 97
Author: Patterson (R)
Amended: 7/1/19 in Assembly
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 13-1, 8/4/20
AYES: Beall, Bates, Allen, Dahle, Dodd, Galgiani, Lena Gonzalez, McGuire,
Morrell, Roth, Rubio, Umberg, Wieckowski
NOES: Skinner
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 7/11/19 (Consent) - See last page for vote

SUBJECT: Officer Phia Vang Memorial Interchange

SOURCE: Author

DIGEST: This resolution designates the interchange at State Route 180 and Temperance Avenue in Fresno County as the “Officer Phia Vang Memorial Interchange.”

ANALYSIS: This resolution designates the interchange at State Route 180 and Temperance Avenue in Fresno County as the “Officer Phia Vang Memorial Interchange.” It requests that the Department of Transportation (Caltrans) determine the costs of erecting the appropriate signs consistent with the signing requirements for the state highway system, showing the special designation, and upon receiving donations from non-state sources covering the costs, to erect the signs.

Background

Officer Phia Vang was born on August 6, 1970 in Ban Phakke, Mouang Phoun, Vangvieng province in the country of Laos, to Xay Pao Vang and Mee Her. He was the youngest of nine children. At five years of age, Phia fled into the jungles of Laos with his father, mother, and two sisters to escape the new communist regime. In 1982, the Vang family relocated to Fresno, California where the parents became farmers and contributed to the local agricultural business. Phia graduated from McLane High School in 1989 and completed his training in the Fresno City Police Academy in 1991. He was a police officer serving in the Fresno Police Department for 26 years until February 4, 2019 when an intoxicated driver collided with his vehicle. Officer Van is survived by his wife and four children.

Comments

Purpose. According to the author, “Officer Vang was a loved and respected member of the Fresno Police Department and the Hmong community. His life was tragically cut short when a wrong-way driver struck his vehicle as he was on his way home from work. ACR 97 will designate the intersection of (State Route) 180 and Temperance Avenue as the Officer Phia Vang Memorial Intersection, so that we may always remember and honor a man who dedicated his life to serving his community.”

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

SUPPORT: (Verified 8/13/20)

Peace Officers Research Association of California

OPPOSITION: (Verified 8/13/20)

None received

ASSEMBLY FLOOR: 76-0, 7/11/19

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Daly, Diep, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager-Dove, Kiley, Lackey, Levine, Limón, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Melendez, Mullin, Muratsuchi, Nazarian, Obernolte, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Robert

Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting,
Voepel, Waldron, Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Cervantes, Gray, Luz Rivas

Prepared by: Amy Gilson / TRANS. / (916) 651-4121, Randy Chinn / TRANS. /
(916) 651-4121
8/14/20 12:22:09

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

CONSENT

Bill No: ACR 107
Author: Waldron (R), et al.
Amended: 6/18/20 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 13-1, 8/4/20
AYES: Beall, Bates, Allen, Dahle, Dodd, Galgiani, Lena Gonzalez, McGuire,
Morrell, Roth, Rubio, Umberg, Wieckowski
NOES: Skinner
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 75-0, 9/14/19 (Consent) - See last page for vote

SUBJECT: CHP Sergeant Steven L. Licon Memorial Highway

SOURCE: California Association of Highway Patrolmen

DIGEST: This resolution designates the portion of Interstate 15 as the California Highway Patrol Sergeant Steven L. Licon Memorial Highway.

ANALYSIS: This resolution designates the portion of Interstate 15 from the junction at State Route 74 (postmile 22.277) to the crossing at Lake Street UC #56-682 (postmile 26.688) near the City of Lake Elsinore in the County of Riverside as the CHP Sergeant Steven L. Licon Memorial Highway. It requests that the Department of Transportation to erect appropriate signs upon receiving sufficient donations from non-state sources to cover the costs.

Background

Steven Lawrence Licon was born July 5, 1965, in Palm Springs, California. He entered the California Highway Patrol Academy in 1990 and was assigned to the

Santa Ana CHP Office in 1991. Steven was a skilled motorcyclist, a drug recognition expert, departmental range instructor, and a firearms inspector. After 12 years on road patrol duties, Steve was promoted to Sergeant and reported to the CHP Baldwin Park Area and, later, served the CHP Riverside Area. Steve's career ended on April 6, 2019, when he was struck and killed by a passing motorist as he was writing a traffic ticket on Interstate 15 near the City of Lake Elsinore. Steven is survived by his wife, Ann; his children, Marissa, Kelly, and Stephen; and his parents. He is preceded by his son, Nathan, who passed away in 2012. Steve is remembered as an extremely devoted family member who loved them above all else.

Comments

Purpose. According to the author, "The memory of Sgt. Licon will never be forgotten and his commitment to his family and the safety of our communities should be forever memorialized on this stretch of the 15 freeway. ACR 107 would designate a portion of Interstate 15, from the junction of State Route 74 to the Lake Street crossing near the City of Lake Elsinore, as the CHP Sergeant Steven Lawrence Licon Memorial Highway to honor and commemorate his service to the community. This highway memorial should be a constant reminder that driving under the influence can take the lives of people we care about most. Sgt. Licon's 27-year career as a highway patrol officer was proof that he put the safety of our families before his own and we should never forget the sacrifices our law enforcement officers make to keep us safe. It is fitting that we honor his service to the residents of Riverside County by memorializing this stretch of highway to his memory."

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

SUPPORT: (Verified 8/13/20)

California Association of Highway Patrolmen (source)

OPPOSITION: (Verified 8/13/20)

None received

ASSEMBLY FLOOR: 75-0, 9/14/19

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Daly, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia,

Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer,
Kamlager-Dove, Kiley, Lackey, Levine, Limón, Low, Maienschein, Mathis,
Mayes, Melendez, Mullin, Muratsuchi, Nazarian, Obernolte, O'Donnell,
Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert
Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting,
Voepel, Waldron, Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Diep, Kalra, McCarty, Medina

Prepared by: Amy Gilson / TRANS. / (916) 651-4121
8/15/20 10:57:02

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

CONSENT

Bill No: ACR 112
Author: Bigelow (R), et al.
Amended: 7/30/20 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 13-1, 8/4/20
AYES: Beall, Bates, Allen, Dahle, Dodd, Galgiani, Lena Gonzalez, McGuire,
Morrell, Roth, Rubio, Umberg, Wieckowski
NOES: Skinner
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 75-0, 9/14/19 (Consent) - See last page for vote

SUBJECT: Chiura Obata Great Nature Memorial Highway

SOURCE: Author

DIGEST: This resolution designates a portion of State Route 120 in the County of Mono as the Chiura Obata Great Nature Memorial Highway.

ANALYSIS: This resolution designates the portion of State Route 120 in the County of Mono as the Chiura Obata Great Nature Memorial Highway. This resolution requests that the Department of Transportation to erect appropriate signs upon receiving sufficient donations from non-state sources to cover the costs.

Background

Chiura Obata was a painter, born on November 18, 1885, in Japan. In 1903, Obata immigrated to the United States, settling in San Francisco where he cofounded the East West Art Society to promote a uniting of Asian and Western art traditions. While incarcerated at the Topaz War Relocation Center during World War 2, he was able to create an art school with over 600 students. After the war, Obata

continued to visit Yosemite and the eastern Sierra Nevada Mountains to paint his landscapes. From 1955 to 1970, until he was 85 years of age, Obata traveled throughout California, giving lectures and demonstrations on Japanese brush painting and in 1965, in Japan, Obata received the Emperor's Award, the Order of the Sacred Treasure, Fifth Class, in recognition of his efforts to spread cultural understanding.

Comments

Purpose. According to the author, "This measure is a tremendous opportunity to honor a painter known for his beautiful artwork of Yosemite and the Sierra Nevada. Recognizing him with a highway memorial resolution on Highway 120 will provide those who honor his memory the chance to do so as they enter a part of the state that he loved very much."

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

SUPPORT: (Verified 8/13/20)

Multiple individuals

OPPOSITION: (Verified 8/13/20)

None received

ASSEMBLY FLOOR: 75-0, 9/14/19

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

NO VOTE RECORDED: Diep, Kalra, McCarty, Medina

Prepared by: Amy Gilson / TRANS. / (916) 651-4121
8/14/20 12:36:41

**** END ****

THIRD READING

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

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

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

SUBJECT: Lending to gun-related businesses

SOURCE: Author

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

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

ANALYSIS:

This resolution:

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

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

Comments

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

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

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

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

Related/Prior Legislation

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

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

SUPPORT: (Verified 3/9/20)

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

OPPOSITION: (Verified 3/9/20)

National Shooting Sports Foundation

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

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

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

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

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

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

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

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

**** END ****

CONSENT

Bill No: ACR 119
Author: Flora (R)
Amended: 7/30/20 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 13-1, 8/4/20
AYES: Beall, Bates, Allen, Dahle, Dodd, Galgiani, Lena Gonzalez, McGuire,
Morrell, Roth, Rubio, Umberg, Wieckowski
NOES: Skinner
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 75-0, 9/14/19 (Consent) - See last page for vote

SUBJECT: Officer Justin Kepler Memorial Highway

SOURCE: Author

DIGEST: This resolution designates a portion of State Route 120 in the County of San Joaquin as the Officer Justin Kepler Memorial Highway.

ANALYSIS: This resolution designates a portion of State Route 120 between Sexton and Brennan Roads in the County of San Joaquin as the “Officer Justin Kepler Memorial Highway.” It requests that the Department of Transportation to erect appropriate signs upon receiving sufficient donations from non-state sources to cover the costs.

Background

Justin Kepler was born on April 13, 1988, in San Jose, California. He grew up in a family of law enforcement, and in 2012, Justin joined the Stockton Police Department. During his four-year career as a police officer, Justin obtained the status of field training officer and specialized in impaired driving enforcement. At

only 28 years old, he was riding his personal motorcycle home when he was hit and thrown from his bike by a driver who fled the scene. Justin died on site. He is survived by his mother, Rhonda, older brother, Kyle, younger brother, Cody, and sister, Shelley.

Comments

Purpose. According to the author, “Officer Justin Kepler was an amazing son, brother, grandson, nephew, cousin, friend and an excellent police officer from Assembly District 12. ACR 119 memorializes Officer Justin Kepler as an individual who gave so much to ensure safety and protection of Californians in his short tenure.”

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

SUPPORT: (Verified 8/13/20)

California Professional Firefighters

OPPOSITION: (Verified 8/13/20)

None received

ASSEMBLY FLOOR: 75-0, 9/14/19

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

NO VOTE RECORDED: Diep, Kalra, McCarty, Medina

Prepared by: Randy Chinn & Amy Gibson/ TRANS. / (916) 651-4121
8/14/20 12:18:36

**** END ****

CONSENT

Bill No: ACR 120
Author: Quirk (D)
Introduced: 8/12/19
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 13-1, 8/4/20
AYES: Beall, Bates, Allen, Dahle, Dodd, Galgiani, Lena Gonzalez, McGuire,
Morrell, Roth, Rubio, Umberg, Wieckowski
NOES: Skinner
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 75-0, 9/14/19 (Consent) - See last page for vote

SUBJECT: The CHP Officer Andrew J. Camilleri Memorial Interchange

SOURCE: California Association of Highway Patrolmen

DIGEST: This resolution designates the interchange at Interstate 880 and State Route 92 in the County of Alameda as the CHP Officer Andrew J. Camilleri Memorial Interchange.

ANALYSIS: This resolution designates the interchange at Interstate 880 and State Route 92 in the County of Alameda as the CHP Officer Andrew J. Camilleri Memorial Interchange. This resolution requests that the Department of Transportation to erect appropriate signs upon receiving sufficient donations from non-state sources to cover the costs.

Background

Andrew Joseph Camilleri, Sr. was born on February 20, 1984, in San Jose, California. After a career in pest control, he joined the CHP in 2017. Sadly, he was

killed in the line of duty by an errant driver shortly thereafter. He is survived by his wife, children, parents, and siblings.

Comments

Purpose. According to the author, “Officer Andrew Joseph Camilleri, Sr. spent 13 years working for Clark Pest Control before finally realizing his dream of becoming a member of the California Highway Patrol (CHP). He graduated from the CHP academy in March of 2017 and shortly thereafter, was assigned to the Hayward area in my district. He served with courage, integrity and dignity. Although Officer Camilleri only served for 16 months, he served that time with dedication and for a deep love to the profession. In honor of a man who made the ultimate sacrifice, I am proud to author this bill to designate the interchange at Interstate 880 and State Route 92 in the County of Alameda as the CHP Officer Andrew J. Camilleri Memorial Interchange.”

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

SUPPORT: (Verified 8/13/20)

California Association of Highway Patrolmen (source)

OPPOSITION: (Verified 8/13/20)

None received

ASSEMBLY FLOOR: 75-0, 9/14/19

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

NO VOTE RECORDED: Diep, Kalra, McCarty, Medina

Prepared by: Amy Gilson and Randy Chinn / TRANS. / (916) 651-4121
8/14/20 12:36:42

**** END ****

CONSENT

Bill No: ACR 124
Author: Arambula (D)
Introduced: 8/13/19
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 13-1, 8/4/20
AYES: Beall, Bates, Allen, Dahle, Dodd, Galgiani, Lena Gonzalez, McGuire,
Morrell, Roth, Rubio, Umberg, Wieckowski
NOES: Skinner
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 75-0, 9/14/19 (Consent) - See last page for vote

SUBJECT: State Route 269: Heart of the Valley Bridge

SOURCE: Author

DIGEST: This resolution designates the 500-foot long bridge over Arroyo Pasajero Creek on State Route 269 as the Heart of the Valley Bridge.

ANALYSIS: This resolution designates the 500-foot long bridge over the Arroyo Pasajero Creek on State Route (SR) 269 as the Heart of the Valley Bridge, to honor and commemorate the seven residents of Fresno County whose lives were lost on March 12, 1995.

Background

SR 269 is the only route connecting the community of Huron to the rest of the central valley by connecting it with Interstate 5. The road has been closed over 551 days due to flooding since SR 269 came into the state highway system in 1976. The closures have caused the residents of Huron to have to make a 28-mile detour for shopping and services, including medical emergencies. On March 12, 1995, SR

269 was closed due to roadway collapse and raging flood waters. Seven residents of Fresno County lost their lives on Interstate 5 that day. \$1.2 million from a local sales tax measure and \$28.9 million from the State Highway Operation and Protection Program has allowed for the construction of three new bridges and a modification of the Arroyo Pasajero Creek channel to prevent future closure of the highway due to flooding.

Comments

Purpose. The author introduced this resolution to honor and commemorate the seven residents of Fresno County whose lives were lost on March 12, 1995 due to SR 269 flooding.

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

SUPPORT: (Verified 8/13/20)

Fresno County Rural Transit Agency
Fresno County Transportation Authority

OPPOSITION: (Verified 8/13/20)

None received

ASSEMBLY FLOOR: 75-0, 9/14/19

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

NO VOTE RECORDED: Diep, Kalra, McCarty, Medina

Prepared by: Manny Leon & Amy Gibson/ TRANS. / (916) 651-4121
8/14/20 12:12:00

**** END ****

CONSENT

Bill No: ACR 127
Author: Flora (R)
Amended: 8/7/20 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 13-1, 8/4/20
AYES: Beall, Bates, Allen, Dahle, Dodd, Galgiani, Lena Gonzalez, McGuire,
Morrell, Roth, Rubio, Umberg, Wieckowski
NOES: Skinner
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 75-0, 9/14/19 (Consent) - See last page for vote

SUBJECT: Officer Robert W. Winget Memorial Overcrossing

SOURCE: Author

DIGEST: This resolution designates a specified overpass on State Route 99 in the City of Ripon as the Officer Robert W. Winget Memorial Overpass.

ANALYSIS: This resolution designates an overpass in both directions on State Route 99 at Exit 236, Main Street, in the City of Ripon in the County San Joaquin as the “Officer Robert W. Winget Memorial Overpass.”

Background

Officer Bob Winget, a Vietnam Veteran and United States Marine, began his 37-year law enforcement career in the early 1970s. He served the Los Angeles Police Department for 20 years, was a deputy sheriff for the County of Stanislaus for 12 years, and eventually joined the Ripon Police Department. Officer Winget was involved in a crash of his all-terrain patrol vehicle on April 10, 2007, that resulted in his death.

He is survived by his wife of 22 years, Chris, his three daughters, Ashley, Kelley and Bonnie; and his son, Edward.

Comments

Purpose. The author introduced this resolution to honor the service of Officer Bob Winget.

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

SUPPORT: (Verified 8/13/20)

None received

OPPOSITION: (Verified 8/13/20)

None received

ASSEMBLY FLOOR: 75-0, 9/14/19

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

NO VOTE RECORDED: Diep, Kalra, McCarty, Medina

Prepared by: Manny Leon, Amy Gilson / TRANS. / (916) 651-4121
8/14/20 12:36:43

**** END ****

CONSENT

Bill No: ACR 128
Author: Gray (D)
Amended: 7/29/20 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 13-1, 8/4/20
AYES: Beall, Bates, Allen, Dahle, Dodd, Galgiani, Lena Gonzalez, McGuire,
Morrell, Roth, Rubio, Umberg, Wieckowski
NOES: Skinner
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 75-0, 9/14/19 (Consent) - See last page for vote

SUBJECT: Corporal Ronil Singh Memorial Highway

SOURCE: Author

DIGEST: This resolution designates a specified portion of State Highway Route 33 in the Counties of Merced and Stanislaus as the Corporal Ronil Singh Memorial Highway.

ANALYSIS: This resolution designates a portion of State Highway Route 33 from Sanches Road, Postmile 29.730, in Merced County to Stuhr Road, Postmile 2.060, in Stanislaus County as the Corporal Ronil Singh Memorial Highway.

Background

Corporal Singh. After immigrating to the United States from the island nation of Fiji, Corporal Singh settled in Stanislaus County and began his law enforcement career as a cadet with the Turlock Police Department. He later worked as a reserve officer with the Merced County Sheriff's Department. In 2011, he joined the Newman Police Department.

Corporal Singh was a well-respected, seven-year veteran of the Newman Police Department, and a trained K-9 officer. His K-9 partner, Sam, frequently accompanied him on duty. Corporal Singh possessed an adventurous spirit and provided an admirable role model for future generations. Corporal Singh's innate desire to do well in the world by providing committed, bountiful, and consequential service, will be forever remembered.

Tragically, on December 26, 2018, Corporal Singh was killed in the line of duty. He is survived by his wife, Anamika, his infant son, and the members of his extended family in both California and Fiji.

Comments

Purpose. The author introduced this resolution to honor the service of Corporal Ronil Singh.

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

SUPPORT: (Verified 8/12/20)

None received

OPPOSITION: (Verified 8/12/20)

None received

ASSEMBLY FLOOR: 75-0, 9/14/19

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

NO VOTE RECORDED: Diep, Kalra, McCarty, Medina

Prepared by: Katie Bonin / TRANS. / (916) 651-4121
8/14/20 12:11:58

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

CONSENT

Bill No: ACR 139
Author: Arambula (D)
Amended: 5/4/20 in Assembly
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 13-1, 8/4/20
AYES: Beall, Bates, Allen, Dahle, Dodd, Galgiani, Lena Gonzalez, McGuire,
Morrell, Roth, Rubio, Umberg, Wieckowski
NOES: Skinner
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 75-0, 5/26/20 (Consent) - See last page for vote

SUBJECT: Esther Padilla Memorial Highway

SOURCE: Author

DIGEST: This resolution designates a segment of State Highway Route 168 in the County of Fresno as the Esther Padilla Memorial Highway.

ANALYSIS: This resolution designates a segment of State Highway Route 168 beginning at the interchange with State Highway Route 180 and ending at East Shields Avenue in the County of Fresno, as the Esther Padilla Memorial Highway. This resolution requests that the Department of Transportation to erect appropriate signs upon receiving sufficient donations from non-state sources to cover the costs.

Background

Esther V. Negrete Padilla was born in Fowler, California, in 1944. Esther had more than 30 years of social work experience with nonprofit organizations and volunteered at the United Farm Workers Union for 10 years. In 1991, Esther was the first Latina elected to the Fresno City Council. She also served as the Mayor

pro Tempore and on various commissions and boards. Esther is survived by her husband, Gilbert Padilla, her daughter, Adelita Padilla, as well as her stepchildren, her 13 grandchildren, her 16 great grandchildren, and one great-great grandchild.

Comments

Purpose. According to the author, “The first Latina elected to the Fresno City Council, Esther Padilla was a pioneer who dedicated her life to serving her community. Ms. Padilla worked to provide and improve social services to all residents, having worked as a county social worker. During her life, Esther also became an advocate for organ transplant donation and worked tirelessly to raise awareness among Latinos of the importance of organ donation.”

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

SUPPORT: (Verified 8/13/20)

None received

OPPOSITION: (Verified 8/13/20)

None received

ASSEMBLY FLOOR: 75-0, 5/26/20

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

NO VOTE RECORDED: Diep, Maienschein, Quirk, Wicks

Prepared by: Amy Gilson / TRANS. / (916) 651-4121
8/14/20 12:36:44

**** END ****

CONSENT

Bill No: ACR 147
Author: Lackey (R), et al.
Introduced: 1/9/20
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 13-1, 8/4/20
AYES: Beall, Bates, Allen, Dahle, Dodd, Galgiani, Lena Gonzalez, McGuire,
Morrell, Roth, Rubio, Umberg, Wieckowski
NOES: Skinner
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 75-0, 5/26/20 (Consent) - See last page for vote

SUBJECT: Jeffrey “Jef” Dye Memorial Highway

SOURCE: Author

DIGEST: This resolution designates a portion of Interstate 5 in the County of Los Angeles as the Jeffrey “Jef” Dye Memorial Highway.

ANALYSIS: This resolution designates the 4.735-mile portion of Interstate 5 between post mile R68.818 and post mile R73.553 in the County of Los Angeles as the Jeffrey “Jef” Dye Memorial Highway. It requests that the Department of Transportation to erect appropriate signs upon receiving sufficient donations from non-state sources to cover the costs.

Background

Jeffrey “Jef” Dye was born in the City of San Fernando, California, in 1968. Jef began his professional career as an Investigative Assistant with the Ventura County District Attorney’s Office, after which he focused on Digital Forensics and CyberCrime and worked at General Dynamics, PricewaterhouseCoopers, and, most

recently, Bank of America as Vice President of Global Information Security. In 2016, Jef joined the Ventura County Sheriff's Office's Fillmore Mountain Search and Rescue (SAR) Team. In 2019, Jef and his teammates observed a serious vehicle rollover accident. They began an emergency response, but during the medical treatment a second vehicle lost control and crashed into the existing accident scene, mortally injuring Jef. He is survived by his wife Sandra, mother Linda, and sisters Lori Bushnell and Luanne Brock.

Comments

Purpose. According to the author, "A dedication using an individual's name connects their memory to personality. To understand a person's character, thereafter, causes one to understand how they completed their goals and why they sought certain accomplishments. This dedication reclaims the memory of a man's life to be defined by his assistance to others. This underscores that his life should be celebrated rather than continuously mourned. It refocuses attention from tragedy to the trajectory of his mission to provide the community with a heightened sense of security."

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

SUPPORT: (Verified 8/13/20)

None received

OPPOSITION: (Verified 8/13/20)

None received

ASSEMBLY FLOOR: 75-0, 5/26/20

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

NO VOTE RECORDED: Diep, Maienschein, Quirk, Wicks

Prepared by: Amy Gilson / TRANS. / (916) 651-4121
8/14/20 12:18:37

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

CONSENT

Bill No: ACR 165
Author: Ting (D), et al.
Introduced: 2/11/20
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 13-1, 8/4/20
AYES: Beall, Bates, Allen, Dahle, Dodd, Galgiani, Lena Gonzalez, McGuire,
Morrell, Roth, Rubio, Umberg, Wieckowski
NOES: Skinner
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 75-0, 5/26/20 (Consent) - See last page for vote

SUBJECT: Alice Peña Bulos Memorial Highway

SOURCE: Author

DIGEST: This resolution designates the portion of State Route 35 that runs through the City of Daly City in the County of San Mateo as the Alice Peña Bulos Memorial Highway.

ANALYSIS: This resolution designates the portion of State Route 35 that runs through the City of Daly City in the County of San Mateo from postmile 27.09 to postmile 31.061 as the Alice Peña Bulos Memorial Highway. It requests that the Department of Transportation to erect appropriate signs upon receiving sufficient donations from non-state sources to cover the costs.

Background

Alice Peña Bulos was a Professor of Sociology and later chairperson of the Department of Sociology at the University of Santo Tomas before moving to Sacramento, California, in 1977 to pursue a career as an employment counselor at the California Educational Theatre Association. She served in numerous leadership

positions, including on the National Council on Aging and State Chair of the Filipino American Caucus of the California Democratic Party. She was honored as Woman Warrior of the Year by the Pacific Asian Women Bay Area Coalition and inducted into the County of San Mateo's Women's Hall of Fame in 1988.

Comments

Purpose. According to the author, "For the past forty years, Alice Bulos had been a constant source of inspiration and mobilization for many Filipino Americans, gaining the title of the 'Godmother of Filipino American Politics and Empowerment.' She held many local, state, and federal positions throughout her lifetime and led the way for three generations of Asian and Pacific Islander public servants. She passed away on October 21, 2016 and her legacy is carried by her family and the many friends and supporters she inspired over the years. In honor of her service, ACR 165 would memorialize part of State Route 35 as the Alicia Peña Bulos Memorial Highway."

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

SUPPORT: (Verified 8/13/20)

City of Daly City

OPPOSITION: (Verified 8/13/20)

None received

ASSEMBLY FLOOR: 75-0, 5/26/20

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

NO VOTE RECORDED: Diep, Maienschein, Quirk, Wicks

Prepared by: Amy Gilson / TRANS. / (916) 651-4121
8/14/20 12:36:45

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